Hawaii Department of Transportation
Title VI Program Plan

Approved: _____ 1-18-09

BRENNON T. MORIOKA, Ph.D., P.E.
Director of Transportation

DATE

The Honorable
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State of Hawaii

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"No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

- Title VI of the Civil Rights Act of 1964 -

"Simple justice requires that public funds, to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes, or results in racial discrimination."

- President John F. Kennedy -

Title VI is sound; it is morally right; it is legally right; it is constitutionally right. … What will it accomplish? It will guarantee that the money collected by colorblind tax collectors will be distributed by Federal and State administrators who are equally colorblind. … The title has a simple purpose – to eliminate discrimination in Federally financed programs."

- U.S. Senator Pastore -

TABLE OF CONTENTS

INTRODUCTION

The Hawaii Department of Transportation (HDOT) is a recipient of Federal financial assistance. Recipients are required to comply with various nondiscrimination laws and regulations, the focal point of which is Title VI of the Civil Rights Act of 1964. Title VI of the Civil Rights Act of 1964 bars discrimination against anyone in the United States because of race, color, or national origin by any agency receiving Federal funds[1].

The broader application of nondiscrimination law is found in other statutes, regulations, and Executive Orders which are detailed in this Title VI Program Plan. The Federal-Aid Highway Act of 1973 added the requirement that there be no discrimination based on sex. Additionally, the Civil Rights Restoration Act of 1987 defined "program" to make clear that discrimination is prohibited throughout an entire agency if any part of the agency receives Federal financial assistance. Thus, subrecipients are required to comply with Title VI and related nondiscrimination laws, and regulations.

An important component of the HDOT Title VI Program is the commitment to developing and implementing environmental justice strategies. Environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies[2].

Policy

It is HDOT policy for all recipients of Federal funds, including HDOT divisions, Metropolitan Planning Organizations (MPO's), and subrecipients to ensure that they are in compliance with Title VI of the Civil Rights Act of 1964 and all related statutes, regulations and directives in all programs and activities. No person in the United States shall, on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any HDOT program, policy, or activity.

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[1] 42 U.S.C. §§ 2000d – 2000d-7

[2] U.S. Environmental Protection Agency (EPA) website at http://www.epa.gov/environmentaljustice/index.html

Objectives

Simply stated, the HDOT is to ensure that its programs and activities do not treat any part of the community any differently than another. The Department expects every manager, supervisor, employee, and subrecipient of Federal-aid funds administered by HDOT to be aware of and apply the intent of Title VI of the Civil Rights Act of 1964 in performing assigned duties.

Statutory

Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d – 2000d-7) provides that, "no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601) provides for fair treatment of persons displaced or whose property has been acquired by federal and federally assisted programs.

Federal-aid Highway Act of 1973 (23 U.S.C. § 324) provides that, "no person shall on the grounds of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this title or carried on under this title."

Title II of the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. § 12132) provides in part that, "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to discrimination by any such entity."

§ 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 (a)) provides in part, "No otherwise qualified individual with a disability in the United States…shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

The Age Discrimination Act of 1975 (42 U.S.C. § 6102) prohibits discrimination on the basis of age.

The Airport and Airway Improvement Act of 1982 (49 U.S.C. § 47123) mandates that the U.S. Secretary of Transportation take affirmative action to ensure that no one is excluded because of race, creed, color, national origin, or sex from participating in an activity carried out with money received under an Airport

Improvement grant.

The Civil Rights Restoration Act of 1987 (Pub. L. No. 100-259, 102 Stat. 28) broadened the scope of Title VI coverage by expanding the definition of the term "programs or activities" to include all programs or activities of Federal-aid recipients, sub-recipients, and contractors, whether such programs and activities are federally assisted or not.

The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. § 4321) sets forth the policy of the government to "encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation."

Declaration of National Environmental Policy, (42 U.S.C. § 4331) Congressional declaration of national environmental policy which provides in part that the government, "use all practicable means and measures…in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans."

Regulations

23 C.F.R. Part 200, the FHWA Title VI Implementation Regulations.

23 C.F.R. Part 1235, the FHWA and National Highway Traffic Safety Administration (NHTSA) joint regulation governing the Uniform System for Parking for Persons with Disabilities.

28 C.F.R. Part 35, the Department of Justice (DOJ) regulation governing Nondiscrimination on the Basis of Disability in State and Local Government Services.

28 C.F.R. Part 41, the DOJ regulation to Coordinate the Implementation of Section 504 of the Rehabilitation Act of 1973.

28 C.F.R. Part 50.3, the DOJ Guidelines for the Enforcement of Title VI, Civil Rights Act of 1964.

49 C.F.R. Part 21, the United States Department of Transportation (U.S. DOT) regulation, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964.

49 C.F.R. Part 27, U.S. DOT regulation, Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance.

23 C.F.R. Part 771, the FHWA, Environmental Impact and Related Procedures Regulation.

Executive Orders

Executive Order 12250 of November 2, 1980 (45 Fed. Reg. 72995 (Feb. 4, 1980)) delegates the Coordination of Nondiscrimination Provisions to the Department of Justice (DOJ).

Executive Order 12898 of February 11, 1994 (59 Fed. Reg. 7629 (Feb. 16, 1994)) mandates each Federal agency to, "make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations."

Executive Order 13166 of August 11, 2000 (65 Fed. Reg. 50121 (Aug. 16, 2000) improves access to services for persons with Limited English Proficiency (LEP).

Directives

Implementation of the U.S. DOT Title VI Program (U.S. DOT Order 1000.12)

Standard U.S. DOT Title VI Assurances (U.S. DOT Order 1050.2)

U.S. DOT Order to Address Environmental Justice in Minority Populations and Low-Income Populations (U.S. DOT Order 5610.2)

FHWA Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (FHWA Order 6640.23)

Civil Rights Requirements for the Airport Improvement Program (AIP) (AC No: 150/5100-15A)

Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients (FTA C 4702.1A)

FHWA & FTA Joint Memorandum on Implementing Title VI Requirements in Metropolitan and Statewide Planning (dated October 7, 1999)

U.S. DOT LEP Guidance (66 Fed. Reg. 6733 (January 22, 2001)).

POLICY FOR DEMOGRAPHIC DATA COLLECTION AND USE

To ensure that the benefits of transportation improvements are distributed equitably, the HDOT shall collect, maintain, analyze, and use data as follows:

1. The 2000 U.S. Census Data will be the initial basis for demographic data;
2. According to the Office of Management and Budget, OMB, the minimum categories for data on race and ethnicity for Federal statistics (i.e. Census Bureau), program administrative reporting, and civil rights compliance reporting are defined as follows[3]:
    a. **American Indian or Alaska Native.** A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.
    b. **Asian.** A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
    c. **Black or African American.** A person having origins in any of the black racial groups of Africa. Terms such as "Haitian" or "Negro" can be used in addition to "Black or African American."
    d. **Hispanic or Latino.** A person of Cuban, Mexican, Puerto Rican,

[3] 62 Fed. Reg. 58789 (October 30, 1997). HDOT uses OMB's categories for data on race and ethnicity for data collection, Federal reporting, and civil rights compliance reporting purposes.

The categories in this classification are social-political constructs and should not be interpreted as being scientific or anthropological in nature. 62 Fed. Reg. 58788 (October 30, 1997).

See also, www.fhwa.dot.gov/environment/ejustice/facts/index.htm. *Note:* See, *Environmental Justice in the OMPO [OahuMPO] Planning Process: Defining Environmental Justice Populations*, at http://www.oahumpo.org/T6EJ/Final2001/2004Update.pdf. Whenever feasible, for HDOT EJ purposes, the Asian American category, as well as the Native Hawaiian or Other Pacific Islander minority population category, may not be grouped collectively. Considering the unique characteristics of Asians and Native Hawaiian or Other Pacific Islanders in Hawaii, and because Hawaii remains a majority minority i.e., more than 50% of the area population is non-White, to avoid having the majority minority dominate the environmental justice identification process when feasible, HDOT reports and collects data on the following detailed ethnicities:

Chinese, Filipino, Japanese, Korean, Vietnamese, Native Hawaiian, Samoan, Tongan, Guamanian (i.e. Chamorro).

South or Central American, or other Spanish culture or origin, regardless of race. The term, "Spanish origin," can be used in addition to "Hispanic or Latino."

