



IN REPLY REFER TO:
CMS-AP00-01167

HONOLULU AUTHORITY for RAPID TRANSPORTATION

Daniel A. Grabauskas
EXECUTIVE DIRECTOR AND CEO

March 24, 2015

BOARD OF DIRECTORS

Ivan M. Lui-Kwan, Esq.
CHAIR

Donald G. Horner
VICE CHAIR

The Honorable Clarence K. Nishihara, Chair
The Honorable Will Espero, Chair
and Members of the Committee on Transportation and Committee
on Public Safety, Intergovernmental and Military Affairs
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

George I. Atta
Robert Bunda
Michael D. Formby
Ford N. Fuchigami
William "Buzz" Hong
Keslie W.K. Hui
Damien T.K. Kim
Carrie K.S. Okinaga, Esq.

Dear Chair Nishihara, Chair Espero, and Senators:

In response to questions raised by members of your committees at the March 19, 2015, Joint Senate Transportation and Public Safety, Intergovernmental and Military Affairs Committees meeting, the Honolulu Authority for Rapid Transportation (HART) provides the following:

1. **(Request from Senator Sam Slom) In question 1, it is stated that the City may need to require property tax increases if the general excise tax (GET) surcharge extension is not granted. In what timeframe would you need to make that decision, and will it be subject to public hearings?**

Response: The decision to increase property taxes lies with the City and County of Honolulu, and not HART. As previously stated, we project that there is not enough funding to complete the currently planned project, and procurement for contracts to continue the project are scheduled to occur from April through the end of 2015, and into next year as well, with debt financing needed this summer.

Given these plans, it appears that a property tax decision by the Mayor and the City Council would be needed soon should they decide to pursue this solution. By copy of this letter to Director Nelson H. Koyanagi, Jr., of the City's Department of Budget and Fiscal Services (BFS), HART defers to BFS to respond to the portion of this question relating to the timeframe needed to make a decision and whether it be subject to public hearings.

2. **(Request from Senator Sam Slom) In the original Federal Transit Administration (FTA) findings in the matter of the New Jersey Transit Corporation, the FTA's chief financial officer determined that the State of New Jersey owed the FTA \$271,101,291. What has New Jersey done to successfully reduce the amounts owed to the FTA to \$51 million (a nearly 80% reduction)?**

Response: In October of 2010, New Jersey Governor Chris Christie cancelled the New Jersey Access to the Region's Core Project. At the time of the cancellation, a total of \$271 million in Federal funds had been expended on the project. The U.S. Department of Transportation (U.S. DOT) demanded repayment of all of those Federal funds, but it is important to understand the makeup of those funds and how the demand for repayment was subsequently settled. As best as we have been able to research the funding of the project up to the point of cancellation, actual *expenditure* of Federal funds amounted to \$271 million. In November of 2010, the FTA acting on behalf of the U.S. DOT issued a demand letter for the expended \$271 million in Federal funds plus applicable penalties and interest if such payment was not received within 30 days.

The Honorable Clarence K. Nishihara, Chair
The Honorable Will Espero, Chair
and Members of the Committee on Transportation and Committee
on Public Safety, Intergovernmental and Military Affairs

Page 2

March 24, 2015

There was a long and protracted negotiation between the U.S. DOT, the FTA, and the U.S. Justice Department on the one hand and New Jersey Transit, the grant recipient. The upshot of the settlement that was announced is as follows: New Jersey Transit was required to repay \$95 million to the Federal government over a five-year period. This \$95 million consisted of the *full repayment* of \$51 million of New Start funds that had been expended up until the point of the cancellation of the project. It also consisted of the *partial* repayment of the \$44 million of the approximately \$90 million (about one-half) of the American Recovery and Reinvestment Act of 2009 (ARRA – Stimulus funds). Thus, all of the Federal New Starts funds were fully repaid to the U.S. Government and about half of the ARRA discretionary funds were repaid.

The remaining \$178 million was settled in the following fashion: The U.S. DOT, through the FTA, was given authority to direct the use of \$128 million of Federal Highway Congestion Mitigation and Air Quality funds and other Federal Highway Administration funds to FTA-approved transit projects. All other claims, and interest and penalties were compromised away.

- 3. (Request from Senator Sam Slom) In question 12, the \$41 million GET collection shortfall is attributed to a \$9.9 million coding error reported by the Hawaii State Department of Taxation (DoTAX) for the quarter ending December 2011. As a consequence, HART adjusted the “floor” on its GET tax collection forecasts downward by about \$9.9 million per quarter, resulting in the \$41 million annual shortfall. In a footnote to Attachment 6, prepared by DoTAX for Director Wes Machida’s office, DoTAX indicates that the coding error resulted in a reduction in the December 31, 2011 quarter. However, per the same footnote, the \$9.9 million was added back in at the end of the next fiscal year (July 1, 2012).**

Response: The Full Funding Grant Agreement Financial Plan was finalized in June 2012. The financial plan used the most recent four (4) quarters as the projection base for future years. Since the December 2011 DoTax error occurred during the base projection period, each future year includes the error. HART is recommending adjusting the expected total GET surcharge revenue downward by \$100 million.