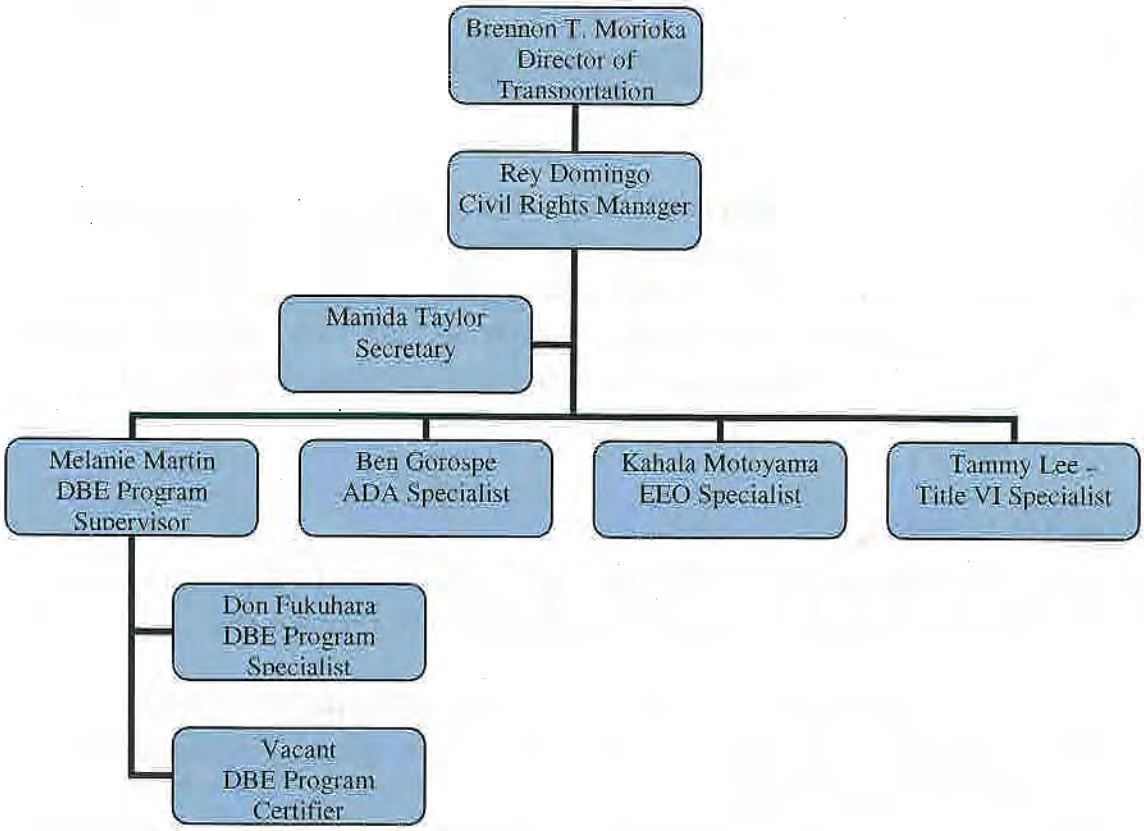
e. **Native Hawaiian or Other Pacific Islander.** A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

f. **White.** A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

3. Data on the population by poverty level[4], education, travel characteristics, female head of household, public assistance, etc. shall be maintained by census tract and if needed, by block group;
4. Census data may be augmented by substantiated statistics from other Federal, State, County, and private agencies.

[4] Using the U.S. Department of Health and Human Services poverty guidelines updated annually and published in the Federal Register, (73 Fed. Reg. 3971 (January 23, 2008).

ORGANIZATION & STAFFING



Director of Transportation

The Director of Transportation is responsible for the overall implementation and administration of the Title VI Program for the HDOT. The Director is responsible for the establishment of a civil rights unit, designation of a coordinator and providing adequate staffing to effectively implement the civil rights requirements.

Civil Rights Manager

The Office of Civil Rights (OCR) was established to ensure that HDOT is in full compliance with the Civil Rights Act of 1964 and all related laws, regulations, directives, and executive orders in all its programs and activities. The OCR serves as the focal point for equal opportunity compliance through staff offices, the Airports (AIR), Harbors (HAR), and Highways (HWY) Divisions statewide. The Civil Rights Manager reports directly to the Director of Transportation. The Civil Rights Manager provides the OCR with the administrative direction

necessary to ensure that HDOT policies and procedures relating to the Title VI Plan are implemented and that its established goals are appropriately attained. As the chief civil rights officer for HDOT, the Civil Rights Manager is responsible for overseeing and administering the following programs: Americans with Disabilities Act (ADA), Disadvantaged Business Enterprise (DBE), Equal Employment Opportunity/Affirmative Action (EEO/AA), and Title VI. See the organization chart above current as of January 2009.

Title VI Specialist

The Title VI Specialist shall provide technical assistance to the Director, Deputy Directors and Division Administrators. The Title VI Specialist shall be responsible for the day-to-day operations of the Title VI Program, supporting and assisting divisions in Title VI matters, disseminating Title VI information for HDOT divisions, branch offices, and subrecipients. (See Attachment H for a description of the Title VI Program Responsibilities).

Title VI Liaison

Each Division shall designate a Division Title VI Liaison to be the responsible party for all Title VI matters within their division. The DTL shall:

1. Assist the Title VI Specialist in conducting Title VI reviews of Division program areas. The reviews will determine the effectiveness of program area activities at all levels.
2. Develop and maintain Division procedures for the collection of statistical data (race, color, national origin, and sex) of participants in, and beneficiaries of HDOT programs, i.e., relocatees, impacted citizens and affected communities.
3. Conduct Title VI reviews of consultants, contractors, suppliers, planning agencies, and other recipients of HDOT funds.
4. Prepare a yearly report of Title VI accomplishments within the Division for the past year and state goals for the next year. The report shall be submitted to the Title VI Specialist by the end of January for each Federal fiscal (October 1st through September 30th) year.

Title VI Multidisciplinary Approach

The Interdisciplinary approach focuses on a team effort to ensure nondiscrimination in all of HDOT's programs and activities. In implementing this approach, HDOT has employed the guidance provided by FHWA's reference notebook entitled, *Preventing Discrimination in the Federal-Aid Program: A Systematic Interdisciplinary Approach.* To ensure HDOT complies with Title VI

of the Civil Rights Act of 1964 and other related statutes, there is established within HDOT a Title VI Interdisciplinary Team. The Interdisciplinary Team will use the systematic approach, communication and continuous interaction to proactively ensure nondiscrimination and continue interaction to proactively ensure nondiscrimination in all of HDOT's programs and activities. The members of the team will consist of:

1. Director's Office representative
2. HDOT Title VI Specialist
3. HAR Title VI Liaison
4. HWY Title VI Liaison
5. AIR Title VI Liaison
6. Oahu Metropolitan Planning Organization Title VI Liaison

The roles and responsibilities of the Interdisciplinary Team are:

1. Foster awareness of nondiscrimination requirements;
2. Participate in the development and implementation of the Title VI Plan;
3. Identify and prioritize areas of vulnerability and/or need;
4. Formulate and prioritize strategies to address areas of vulnerability;
5. Develop, revise and implement the Title VI Plan; and
6. Continuously assess and recommend adjustments to the Title VI Plan as necessary.

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DEFINITIONS

Adverse Effects[5] – The totality of significant individual or cumulative human health or environmental effects, including interrelated social and economic effects, which may include, but are not limited to:

- Bodily impairment, infirmity, illness or death;
- Air, noise, and water pollution and soil contamination;
- Destruction or disruption of man-made or natural resources;
- Destruction or diminution of aesthetic values;
- Destruction or disruption of community cohesion or a community's economic vitality;
- Destruction or disruption of the availability of public and private facilities and services;
- Vibration;
- Adverse employment effects;
- Displacement of persons, businesses, farms, or nonprofit organizations;
- Increased traffic congestion, isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community; and
- The denial of, reduction in, or significant delay in the receipt of benefits of DOT programs, policies, or activities.

Affirmative Action[6] – A good faith effort to eliminate past and present discrimination in all federally assisted programs, and to ensure future nondiscriminatory practices.

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[5] U.S. DOT Order 5610.2
[6] 23 C.F.R. § 200.

Beneficiary[7] – Any person or group of persons (other than States) entitled to receive benefits, directly or indirectly, from any federally assisted program, i.e., relocates, impacted citizens, communities, etc.

Citizen Participation[8] -- An open process in which the rights of the community to be informed, to provide comments to the Government and to receive a response from the Government are met through a full opportunity to be involved and to express needs and goals.

Compliance[9] – That satisfactory condition existing when a recipient has effectively implemented all of the Title VI requirements or can demonstrate that every good faith effort toward achieving this end has been made.

Discrimination[10] – That act (or action), whether intentional or unintentional, through which a person in the United States, solely because of race, color, religion, national origin, or sex has been otherwise subjected to unequal treatment under any program or activity receiving federal assistance from the Federal Highway Administration under title 23 U.S.C.[11]

Disproportionately High and Adverse Effect[12] – An adverse effect that is

- Predominately borne by a minority population and/or a low-income population, or;

- Will be suffered by the minority population and/or low-income population and is appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the non-minority population.

Environmental Justice[13] --Environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of

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[7] Id.
[8] Id.
[9] Id.
[10] Id.
[11] See also, U.S. DOT Order 1000.12.
[12] U.S. DOT Order 5610.2.
[13] U.S. Environmental Protection Agency (EPA) website at http://www.epa.gov/environmentaljustice/index.html

environmental laws, regulations, and policies.

FHWA further affirms three fundamental environmental justice principles:

1. To avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations.
2. To ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.
3. To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

Federal Assistance[14] – Includes:

1. Grants and loans of Federal funds;

2. The grant or donation of Federal property and interests in property, the detail of Federal personnel, the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assistant the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and;

3. Any Federal agreement, arrangement, or other contract, which has, as one of its purposes, the provision of assistance.

Low Income[15] – A person whose median household income is at or below the Department of Health and Human Services poverty guidelines.

Low Income Population[16] – Any readily identifiable group of low-income persons (a person whose median household income is at or below the Department of Health and Human Services poverty guidelines) who live in

[14] 23 U.S.C. § 200.
[15] U.S. DOT Order 5610.2.
[16] U.S. DOT Order 5610.2. The Department of Health and Human Services (HHS) poverty guidelines are used as eligibility criteria for the Community Services Block Grant Program and a number of other Federal programs. However, a State or locality may adopt a higher threshold for low-income as long as the higher threshold is not selectively implemented and is inclusive of all persons at or below the HHS poverty guidelines.
http://www.fhwa.dot.gov/environment/ejustice/facts/index.htm.

geographic proximity, and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed DOT program, policy or activity.

Minority[17] – Means a person who is:

> **Black**. (a person having origins in any of the black racial groups of Africa);
>
> **Hispanic**. (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);
>
> **Asian American.** (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands);
>
> **American Indian and Alaskan Native**. (a person having origins in any of the original people of North America and who maintains cultural identification through tribal affiliation or community recognition);
>
> **Native Hawaiian or Other Pacific Islander.** A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

Minority Population[18] –Any readily identifiable groups of minority persons who live in geographic proximity, and if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who

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[17] From the U.S. DOT Order on Environmental Justice. See also, www.fhwa.dot.gov/environment/ejustice/facts/index.htm. *Note:* See, *Environmental Justice in the OMPO [OahuMPO] Planning Process: Defining Environmental Justice Populations*, at http://www.oahumpo.org/T6EJ/Final2001/2004Update.pdf. Whenever feasible, for HDOT EJ purposes, the Asian American category, as well as the Native Hawaiian or Other Pacific Islander minority population category, may not be grouped collectively. Considering the unique characteristics of Asians and Native Hawaiian or Other Pacific Islanders in Hawaii, and because Hawaii remains a majority minority i.e., more than 50% of the area population is non-White, to avoid having the majority minority dominate the environmental justice identification process when feasible, HDOT reports and collects data on the following detailed races:

Chinese, Filipino, Japanese, Korean, Vietnamese, Native Hawaiian, Samoan, Tongan, Guamanian (i.e. Chamorro).

[18] U.S. DOT Order 5610.2.

will be similarly affected by a proposed DOT program, policy or activity.

Persons[19] -- Where designation of persons by race, color, or national origin is required, the following designations ordinarily may be used: "White not of Hispanic origin", "Black not of Hispanic origin", "Hispanic or Latino", "Asian", "Native Hawaiian or Other Pacific Islander[20]", "American Indian or Alaskan Native." **Additional subcategories based on national origin or primary language spoken may be used, where appropriate, on either a national or a regional basis.**

Program[21] – Includes any highway, project, or activity for the provision of services, financial aid, or other benefits to individuals. This includes education or training, work opportunities, health, welfare, rehabilitation, housing, or other services, whether provided directly by the recipient of Federal financial assistance or provided by others through contracts or other arrangements with the recipient.

Recipient[22] – Any State, City, County, political subdivision or instrumentality thereof, or any public or private agency, institution, or organization, or other entity, or any individual to whom Federal assistance is extended, either directly or through another recipient (sub-recipient), for any program. Recipient includes any successor, assignee, or transferee thereof.

Title VI Program[23] – The system of requirements developed to implement Title VI of the Civil Rights Act of 1964. References in this part to Title VI requirements and regulations shall not be limited to only Title VI of the Civil Rights Act of 1964. Where appropriate, this term also refers to the civil rights provisions of other Federal statutes to the extent that they prohibit discrimination on the grounds of race, color, national origin, or sex in programs receiving Federal

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[19] 23 C.F.R. § 200.

[20] Since the Regulations, at 23 C.F.R. § 200 defining Person vis- a-vis FHWA's implementation of the Title VI Program, the Office of Management and Budget (OMB), the Federal agency charged with overseeing the preparation of the federal budget and to supervise its administration in Executive Branch agencies has made two modifications to the Standards for the Classification of Federal Data on Race and Ethnicity: (1) the Asian or Pacific Islander category will be separated into two categories – "Asian" and "Native Hawaiian or Other Pacific Islander," and (2) the term "Hispanic" will be changed to "Hispanic or Latino." See 62 Fed. Reg. 58782 (October 30, 1997). The standards have been developed to provide a common language for uniformity and comparability in the collection and use of data on race and ethnicity by Federal agencies.

[21] 23 C.F.R. § 200.

[22] Id.

[23] Id.

financial assistance of the type subject to Title VI itself. These Federal statutes are:

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d – 2000d-7)
2. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601-4655)
3. Title VIII of the Civil Rights Act of 1968, amended 1974 (42 U.S.C. 3601-3619)
4. 23 U.S.C. § 109h
5. 23 U.S.C. § 324
6. Subsequent Federal-Aid Highway Acts and related statutes.

Complaints

If any individual in Hawaii believes that they have been subjected to unequal treatment or discrimination on the grounds of race, color, national origin, or sex, they may exercise their right to file a complaint with HDOT. (See Attachment C for the Title VI Discrimination Complaint Procedures).

Data Collection

Statistical data on race, color, national origin, sex, age, disability, and income level of participants in and beneficiaries of HDOT's programs, (i.e. relocatees, affected populations) will be gathered and maintained by the Department to determine the transportation investment benefits and burdens to the eligible population, including minority and low-income populations. Each of the Title VI special emphasis program areas will maintain data to be incorporated in the Title VI Accomplishment Report. Data gathering procedures will be reviewed regularly to ensure sufficiency of the data in meeting the requirements of the Title VI program administration. (See Attachment D for information on Data Collection).

Title VI Reviews

All special emphasis programs will be reviewed with the Title VI liaisons annually to assure effectiveness in their compliance of Title VI provisions. The HDOT Office of Civil Rights, (OCR) Title VI Specialist and program representatives will coordinate efforts to ensure the equal participation in all their programs and activities at all levels.

Title VI Subrecipient Reviews

The Title VI Specialist will conduct annual Title VI compliance reviews of subrecipients in coordination with the Metropolitan Planning Organizations (MPO's), and Counties, to ensure compliance with Title VI. The reviews include an assessment of adherence to Title VI and Environmental Justice requirements. The assessment will be incorporated into the Annual Accomplishment Report.

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Planning

Planning involves the responsibility to develop long and short-range plans for Hawaii to provide efficient transportation services to the citizens of the State.

Responsibilities:

1. Make special effort to contact and involve ethnic minorities and low-income populations in planning studies, meetings and hearings.
2. Use the input of low-income populations and ethnic minorities to improve proposed projects and to mitigate negative impacts of planned and proposed projects.
3. Collect, analyze and use data on ethnic minority populations and low-income populations to determine impacts of plans, programs and projects.
4. Review internal operational policies and procedures for consistency with Title VI.
5. Monitor accomplishments, notify OCR of problem areas and summarize findings for inclusion in Title VI annual report.
6. Conduct Title VI reviews of program activities.
7. Conduct Environmental Assessments and Environmental Impact Statements for major projects, and ensure that Title VI and Environmental Justice issues are addressed or mitigated.
8. Establish advisory committees as needed to ensure adequate representation by low-income populations and ethnic minorities in the planning of projects and programs.
9. Involve representatives from affected groups on citizen advisory committees when disproportionate impacts on low-income populations are possible. Special steps may be needed to effectively notify these groups of informational meetings and/or public hearings. (See Techniques for Involving Environmental Justice Populations in Planning and Project Development, Attachment E).
10. Consult with OCR when Title VI issues are raised at public hearings.
11. Review by OCR of pre-draft environmental documents.
12. Monitor compliance with Environmental Justice (See Attachment F).

Project Selection

Project selection results from a variety of processes and involves various organizational units. Processes include stakeholder involvement, problem and solution identification, prioritization, as well as systems planning programs.

Responsibilities:

1. Design stakeholder involvement processes to ensure that potential Title VI issue(s) will be identified in the project selection phase.
2. Make special effort to contact and involve minorities and low-income groups in the project selection phase.
3. Conduct Title VI reviews of program activities.
4. Monitor accomplishments, notify OCR of problem areas and summarize findings for inclusion in Title VI annual report. This will include analyzing data from selection process and ensuring the integrity of the data.

Design

Design involves several phases of project development including preliminary design, development of alternatives, selection of options and final design.

Stakeholder involvement should continue throughout these phases. Consultant contracts may be utilized for one or more of these phases.

Responsibilities:

1. Ensure that public involvement activities during the design phase provide opportunities for minority and low-income populations to receive information on the project, and an opportunity to comment and participate in public forums.
2. Conduct Title VI reviews of program activities.
3. Monitor accomplishments, notify OCR of problem areas and summarize findings for inclusion in Title VI annual report.
4. Maintain required statistical data by race/ethnic origin and sex of participants and beneficiaries of the programs and projects. In some areas, data related to low-income populations needs to be acquired and maintained for projects that by-pass the planning phase.
5. Identify potential Title VI impacts and possible mitigation measures. If the environmental impact assessment indicates that an environmental impact study is necessary it will be conducted in consultation with STP.
6. Conduct Environmental Assessments and Environmental Impact

Statements for major projects, and ensure that Title VI and Environmental Justice and LEP issues are addressed or mitigated in those assessments.