It is correct that the error was a one-time event; however, it does not change our GET surcharge forecast that revenue will be approximately \$100 million less over the life of the project through December 2022 than originally estimated, since the \$9.9 million overstated revenue error occurred during the twelve-month period that was used as the base on which revenue projections were and are currently based.

- 4. (Request from Senator Clarence Nishihara) Request HART Board of Directors Chair Ivan Lui-Kwan provide copies of documents referenced in oral testimony relating to an accountability list and HART’s operating budget information.**

Response: See attached HART Accountability list and a chart providing an Operating Budget Comparison.

The Honorable Clarence K. Nishihara, Chair
The Honorable Will Espero, Chair
and Members of the Committee on Transportation and Committee
on Public Safety, Intergovernmental and Military Affairs

Page 3

March 24, 2015

5. Are the Project Management Oversight Contactor (PMOC) reports available for public review?

Response: All PMOC reports, including the January and February 2015 reports are available at:

<http://www.honolulustransit.org/document-library/fta.aspx>

6. (Question from Senator Will Espero) Are construction activities by HART's contractor, Kiewit Infrastructure West. Co., in and around Kualakai Parkway causing impacts to the freshwater aquifer?

Response: HART inquired with the Board of Water Supply (BWS) for assistance with this response. The subject area of the Ewa plain referred to as the Ewa Caprock aquifer is non-potable and not used for drinking. All of the BWS drinking water sources in the vicinity of Kualakai Parkway are *mauka* of the H-1 Freeway.

Just west of Old Fort Weaver Road, there is a basal source called EP 18 battery, a series of about six (6) basal wells, that are currently used as the source of irrigation water for the agricultural fields in Hoopili. These basal wells extend several hundred feet below mean sea level.

Additionally, the Karst system which are generally at mean sea level, may be within the coral/calcium deposits in the Ewa Caprock, but do not contribute water to BWS wells because BWS wells are more *mauka* and are much deeper, extending several hundred feet below mean sea level.

See the following link for maps of the Ewa Watershed Management Plan:

http://www.boardofwatersupply.com/files/ewawmp_communitymtg1_slideshow_may212013_withnotes.pdf

If you should have any further questions, please do not hesitate to contact our office.

Sincerely,



Daniel A. Grabauskas
Executive Director and CEO

Attachments

cc: HART Board of Directors
Mr. Roy K. Amemiya, Jr., Managing Director
Mr. Nelson H. Koyanagi, Jr., Director
Budget and Fiscal Services

HART Accountability:

1. Monthly reports to the HART Board of Directors

Every month the HART Board meets to review the Honolulu Rail Transit Project (Project) status including updates regarding Right-Of-Way status and construction milestones and budget issues. The Board also reviews the monthly progress report that is prepared by HART for the Federal Transit Administration (FTA) and the FTA's Project Management Oversight Contractor (PMOC). The HART Executive Director and CEO delivers a report every month to update the board on forward looking issues. HART also provides a Quarterly Balanced Score Card to the Board to summarize HART's performance four times a year. All these documents are posted to the HART website including meeting agendas and minutes.

2. HART Board Finance Committee and Project Oversight Committee

The HART Board has a Finance Committee to perform a critical review in detail the Project's finances. This allows board members a chance to focus on specific items such as change orders, procurements, and budgets. The Project Oversight Committee (POC) frequently sits in the Finance Committee meeting creating a joint committee meeting allowing a greater number of board members to ask for detail on specific topics.

3. HART Board Audit Committee

Since HART's inception, the HART Board's Audit Committee has contracted for, and overseen an annual independent financial audit of HART's financial activities. These audits have also included a federal Single Audit Review (A-133) that tests federal grant compliance requirements. The independent financial audit is presented to the HART Board Audit Committee each year by their auditors.

3a. Annual Financial Statement Audit by Independent Auditor (Certified Public Accountant)

HART is subject to annual audits of its financial statement by an independent audit firm (certified public accountant) to express an opinion on whether the financial statements are fairly presented in accordance with generally accepted accounting principles. The audit process includes a review of HART's internal controls to identify deficiencies and tests of its compliance with laws, regulations, contracts, and grant agreements which could have an impact on the amounts reported on the financial statements. The audit process takes approximately four to five months and in FY2013/14, there were no findings. The current audit firm is KMH LLP.

3b. Annual Audit of FTA Grant by Independent Auditor (Certified Public Accountant)

HART's FTA grant is also subject to an annual audit by an independent auditor, commonly referred to as a single audit. A single audit encompasses an examination of a recipient's financial records, financial statements, federal award transactions and expenditures, the general management of its operations, internal control systems, and federal assistance it received during the audit period. There were no findings in FY2013/14.