7. Establish advisory committees as needed to ensure adequate representation by low-income populations and ethnic minorities in the planning of projects and programs.
8. Regardless of the project origination, the Project Manager will utilize the project scoping process to collect pertinent minority and low-income data to determine whether Title VI and/or Environmental Justice and LEP issues are likely to be present.
9. When disproportionate impacts on low-income and LEP populations are possible, special efforts are to be made to involve representatives from affected groups on citizen advisory committees. Special methods may be needed to effectively notify these groups of informational meetings and/or public hearings (See Attachment G).
10. The OCR is to be consulted when Title VI issues are raised at public hearings.

Environmental Considerations

The environmental process, although complex and fluid, is an integral part of the project development process. It is HDOT's policy to evaluate the environmental benefits and consequences of its activities and implement practices that minimize environmental impacts, using a systematic interdisciplinary approach to identify and evaluate environmental issues and problems.

Responsibilities:

1. Utilize the project scoping process to collect pertinent minority and low-income data to determine whether Title VI and/or Environmental Justice issues are likely to be present.
2. Involve representatives from affected groups, including, advisory committees when disproportionate impacts on low-income populations are possible. Special steps may be needed to effectively notify these groups of informational meetings and/or public hearings. (See Attachment E).
3. Conduct Title VI reviews of program activities.
4. Consult with OCR when Title VI issues are raised at public hearings.
5. Submit environmental documents for major transportation projects to OCR for review.
6. Ensure that Environmental Justice criteria have been complied with. (See Attachment F).
7. Monitor accomplishments, notify OCR of problem areas and summarize

information for the Title VI annual report.

Right of Way

Review of right-of-way activities shall begin when a project is in the initial development stage. Activities shall be coordinated with various planning and/or design staff (such as potential acquisition of dwellings and businesses and assistance in identifying minority and low-income populations affected by the project). Additionally, other right-of-way activities to be reviewed shall include title clearance, procurement of professional services, appraisal and review of properties to be purchased, negotiation with property owners, acquisition of properties, relocation assistance to families and businesses, adjustment of utilities and project certification.

Responsibilities:

1. Include Title VI provisions in the Right-of-Way Procedure Manual.
2. Ensure that equitable treatment is given to all businesses and persons displaced by highway projects regardless of race, color, or national origin.
3. Provide information in the appropriate language and/or interpreters If affected property owners do not speak English.
4. Conduct Title VI reviews of program activities.
5. Special effort shall be made to use minority/women appraisers.
6. Develop and update internal procedures to ensure Title VI compliance during all phases of the right-of-way process.
7. Monitor accomplishments, notify OCR of problem areas and summarize information for the Title VI annual report.

Research

Research on projects shall include not only engineering-related projects, but research involving areas such as transit, transportation and environmental studies, and socioeconomic analysis. Work may be done in-house or under contract by the university or private firms. State and federal funds may be used.

Responsibilities:

1. Conduct Title VI reviews of program activities.
2. Encourage the research contractor to use minority and female students on the project.
3. Include Title VI language in all agreements.
4. Monitor accomplishments, notify OCR of problem areas and summarize

information for the Title VI annual report.

Construction

The construction process includes pre-construction (design and contracting), construction and post-construction (maintenance). Construction focus is placed on the delivery and construction of capacity enhancing, operational improvements, as well as general maintenance of projects that provide and promote the transportation needs for the people of Hawaii.

1. Conduct Title VI reviews of program activities to ensure program compliance.
2. Monitor and take corrective action on any civil rights complaints involving competitive bidding procedures.
3. Monitor contract provisions, sub-contract agreements, first and second tier, material supply and equipment lease agreements to ensure that they contain Title VI contract provisions for all federal-aid projects.
4. Monitor accomplishments, notify OCR of problem areas and summarize information for the Title VI annual report.

Education and Training

The Title VI Specialist shall plan, develop, conduct, secure and participate in training as necessary. The OCR shall monitor accomplishments and problem areas and summarize information for the Title VI annual accomplishment report.

Motor Vehicle Safety

The HWY Motor Vehicle Safety Office administers the Motor Vehicle Safety Program. The principal area where Title VI issues must be addressed is contracting.

The HWY Traffic Branch undertakes various safety studies to plan and prioritize safety improvements. The branch is also responsible for updating the State Bike and Pedestrian Plan. In performing these functions, the branch will provide for public involvement by all income groups and ethnicities in updating the State Bike and Pedestrian Plan.

Responsibilities:

1. Ensure that all business pertaining to selection, negotiation and administration of consultant contracts and agreements is accomplished

without discrimination based on race, color, or national origin.

2. Conduct Title VI reviews of program activities to ensure program compliance.
3. Ensure that all contract documents contain appropriate Title VI provisions.
4. Maintain data on contracting activity and summarize for the Title VI annual report.

Administration

In addition to the program areas described above, there are a number of administrative areas, which have Title VI implications. These include divisional policies, procedures and directives; contracts, agreements, other legal instruments and proposed legislation; Title VI training; and dissemination of information to the public.

Responsibilities:

1. Review divisional policies, procedures, and proposed legislation for Title VI compliance.
2. Review contracts, agreements and other legal instruments for appropriate Title VI language.
3. Disseminate internal and external publications and other information to the public.
4. Public information activities shall take into account any Title VI requirements.

ATTACHMENT A

STANDARD HDOT TITLE VI ASSURANCES

The Hawaii Department of Transportation (hereinafter referred to as the "Recipient")

HEREBY AGREES THAT as a condition to receiving any Federal financial assistance from the U. S. Department of Transportation it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C. 2000d-4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U. S. Department of Transportation. Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the U. S. Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations) and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from the U.S. Department of Transportation, including the Federal Aviation Administration, Federal Highway Administration and the Federal Transit Administration, and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.7(a) (1) of the Regulations.

More specifically, and without limiting the above general assurance, the Recipient hereby gives the following specific assurances with respect to all programs and activities for which the Recipient received Federal financial assistance:

1. That the Recipient agrees that each "program" and each "facility" as defined in subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the Regulations.

2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and made in connection with all programs and activities for which the Recipient received Federal financial assistance and, in adapted form in all proposals for negotiated agreements:

> "The Recipient in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49 Code of Federal Regulations, U.S. Department of Transportation, Subtitle A , Office the Secretary Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation, and will not be discriminated against on the grounds of race, color, national origin, or sex in consideration for an award."

3. That the Recipient shall insert the clauses of Appendix A of this assurance in every contract subject to the Act and the Regulations.

4. That the Recipient shall insert the clauses of Appendix B of this assurance as a covenant running with the land in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.

5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.

6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over or under such property.

7. That the Recipient shall include the appropriate clauses set forth in Appendix C of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements

entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under the Federal-aid Program; and (b) for the construction or use of or access to space, on, over, or under real property acquired, or improved under the Federal-aid Program.

8. That this assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the Recipient or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the Recipient retains ownership or possession of the property.

9. The Recipient shall provide for such methods of administration for the program as are found by the Secretary of Transportation, or the official to whom she delegates specific authority, to give reasonable guarantee that it, other recipients, sub grantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations and this assurance.

10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Recipient by the U.S. Department of Transportation under the Federal-aid Program and is binding on it, other recipients, sub grantees, contractors, subcontractors, transferees, successors in interest and other participants in the Federal-aid Program. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Recipient.

BRENNON T. MORIOKA, Ph.D., P.E. Director of Transportation	1-18-09 Date

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. Compliance with Regulations: The contractor shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by §21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. Solicitations for Subcontractors, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, or sex.

4. Information and Reports: The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the State or the (Name of the Appropriate Administration) to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the

contractor shall so certify to the State or the (Name of the Appropriate Administration) as appropriate and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the State shall impose such contract sanctions as it or the (Name of the Appropriate Administration) may determine to be appropriate, including, but not limited to:
   a. withholding of payments to the contractor under the contract until the contractor complies; and/or
   b. cancellation, termination or suspension of the contract, in whole or in part.

6. Incorporation of Provisions: The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontract or procurement as the State or the (Name of Appropriate Administration) may direct as a means of enforcing such provisions including sanctions for non-compliance: provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the State to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

ATTACHMENT A
APPENDIX B

The following clauses shall be included in any and all deeds effecting or recording the transfer of real property, structures or improvements thereon, or interest therein from the United States.

(GRANTING CLAUSE)
NOW, THEREFORE, the U.S. Department of Transportation, as authorized by law, and upon the condition that the State, will accept title to the lands and maintain the project constructed thereon, in accordance with (Name of Appropriate Legislative Authority), the Regulations for the Administration of (Name of Appropriate Program)The Federal Aid Program and the policies and procedures prescribed by the (Name of Appropriate Program) and, also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter referred to as the Regulations) pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964, (78 Stat. 252, 42 U.S.C. 2000d to 2000-4), does hereby remise, release, quitclaim and convey unto the State all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit "A" attached hereto and made a part hereof.

(HABENDUM CLAUSE)
TO HAVE AND TO HOLD said lands and interests therein unto the State, and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on the State, its successors and assigns.

The State, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its

successors and assigns, that (1) no person shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over or under such lands hereby conveyed [] [and]* (2) that the State, shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the United States Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended [,] and (3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the United States Department shall have a right to re-enter said lands and facilities on said land, and the above described land and facilities shall thereon revert to and vest in and become the absolute property of the United States Department of Transportation and its assigns as such interest existed prior to this instruction.*

* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by the State, pursuant to the provisions of Assurance 6(a).

The (grantee, license, lessee, permittee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases and "as a covenant running with the land") that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.,) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.]*
That in the event of breach of any of the above nondiscrimination covenants, the State, shall have the right to terminate the [license, lease, permit, etc.] and to re-enter the repossess said land and the facilities thereon, and hold the same as if said [license, lease, permit, etc.] had never been made or issued.

[Include in deeds]*
That in the event of breach of any of the above nondiscrimination covenants, the State, shall have the right to re-enter said lands and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of the State and its assigns.

The following shall be included in all deeds, licenses, leases, permits or similar agreements entered into by the State, pursuant to the provisions of Assurance 6(b).

The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his personal representatives, successors in interest, and assigns, as a part of the

consideration hereof, does hereby covenant and agree (in the case of deeds, and leases add "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the ground of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.]*
That in the event of breach of any of the above nondiscrimination covenants, the State, shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon, and hold the same as if said [license, lease, permit, etc.] had never been made or issued.

(Include in deeds)*
That in the event of breach of any of the above nondiscrimination covenants, the State, shall have the right to re-enter said lands and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of the State, and its assigns.

*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

ATTACHMENT B

FORMAT FOR ANNUAL ACCOMPLISHMENTS REPORT

The Title VI Annual Report shall contain the necessary information to evaluate the HDOT's Title VI program as it pertains to accomplishments, shortfalls, and problem areas. The various program areas should cover at least the minimum information listed below.

POLICY STATEMENT

If the Title VI policy statement was updated during the reporting period, provide a copy of the new or revised policy statement. Explain how it was disseminated throughout the State.

ORGANIZATION, STAFFING, STRUCTURES

Update, as necessary, any changes in officials responsible for Title VI. An organizational chart should be provided in each updated report.

TITLE VI MONITORING AND REVIEW PROCESS

Provide a summary of all Sections of Title VI activities where Title VI reviews were conducted, including findings, recommendations, action items, and status thereof.

COMPLAINTS

Provide a summary of each complaint filed. Include the basis, status, and actions proposed and/or taken by the State and current disposition.

ACCOMPLISHMENT REPORT FOR EACH PROGRAM AREA

At the minimum, the following should be included in the Title VI annual report of the various program areas:

A. Planning

1. How many consultant projects for planning were awarded during the reporting period? Dollar value?
2. What efforts were made to utilize minority and female consultants and subcontractors?
3. Were there any studies conducted which provided data relative to minority persons, neighborhoods, income levels, physical environment, and travel habits? If so, what type of assistance did those individuals responsible for Title VI provide, to ensure that Title VI considerations were included in the studies.
4. Number of public input opportunities or strategies used during the reporting period. What efforts were utilized to ensure citizen participation in the hearings, particularly minorities and women? Were minorities and women, both individually and through their organizations, represented in the citizen participation effort? How many, and in what capacity?

B. Project Selection

1. How are Title VI considerations addressed through stakeholder involvement mechanisms?
2. Describe how minorities and low-income populations were provided opportunities to be involved in project selection processes.
3. Describe what project selection decisions, if any, were affected by Title VI or Environmental Justice issues?
4. How many public hearings, and in what locations, were held on adoption of the STIP or in making other project selection decisions?

C. Design

1. How many consultant firms currently have design contracts? Dollar value? How many contracts do minority firms and women owned firms currently hold? Dollar value?
2. What efforts were made to increase minority and female participation in obtaining consultant contracts?
3. List the employees in the Design Program area by title, ethnicity, and sex. Where minority and female representation is low, what efforts are made to increase their representation?
4. Were there any complaints filed in the Design Program area? If so, provide summary, with basis, status, actions proposed and taken.
5. List any significant problem areas, accomplishments, and actions to take during the ensuing year.

D. Environmental Considerations

1. As a result of the choice of ~~airport~~ a facility/location, or the procedure used for arriving at the choice, were any complaints filed? If so, how many? Summarize each complaint and explain status, with actions proposed and taken.
2. Identify the titles, ethnicity and sex of employees working in the environmental program area. Were there any vacancies during the reporting period? What efforts were made by the Title VI Specialist to increase the representation of minorities and women if they are underrepresented? What efforts were made to encourage adequate representation of minorities and women to serve as members of citizen advisory committees?
3. List the Environmental Assessments/Environmental Impact Statements submitted to the Hawaii Department of Health, Office of Environmental Quality Control (OEQC), during the reporting period. Summarize the concerns of EJ populations.
4. How many consultants currently have contracts involving environmental studies? Dollar value? How many minority and women-owned firms currently have contracts involving environmental studies? Dollar value? Where minority and women participation on consultant contracts is low, describe efforts taken to increase their participation.
5. How many public hearings were held during the reporting period concerning location of a project? How were the hearings advertised, and was it adequate to provide notification to minorities and low-income communities?
6. How were minority and low-income community representatives identified and encouraged to become involved in the location and environmental phase?
7. During the reporting period, was there a need to utilize bilingual advertisements, announcements, notices, etc.?

E. Right-of-Way

1. During the reporting period, did the State receive any civil rights complaints in the following Right-of-Way functional areas:
    i. Appraisals
    ii. Negotiations
    iii. Relocation Assistance and Payments
    iv. Property Management

    If so, how many?
2. How many fee appraisers were utilized during the reporting period?

How many are minority and women? If the representation of minority and female appraisers is low, what efforts were made to increase their representation?

3. How many negotiations were made during the reporting period? Does the negotiator's log reflect any disparity in the conduct of negotiations between minorities and non-minorities?
4. Were there any concerns raised by minorities or women concerning their options in the negotiation phase? Explain.
5. Number of relocations during the reporting period:
   Minority: _____
   Female _____
   Elderly: _____
   Disabled _____
6. Were any concerns raised by minorities or women on replacement housing, referral housing, etc.?

F. Research

1. How many research projects are currently underway?
2. List of universities and/or consultants currently conducting research projects.
3. Summarize actions taken to encourage universities to utilize minority and female students to participate on highway research projects.
4. Summarize actions taken to increase minority and women-owned consultant firms in obtaining research projects.
5. List any significant actions planned for the ensuing year.

G. Construction

1. Has the State received any civil rights complaints involving competitive bidding procedures? What corrective action, if any was needed, has the State taken? (Provide summary of any concerns raised by DBEs concerning licensing, pre-qualifications, lack of subcontracting opportunities, etc.)
2. What was the level of DBE participation on construction contracts? Female and minority-owned firms?
3. Summarize efforts made by the DBE staff to encourage the use of minority and women-owned firms on state funded projects?
4. During the review period, were any procedures reviewed to assure subcontract agreements, first and second tier, and material supply and equipment lease agreement contained Title VI contract provisions?
5. List any significant accomplishments, and/or action items for the

ensuring year.

H. Education and Training

1. During the reporting period, what efforts were made to encourage participation by minorities and women in educational and training programs?
2. List the types of sponsored or co-sponsored programs. How many State participants? How many minorities and women?
3. Identify the agency's staff personnel responsible for training by job title, ethnicity and sex (gender).
4. Were there any civil rights complaints filed concerning training and educational opportunities? If so, what corrective actions has the State taken? Provide summary of concerns raised, complaints filed, status, etc.

I. Motor Vehicle Safety Program

1. How many contracts and inter-agency agreements are currently in effect involving Motor Vehicle Safety Program funds?
2. Where contract are with consultant or professional service firms, describe the advertising and selection process. Were DBE firms encouraged to submit proposals? Were DBE goals assigned to contracts?
3. What was the total dollar value of contract work last year? What amount went to DBE firms, either as primes or sub-contractors?
4. What steps, if any, are planned for next year to increase DBE participation?
5. Were any civil rights complaints received regarding the Motor Vehicle Safety Program?

J. Administration[24]

1. Provide a list of employees by ethnicity, sex, and title in each of the Title VI program areas.
2. Summarize all activities undertaken during the reporting period, which provide for assurances of Title VI compliance by contractors (i.e., are Title VI requirements included in all contracts and consultant agreements; were reviews made to ensure contractors and consultants are adhering to Title VI requirements?).
3. Was any Title VI training provided during the reporting period? If so, how many participants attended, titles, etc.? Was any other kind of

[24] To be completed by the Title VI Specialist.

civil rights training conducted? If so, what type of training (course content)? Provide a list of participants by job title (i.e., supervisor, manager, etc.).

ATTACHMENT C

TITLE VI DISCRIMINATION COMPLAINT PROCEDURE

These procedures cover any program or activity administered by the Hawaii Department of Transportation (HDOT).

Any person who believes that he or she, individually, as a member of any specific class, or in connection with any disadvantaged business enterprise, has been subjected to discrimination on the basis of race, color, national origin, or sex, protected categories under Title VI of the Civil Rights Act of 1964, and other related statutes, may file a Title VI complaint with the HDOT's Office of Civil Rights. A complaint may also be filed by a representative on behalf of such a person. They should be directed to:

Office of Civil Rights
Hawaii State Department of Transportation
869 Punchbowl Street, Room 112
Honolulu, Hawaii 96813

The law prohibits intimidation or retaliation of a person who files a complaint.

In order to have the compliant considered under this procedure, the complainant must file the complaint no later than 180 days after:

1. The date of the alleged act of discrimination; or

2. Where there has been a continuing course of conduct, the date on which that conduct was discontinued.

These procedures do not deny or limit the right of a complainant to file a formal complaint with the U.S. Department of Transportation (U.S. DOT). Every effort will be made to resolve complaints at the lowest possible level as quickly as possible.