4. Monthly reports to the FTA and PMOC

As required by the Full Funding Grant Agreement (FFGA), HART prepares a monthly report for the FTA and its PMOC to track project progress. Key items of the report are the overall project progress, financials, schedule, independent contract status updates, project-wide activities, and management and administrative updates.

5. Monthly meetings with the PMOC

The PMOC, contracted by the FTA, visits the HART project office on a monthly basis to conduct meetings with HART staff to review in detail the monthly report and ask questions. Over a two-day period, the PMOC will hold meetings with HART department managers to discuss in detail the status, provide guidance, and develop an independent report in review of HART to the FTA.

6. Quarterly meetings with the FTA

The FTA meets with HART in person to perform a critical review the project on a quarterly basis and discuss the status of the overall project progress. The FTA reviews HART's reports and has the ability to assign specific tasks to HART and the PMOC if warranted. An example of an assignment would be the Risk Refresh Report that was performed by the PMOC in July of 2014.

7. FTA Triennial Review

Every three years, the FTA conducts an extensive review of their Grantees in 17 different subject areas such as Procurement, Financial Capacity, ADA, Operation & Maintenance, Planning, Technical Capacity, Title VI, Disadvantaged Business Enterprise (DBE), Legal, Satisfactory Continuing Control, Planning, Public Comments, Half Fares, Security, Drug Free Workplace and Drug and Alcohol Program, EEO, and Buses.

- The goal is to ensure the Grantee has appropriate capacity, internal control, plans, resources, processes and procedures in place in which to handle federal funds.
- Ensure that each Grantee is following all of FTA's applicable rules.
- Grantee is asked to complete a 166-page Grantee Information Request (GIR) and provide over 100 documents before the site visit and nearly 50 documents at the site visit.
- The Grantee's answers to the 17 different subject areas on the GIR, past findings from audits and reviews, and events that generate news may trigger another questionnaire called Enhanced Review Module (ERM). HART completed the Technical Capacity ERM and the Procurement ERM.
- The 2014-15 Triennial Review site visit occurred in February 2015.

8. FTA and PMOC Audits

The FTA and PMOC have the ability to perform audits of HART at any point during the project.

8a. Improper Payments Elimination and Recovery Act of 2010 (IPERA) Audit

The IPERA requires the FTA to review all of its programs and activities annually.

Therefore, HART is subject to IPERA review annually to insure proper use of federal funds per FTA guidelines and regulations.

8b. National Transit Database (NTD) Reporting

The NTD was established by Congress to be the Nation's primary source for information and statistics on the transit systems of the United States. Recipients or beneficiaries of grants from the FTA under the Urbanized Area Formula Program (§5307) or Other than Urbanized Area (Rural) Formula Program (§5311) are required by statute to submit cost information to the NTD. HART reports required information to the City Department of Transportation Services (DTS) who in turn submits the NTD report on behalf of the City.

9. FTA Procurement Systems Review

Every three years the FTA conducts a Procurement Systems Review (PSR) which is separate and distinct from the Triennial Review mentioned above and is an in-depth review of HART's procurements. The FTA objectives of the PSR are to encourage and facilitate improved procurement operations, promote the use of best practices, and assess compliance with all Federal procurement requirements. The PSR looks at both system-wide elements and individual procurement elements. System-wide procurement elements are FTA requirements that apply to the procurement system as a whole. Individual procurement elements are requirements elevated on an individual contract-by-contract basis. PSR reviews whether HART has in place procurement system and process that are in compliance with federal requirements and also reviews for implementation of the system and process by reviewing individual contracts. The PSR concludes with a report of findings. The report identifies any deficiencies, corrective actions required and a schedule for completion. The last PSR on site visits were June 11- June 15, 2012.

10. City Auditor

HART is subject to, and has been comprehensively audited by the City Auditor's Office in 2013/14. Future audits of HART are scheduled to occur by the Office of the City Auditor in FY2015/16.

11. City Council Meetings

HART will attend City Council meetings to testify or answer questions raised by the public and the Council members. HART is also required to submit the operating budget for review to the City Council on a yearly basis.

12. City Council Budget and Finance Committee

HART's operating and capital budgets are reviewed by the Council and Council Budget Committee annually. This process usually begins in February and concludes in early June each year. HART's Executive Director and CEO attends several hearings during the course of these months to present and respond to all inquiries on these budgets.

13. HART holds neighborhood outreach meetings

HART holds and attends community meetings to listen and respond to questions raised by the public.

14. HART Monthly Facts Ad

Each month, HART publishes details regarding its finances in the daily newspaper as a tool for the public to hold HART accountable and to enhance transparency.

15. Weekly meetings with the Mayor

The Executive Director and Deputy Executive Director meet with the Mayor on a weekly basis to provide project status updates and coordinate City efforts in delivering the project.

HART Operating Budget & Staffing