Procedure

1. Complaints submitted to the OCR must be in writing, signed, and dated by the complainant or their authorized representative. The complaint

must contain the complainant's name and address (or specify another means of contacting them) and must describe the allegations in sufficient detail to allow for a determination whether the appropriate agency has jurisdiction over the complaint, the complaint was filed in a timely manner, and that the complaint has apparent merit.

2. If the complaint provides incomplete information, the complainant will be requested to complete the HDOT's discrimination complaint form. Failure to complete the form may result in OCR dropping the complaint for failure to prosecute.
3. Upon receipt of the signed complaint form, the Civil Rights Manager or their designee will log-in the complaint, determine the basis of the complaint, authority/jurisdiction, and who should conduct the investigation.
4. Title VI complaints will be assigned to a member of the OCR staff or other designated HDOT staff who is trained in conducting such investigations.
5. The first step in conducting the investigation will be the preparation of an investigation plan, identifying following elements:
    a. Basis of complaint;
    b. Issues to be addressed;
    c. Information needed to answer the questions posed (what actually happened, who was involved, past practices, etc.);
    d. Sources from which the information will be obtained (witnesses, written documents, etc.);
    e. How the information will be obtained (telephone interviews, travel to other offices, review of records, etc.); and
    f. Projected timeline for completion.
6. Within ten (10) working days of receiving the complaint, the complainant will be notified in writing by the OCR regarding who will be conducting the investigation and the anticipated timeline for completion.
7. One of the first steps in the investigation will be to meet with the complainant to clarify the issues and obtain additional information.
8. The Branch or District Manager where the complaint occurred will be notified of the complaint.
9. The respondent (party named in the complaint) will be notified of the complaint and the status of the investigation.
10. There is no informal complaint process under Title VI. All complaints are treated as formal complaints whether they are investigated by HDOT or forwarded to U.S. DOT for processing.
11. Proceed with the steps outlined in the investigation plan (interview witnesses, obtain written documentation, etc.).
12. After completing the investigation, information will be evaluated and a

written report prepared. The report shall contain the following elements:

a. Description of the allegation;
b. Summary of the investigation;
c. Relevant facts (findings);
d. Supporting documents attached, when appropriate.

13. The written investigation report will be submitted to the Civil Rights Manager within 90 days of the time the complaint was received. If circumstances require additional time, a status report will be submitted and a request for extension of time will be forwarded to the Office of the Secretary of Transportation (OST) for approval.
14. A copy of the report shall be sent to the Attorney General's Office for their information and file.
15. The investigator will meet with the Civil Rights Manager and/or their designee to discuss the findings and what further action may be appropriate.
16. The Civil Rights Manager and/or investigator will meet with the Director. The HDOT's Director shall make the final decision.
17. The complainant and appropriate managers will be notified in writing of the results of the investigation.
18. If the HDOT's decision is adverse to the complainant, the complainant shall be notified that they have appeal rights under Title VI to the U.S. DOT.
19. Copies of all Title VI complaints and investigative reports will be sent to the affected agency of the U.S. DOT within 60 days of receipt of the complaint.

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ATTACHMENT D

DATA COLLECTION[25]

The Nondiscrimination Agreement between the Federal Highway Administration (FHWA) Hawaii Division Administrator and the Hawaii Department of Transportation (HDOT) obligates all HDOT programs to collect statistical data (race, color, national origin, sex, disability, age, and income level) of participation in and beneficiaries of the program and activities conducted by the Recipient.

Why collect data:

The Code of Federal Regulations 23, Part 200.9(b)(4) requires the State "develop procedures for the collection of statistical data of participants in and beneficiaries of State highway programs; i.e., relocates, impacted citizens and affected communities. "The Nondiscrimination Agreement between the FHWA Hawaii Division and the HDOT assures that HDOT will collect statistical data (race, color, national origin, sex, disability and age) on participation in and beneficiaries of the program and activities conducted by HDOT. In addition, data collection provides measurable evidence of the HDOT's performance as it relates to Title VI for annual reports to FHWA and HDOT's efforts to ensure compliance with Title VI.

Objective data is necessary to identify:

1. Transportation needs of all persons within boundaries of plans or projects.
2. Impacts and persons impacted.
3. Persons to include in the decision making process.
4. "Champion(s)" for various modes and transportation options.
5. Strategies to address impacts
6. Alternatives to modes and locations and types of facilities (transit, light rail, van and carpooling, HOV lanes, etc.).
7. Priorities for investments.
8. Sources for financing investments.
9. Strategies to disseminate information.

Based on Title VI implementing regulations, each division/office is

[25] See the California Department of Transportation (CALTRANS), *Civil Rights Title VI Program Guidelines*.

required to:

1. Provide for the collection of data and information to permit effective enforcement of Title VI.
2. Collect data about beneficiaries.
3. Analyze the data and information collected.
4. Eliminate discrimination when it is found.
5. Take affirmative measures to ensure nondiscrimination.

The Types of Data and Analysis:

Types of data helpful in determining compliance with Title VI and Environmental Justice (EJ) considerations:

Data	Analysis Of
Population	Regional Population and Growth Rates
	Regional Ethnic Composition
	Age Distribution by Race
	Number of Households by Income Group
	Median Household by Income
	Percent of Persons Below Poverty Line
	Percent of persons by Age Group With Mobility Limitations
	Percent of Elderly Persons
	Language(s) Spoken
	Percent of Disabled by Types of Disability
Mode Choice	Number of Trips Per Capita
	Percent of Households Without Automobiles
	Percent of Households by Income Groups Using Various Modes of Transportation (I.e., Bus, Carpool, Automobile, Etc.)
	Percent of Persons by Ethnic, Gender and Disability Group Using Various Modes of Transportation (I.e., Bus, Carpool, Automobile, Etc.)
	Transportation System Congested
	Delay as Percentage of Travel Time
	Travel Time

Transportation System	Exposure to Transportation Hazards (Environmental, Safety, Crime)
	Access to Jobs, Churches, Synagogues, Mosques, Medical Care, Schools, Emergency Services, Grocery Stores, Family
Employment	Present and Future Location of Jobs
	Present and Future Location of Housing
	Present and Future Location of Low-Income Communities
Other	Public Investing per Capita (Federal, State, and Local)

Analysis:

Type of analysis to address compliance with Title VI:

1. Percent of benefits allocated to persons below poverty line vs. persons above poverty line.
2. Distribution of benefits (dollars, facilities, systems, projects) by groups and communities.
3. Impact of investments on income, race, sex (gender), disability and age groups.
4. Allocation of funds by mode (highway, bus, etc.).
5. Projected population increases versus planned facilities and types of facilities.
6. Language needs assessment.

Types of Performance Indicators:

1. Mobility – Ease of movement of people and goods.
2. Accessibility – Access to opportunities (jobs, medical care, emergency services, family, shopping, entertainment).
3. Environment – Sustainable development and preservation of the existing system and the environment.
4. Cost-effectiveness – Maximized return on investment, direct as well and indirect costs associated with air pollution, congestion delays for individuals/businesses.
5. Reliability – System reliability. (Probability of arriving at destination or even making the trip.)
6. Safety – Physical design and operation of system (measured in accidents

per person mile) also includes security related to criminal activities on highways as well as on transit systems.

7. Equity – Transportation investments and benefits are invested in a manner that meets the needs of all persons.
8. Customer Satisfaction – Increased ability to make trips, improved travel time, safety and security, improved access to system.
9. Livable Communities – Enhancement of living conditions for communities through transportation policies that provide multi-modal options including non-motorized modes.

Where to collect data:

Potential sources of data and analysis tools:

1. Census Data
2. School Districts
3. Transit Ridership Surveys
4. Management Systems (Pavement and Congestion)
5. Land Use Plans
6. Geographic Information Systems
7. Transportation Models
8. Metropolitan Planning Organization Committees (e.g., Citizen Advisory Committees)

In addition, the U.S. Department of Justice regulations, Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs and examples of data and information which, to the extent necessary and appropriate for determining compliance with Title VI, include the following:

1. The manner in which services are or will be provided and the related data necessary for determining whether any persons are or will be denied such services on the basis of prohibited discrimination.
2. The population eligible to be served by race, color, national origin, sex, disability and age.
3. Data regarding covered employment, including use or planned use of bilingual public contact employees servicing beneficiaries of the program where necessary to permit effective participation by beneficiaries unable to speak or understand English.
4. The location of existing or proposed facilities connected with the program and related information adequate for determining whether the location has or will have the effect of unnecessarily denying access to any persons on the basis of prohibited discrimination.

5. The present or proposed membership, by race, color, national origin, sex, disability and age, in any planning or advisory body which is an integral part of the program.
6. Where location is involved, the requirements and steps used or proposed to guard against unnecessary impact on persons on the basis of race, color, national origin, sex, disability or age.

Additional data, such as demographic maps, the racial composition of affected neighborhoods or census data, may be necessary or appropriate for understanding information requirements listed above. This type of data is required, however, only to the extent that it is readily available or can be compiled with reasonable effort.

The Attorney General and Office of Civil Rights must be promptly notified of any lawsuit filed against your program and its sub-recipients alleging discrimination on the basis of race, color, national origin, or sex.

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ATTACHMENT E

TECHNIQUES FOR INVOLVING ENVIRONMENTAL JUSTICE POPULATIONS IN PLANNING AND PROJECT DEVELOPMENT[26]

When transportation projects have the potential for creating adverse impact on minority and low-income populations, special efforts must be made to involve representatives from affected groups on citizen advisory groups. Also, various techniques may be required to effectively notify such groups of informational meetings and public hearings. These efforts and techniques may include, but are not limited to, the following:

Getting Volunteers to Serve on Project Committees

1. Contacting minority and low income persons directly in the project area to find out if they would be interested in serving on an advisory committee;
2. Contacting churches and civic organizations in the area to request volunteers or recommendations regarding who would be a good representative; and
3. Getting mailings out in the project area informing people about the proposed project and requesting volunteers.

Encouraging People to Attend Meetings

1. Offering a variety of meetings and techniques for disseminating information and obtaining responses, including neighborhood informational meetings, neighborhood "coffee", speaking at churches and community organizations; and holding formal public hearings;
2. Publicizing such meetings might take the form of direct mailings to affected residents and property owners; notices in church bulletins and community organization newsletters; posting notices in stores, schools and other locations in the project area; and providing notices in languages

[26] See generally, the National Cooperative Highway Research Program Project 8-36(11) report, *Technical Methods to Support Analysis of Environmental Justice Issues* found at: http://www.somervillestep.org/files/TechMethodsAnalysisEnvJustice_0402.pdf.

See also, *The Hawaii Department of Transportation Guide for Public Involvement Planning in the Transportation Planning and Programming Process* (October 28, 2003) on file with OCR.

other than English where appropriate;

3. Holding meetings in easily accessible locations (walking distance);
4. Offering transportation to those who may need it; and
5. Having translators available if needed.

Use of Focus Groups

Use of Surveys

COMPLIANCE WITH ENVIRONMENTAL JUSTICE

The Department of Transportation will take the following actions to comply with Executive Order 12898 regarding Environmental Justice[27]:

Identify minority or low-income communities in the project area, using a variety of methods from secondary sources, such as:

1. On-Site evaluation.
2. Census Bureau data.
3. Planning reports.
4. Local Housing Authority.
5. Neighborhood associations.
6. Local schools and school district boundaries.
7. Community leaders/organizations/local contacts.
8. Public/social service agencies.

When these methods do not produce adequate results, obtain information on the probable range of income for people displaced by a specific project/action. The intent is to determine whether the residents meet federal poverty guidelines. These guidelines may be obtained at the following website: http://aspe.hhs.gov/poverty/.

2008 Poverty Guidelines for Hawaii[28]	
Persons in Family	Poverty Guideline
1	$11,960
2	16,100
3	20,240
4	24,380
5	28,520
6	32,660
7	36,800
8	40,940

[27] Presidential Executive Order 12898 requires agencies to identify and address disproportionately high and adverse effects of federal programs, policies and activities on minority and low-income populations.

[28] 73 Fed. Reg. 3972 (January 23, 2008).

Suggest methods to obtain adequate public involvement for minority and low-income communities to ensure adequate outreach and education to these groups, such as:

1. Minority/other language newspapers.
2. Coordination with group representative.
3. Door-to-door outreach (with group representative).
4. Presentations/discussions at group functions.
5. Flyers (including other-language flyers).
6. Transportation to and from meetings.

Identify potential adverse impacts to minority and low-income communities resulting from the project. Assess cumulative impacts resulting from other activities in conjunction with HDOT projects. Potential adverse impacts on minority and low-income communities generally include:

Economic Impacts

1. Economic vitality
2. Employment
3. Transportation
4. Development

Social Impacts

1. Aesthetic values.
2. Community cohesion; isolation, exclusion or separation of minority or low-income individuals from the broader community.
3. Availability of public and private facilities and services (including community services, schools, recreation areas, churches, police and fire protection).
4. Changes in travel patterns and accessibility.
5. Highway and traffic safety.

Environmental Impacts

1. Air, noise, and water pollution
2. Vibration
3. Soil contamination, hazardous materials
4. Man-made or natural resources

5. Traffic congestion

Human Health / Displacements

1. Number of household/businesses
2. Family/business characteristics
3. Available housing/available building sites
4. Last resort housing
5. Impacts of relocation on individuals/community

Determine whether the project would have a disproportionately high and adverse effect on minority or low-income populations. Specify risks of these impacts.

Identify and evaluate ways to avoid or reduce disproportionate impacts to minority or low-income communities. Specify mitigation and enhancement measures to be taken to avoid or offset potential impacts. These could include:

1. Select a different alternative/option (unless high adverse impacts are more severe or increased costs are extraordinary).
2. Develop and evaluate new alternatives/options.
3. Reevaluate project need -- ensuring it is "substantial."
4. Demonstrate that the project, as developed, is based on the public interest.
5. Evaluate comparative costs and impacts of other alternatives/options.
6. Replace impacted resources.
7. Build replacement housing in same community.
8. Use specific financial and incentive programs or opportunities for relocates.
9. Ensure sensitivity and awareness of special needs for relocates.
10. Provide adequate access to work or to mass transit.
11. Ensure reasonable links to community services.

Develop mitigation plan in cooperation with the minority or low-income community and appropriate agencies. Incorporate this information in the environmental document.

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LANGUAGE ACCESS[29]

Most individuals living in the United States read, write, speak, and understand English. There are many individuals, however, that have a limited ability to read, write, speak, or understand English, and therefore are limited English proficient (LEP).[30]

Hawai'i's population reflects a rich blend of peoples and cultures. According to the 2000 census, approximately 290,000 of Hawai'i's 1.2 million people speak a language other than English at home, including over 250,000 persons that speak an Asian or Pacific Island language. Language for LEP individuals can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information[31].

On August 11, 2000, President Clinton issued Executive Order 13166, entitled, "Improving Access to Services by Persons with Limited English Proficiency," to help ensure against national origin discrimination under Title VI.[32]

EO 13166 requires HDOT (as a recipient of Federal funds) to assess and address the needs of individuals seeking access to HDOT programs and activities who, due to limited English proficiency, cannot fully and equally participate in or benefit from those programs and activities. Therefore, HDOT must take reasonable steps to ensure meaningful access to LEP individuals to the information and services the Department provides.[33]

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[29] See *The Hawaii Department of Transportation Limited English Proficiency Plan.*

[30] U.S. DOT Limited English Proficiency Guidance, 70 Fed. Reg. 74087-74100 (December 14, 2005). See also, *The Hawaii Department of Transportation Limited English Proficiency Plan.*

[31] Id.

[32] 65 Fed. Reg. 50121 (August 16, 2000).

State LEP law found at H.R.S. § 371 mirrors EO 13166 and requires every state agency, or any organization receiving state funding that provides services to the public on behalf of the state, to provide equal access of their agency's essential government services to all of Hawaii's diverse population, regardless of what language they speak. See also, www.hawaii.gov/labor/ola.

[33] Department of Justice Limited English Proficiency Guidance, 65 Fed. Reg. 50124 (August 16, 2000).

What constitutes reasonable steps to ensure meaningful access will be contingent on a number of factors[34]. Among the factors to be considered are:

1. The number or proportion of LEP persons in the eligible service population;
2. The frequency with which LEP individuals come in contact with the program;
3. The importance of the service provided by the program, and;
4. The resources available to the recipient.

The DOJ LEP Guidance explains that the identification of "reasonable steps" to provide oral and written services in languages other than English is to be determined on a case-by-case basis through a balancing of all four factors.

The Executive Order and subsequent U.S. DOT and DOJ Guidance direct recipients of Federal financial assistance to take reasonable steps to provide LEP individuals with meaningful access to their programs, activities, and services.

Division, Program Responsibility

The following chart, although not exhaustive, illustrates Division and Program activities and responsibilities relative to LEP services.

Activity	Responsibility	
	Division, Program	Title VI Program
Assessing and addressing the needs of eligible persons	X	
Taking reasonable steps or ensuring that responsible steps are taken to ensure meaningful access	X	
Developing and implementing monitoring control mechanisms to ensure ongoing compliance	X	
Compliance, monitoring and oversight	X	X
Providing technical assistance and guidance		X

[34] Id.

An important part in providing meaningful access for individuals whom are LEP is to ensure effective communication. To accomplish effective communication the following actions and discussions are considered appropriate at a divisional level[35]:

1. Conduct a needs assessment
2. Provide language interpretation
3. Notify LEP customers of language assistance services
4. Identify and translate vital documents
5. Train staff in public contact positions
6. Develop written procedures
7. Monitor and evaluate access to language assistance

1. **Needs Assessment**
    a. Each division, and program is to continuously assess language assistance needs of the population to be served by identifying the following:
        i. Languages likely to be encountered and the number of LEP persons in the eligible population likely to be directly affected by its program
        ii. Public contact where language assistance is needed
        iii. Resources needed to provide effective language assistance, including location, availability and arrangements necessary for timely use
2. **Language Interpretation**
    a. Providing LEP persons with oral language assistance at public service counters, when there is telephone contact, or at public meetings is appropriate. Such assistance may take the form of bilingual staff, contracting with an outside interpreter service, or hiring an interpreter.
    b. HDOT has contracted and made available **telephone interpretation services** for use department wide to persons with limited English proficiency. The following steps may be taken to assist people with LEP needing telephone interpretation:
        i. Place your LEP caller on hold
        ii. Call Pacific Interpreters toll-free number (800) 272-7442 using the conference-calling feature or 3-way calling feature on your telephone
        iii. Provide the ACCESS CODE 841435. Inform the operator of

[35] Caltrans Title VI Program Plan, *Simple Justice.*

the language you need, or ask for help in determining the language.

c. The following paragraph addresses ADA and title VI program requirements and should be included in all HDOT public notices:

i. **To request language interpretation, an auxiliary aid or service (i.e., sign language interpreter, accessible parking, or materials in alternative format), contact (indicate name and telephone (voice only)) fourteen (14) days prior to the meeting date. TTY users may use TRS to contact our office.**

3. **Notification of the Availability of Language Assistance Services**

a. LEP persons have the right to free language assistance in their spoken language. Divisions are responsible for informing the public of this right. Language identification cards or posting signs in public areas are methods that can be used to provide notice.

4. **Translation of Written Materials**

a. It is appropriate to have written materials that are routinely provided in English to applicants, customers, and the general public translated into languages that are regularly encountered. The translation of **vital documents** into languages other than English is particularly important where a significant number or percentage of the customers served or eligible to be served have limited English proficiency. Written materials include electronic documents and websites.

b. "Vital Documents" are documents that convey information that critically affects the ability of the recipient/customer to make decisions about their participation in the program. Examples of vital documents include by are not limited to: applications, public notices, consent forms, letters containing important information regarding participation in a program, services or benefits, right to appeal, notices advising of the availability of language assistance, and outreach and community education materials. **It is recommended that divisions and programs develop criteria for deciding which documents are vial thereby subject to translation.**

5. **Train Staff in Public Contact Positions**

a. Training staff on policies and procedures of language assistance and how to determine whether a customer needs language assistance services is essential to bridging the gap between policies and actual practices.

6. **Development of Written Procedures**

a. To implement a successful language assistance program, the Title

VI Specialist may provide guidance to employees through written procedures that address the following:

i. Identifying and assessing language needs
ii. Interpretation assistance (See Language Interpretation above to access the department telephone interpreter service)
iii. Written translation of materials and publications
iv. Oral and written notification of the availability of language assistance
v. Public contact positions staff training
vi. Monitoring access to language assistance.

7. **Monitoring and Evaluation**

a. Monitoring and evaluating accessibility and quality of language assistance needs of LEP persons ensures that LEP persons may meaningfully access programs and activities and is the responsibility of the divisions. At a minimum, divisions, and programs should conduct an annual assessment to determine: the current LEP composition of its service area; the current communication needs of LEP persons; whether existing assistance meets LEP needs; whether staff is knowledgeable about policies and procedures and how to implement them; and whether sources of and arrangements for assistance are still current and viable.

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TITLE VI PROGRAM RESPONSIBILITIES

1. Develop procedures for prompt processing and disposition of Title VI complaints, maintaining a log of such complaints and forwarding a copy of the complaint and the report of investigation to the FHWA Division Office within sixty (60) days of the date the complaint was received.
2. Develop procedures for the collection of statistical data relating to participants in, and beneficiaries of HDOT programs, i.e., relocatees, impacted citizens and affected communities.
3. Develop a program to conduct Title VI review of program areas (See Attachment C).
4. Conduct Title VI review of counties, consultant contractors, suppliers, universities, colleges, planning agencies, and other recipients of HDOT funds.
5. Review HDOT program directives and, where applicable, include Title VI and related requirements.
6. Conduct training on Title VI and related statutes for State program and civil rights officials.
7. Prepare HDOT's yearly report of Title VI accomplishments for the past year and goals for the next year.
8. Prepare and submit an updated Title VI implementing plan to the FHWA Division Office for approval.
9. Develop Title VI information for dissemination to the general public, and where appropriate, in languages other than English.
10. Establish procedures and conduct pre-grant and post-grant approval reviews of HDOT programs and applicants for compliance with Title VI requirements, i.e. highway location, design and relocation, and persons obtaining contracts with the State.
11. Establish procedures and work with program officials to correct identified Title VI or discriminatory practices or policies.
12. Establish procedures to resolve deficiency status and reduce to writing the remedial action, within ninety (90) days.
13. Coordinate Title VI Program Development with program area officials.
14. Provide technical assistance and advice on Title VI matters to HDOT and County program area officials.
15. Conduct Title VI reviews of program area activities when necessary to

cover aspects not covered through the day-to-day approach. Only those parts of programs where Title VI issues are involved will be reviewed.

16. Participate with program area personnel in reviews of program activities that include Title VI issues.
17. Review findings of program area reviews that address Title VI issues to ensure findings of discrimination are adequately supported.
18. Establish procedures to resolve determinations of noncompliance.
19. Assist program area personnel in identifying Title VI impacts of proposed projects; identifying mitigation measures for minority areas; seeking public involvement, particularly in minority areas; dissemination of information to the general public; disseminating information in languages other than English when necessary; identification of minorities in right-of-way activities; identifying minority and female fee appraisers/fee attorneys; identifying minority universities interested in conducting research; and communicating contracting opportunities to minority contractors and sub-contractors.
20. Review and provide feedback to program area personnel on data reflecting the racial makeup, ages, or other characteristics of communities affected by projects.
21. Review environmental (Environmental Impact Statements, Environmental Assessment and Categorical Exclusion) documents for Title VI impacts.
22. Attend meetings of program area personnel during development of environmental assessments of projects.
23. Review procedures to be used in identifying and considering impacts of projects on minority areas.
24. Provide follow-up on mitigative measures identified in EIS that have significant impacts on minorities. Determine whether measures have been taken and if so, assess their effectiveness or, as appropriate, identify alternative measures.
25. Attend division and MPO planning meetings involving Title VI issues.
26. Attend public meetings and hearings held for projects with potential Title VI impacts.
27. Review procedures and efforts of the HDOT and MPO personnel to obtain public involvement, particularly participation by minorities.
28. Accompany program personnel on selected right-of-way activities to compare treatment received by minorities and non-minorities.
29. Review property management procedures to ensure nondiscrimination.
30. Review appraisal, acquisition, and relocation procedures to assure equitable benefits and services are provided to minority and non-minority property owners.
31. Review consultant selection procedures of HDOT and MPO's.

32. Review program personnel's monitoring of Title VI compliance by consultants.
33. Review selection procedures for fee appraisers/fee attorneys to ensure nondiscrimination.
34. Review pre-qualification and bonding requirements and contractor selection procedures to determine uniformity in their application to minority and non-minority contractors.
35. Ensure that HDOT policies and procedures for monitoring activity during construction are not applied in a discriminatory fashion. Examples of these activities are plan changes, supplemental agreements, liquidated damages, project inspections, and traffic control.
36. Ensure insertion of Title VI requirements in contracts, subcontracts, and material supply agreements.
37. Review selection procedures for principal researchers and research staffs to determine minority participation.

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IN REPLY REFER TO:
OCR-T
1.6788

TITLE VI NONDISCRIMINATION POLICY

It is HDOT's policy for all recipients of Federal funds, including HDOT divisions, Metropolitan Planning Organizations (MPO's), and subrecipients to ensure that they are in compliance with Title VI of the Civil Rights Act of 1964 and all related statutes, regulations and directives in all programs and activities. No person in the United States shall, on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any HDOT program, policy, or activity.

HDOT is to ensure that its programs and activities do not treat any part of the community any differently than another. The Department expects every manager, supervisor, employee, and subrecipient of Federal-aid funds administered by HDOT to be aware of and apply the intent of Title VI of the Civil Rights Act of 1964 in performing assigned duties.

BRENNON T. MORIOKA, Ph.D., P.E.
Director of Transportation

1-18-09
Date

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IN REPLY REFER TO:
OCR-T
1.6789

LANGUAGE ACCESS POLICY*

Hawai'i's population reflects a rich blend of peoples and cultures. According to the 2000 census, approximately 290,000 of Hawai'i's 1.2 million people speak a language other than English at home. Language for limited English proficient (LEP) individuals, can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information

To effectuate the intent of Title VI, Executive Order 13166, "Improving Access to Services by Persons with Limited English Proficiency," was signed in 2000. Executive Order 13166 requires HDOT (as a recipient of Federal funds) to assess and address the needs of individuals seeking access to HDOT programs and activities who, due to limited English proficiency, cannot fully and equally participate in or benefit from those programs and activities.

Executive Order 13166 further provides for recipients of federal financial assistance to take reasonable steps to ensure meaningful access to LEP individuals to the information and services the Department provides.

What constitutes reasonable steps to ensure meaningful access will be contingent on a number of factors. Among the factors to be considered are:

1. The number or proportion of LEP persons in the eligible service population;
2. The frequency with which LEP individuals come in contact with the program;
3. The importance of the service provided by the program, and;
4. The resources available to the recipient.

Within the scope of providing service to members of the public, HDOT employees must determine whether the individual seeking HDOT services are limited English proficient. As may be appropriate, employees should utilize the services of the telephone interpreter service as a tool to provide language assistance so that our programs and activities are accessible to persons who have limited English proficiency.

BRENNON T. MORIOKA, Ph.D., P.E.
Director of Transportation

1-13-09
Date

*Note: This Policy supersedes OCR 1.5332, Limited English Proficiency (LEP) Policy dated September 3, 2004.