



*HDOT TITLE VI PROGRAM PLAN 2016 FOR THE
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION
(FMCSA)*

Table of Contents

I.	Policy Statement	1
II.	FMCSA Standard Title VI Program Assurances	2-10
III.	Description of Federal-Aid Programs	10
IV.	HDOT Title VI Notice to Beneficiaries and Participants	11
V.	Sub-Recipient Compliance Reports	11-12
VI.	Title VI Program Training	12
VII.	Access to Records	13
VIII.	Complaint Disposition Process	13
IX.	Status of Corrective Actions Implemented by HDOT to Address Deficiencies Previously Identified During a Title VI Program Compliance Review	13
X.	Organization and Staffing	13-14
XI.	Program Review Procedures	14-15
XII.	Environmental Justice Plan	15-16
	Attachment 1 – Hawai'i Department of Transportation Title VI Civil Rights Complaint Procedures for FHWA/FMCSA Funded Programs	17-18
	Attachment 2 – State of Hawai'i Department of Transportation Complaint Of Discrimination (External)	19-20

I. Policy Statement

TITLE VI NONDISCRIMINATION POLICY STATEMENT FOR FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION (FMCSA)

It is the policy of the Hawai'i Department of Transportation (HDOT), that no person in the United States shall, on the basis of race, color, national origin, sex, age, disability, low-income, or Limited English Proficiency (LEP) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination or retaliation under any federally or non-federally funded program or activity administered by the HDOT or its sub-recipients.

To comply with this policy, civil rights and division staff with civil rights responsibilities must work closely to oversee their shared Title VI nondiscrimination responsibilities. All HDOT employees, including the Director, Deputy Directors, Division Administrators, Program Administrators, and Department's sub-recipients, will be responsible for making a good faith effort to ensure that this policy is carried out in their respective program areas.

The authority to develop, maintain, implement and monitor this policy is delegated to the Title VI Civil Rights Specialist.

HDOT is committed to ensuring compliance with 49 Code of Federal Regulations (CFR) Part 21, 49 CFR Part 303, 49 CFR 350.213(b), and the FMCSA Standard Title VI Program Assurances.



FORD N. FUCHIGAMI
Director of Transportation

7.19.16

Date

II. FMCSA Standard Title VI Program Assurances

The United States Department of Transportation

Standard Title VI/Non-Discrimination Assurances

DOT Order No. 1050.2A

The **State of Hawai'i Department of Transportation** (herein referred to as the "Recipient"), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the United States Department of Transportation (USDOT), through the **Federal Motor Carrier Safety Administration (FMCSA)**, is subject to and will comply with the following:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Title IX of the Education Amendments of 1972, as amended, (20 U.S.C. § 1681 et seq.), (prohibits discrimination on the basis of sex in education programs or activities);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability);
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.), (prohibits discrimination on the basis of disability);
- 49 C.F.R. Part 21 (entitled 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 (entitled Nondiscrimination On The Basis Of Disability In Programs Or Activities Receiving Federal Financial Assistance);
- 49 C.F.R. Part 28 (entitled Enforcement Of Nondiscrimination On The Basis Of Handicap In Programs Or Activities Conducted By The Department Of Transportation);
- 49 C.F.R. Part 37 (entitled Transportation Services For Individuals With Disabilities (ADA));
- 49 C.F.R. Part 303 (FMCSA's Title VI/Nondiscrimination Regulation);
- 28 C.F.R. Part 35 (entitled Discrimination On The Basis Of Disability In State And Local Government Services); and
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

Although not applicable to Recipients directly, there are certain Executive Orders and relevant guidance that direct action by Federal agencies regarding their federally assisted programs and activities to which compliance is required by Recipients to ensure Federal agencies carry out their responsibilities. Executive Order 12898, 3 C.F.R. 859 (1995), entitled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” emphasizes that Federal agencies should use existing laws to achieve Environmental Justice, in particular Title VI, to ensure nondiscrimination against minority populations. Recipients should be aware that certain Title VI matters raise Environmental Justice concerns and FHWA intends that all Recipients evaluate and revise existing procedures (as appropriate) to address and implement Environmental Justice considerations. See the following FHWA website for more information and facts about Environmental Justice: <http://www.fhwa.dot.gov/environment/ejustice/facts/index.htm>.

Additionally, Executive Order 13166, 3 C.F.R. 289 (2001) on Limited English Proficiency, according to the U.S. Department of Justice in its Policy Guidance Document dated August 16, 2000 (65 Fed. Reg. at 50123), clarifies the responsibilities associated with the “application of Title VI’s prohibition on national origin discrimination when information is provided only in English to persons with limited English proficiency.” When receiving Federal funds, Recipients are expected to conduct a Four-Factor Analysis to prevent discrimination based on National Origin. (See also USDOT’s “Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) Persons,” dated December 14, 2005, (70 Fed. Reg. at 74087 to 74100); the Guidance is a useful resource when performing a Four-Factor Analysis).

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

“No person in the United States shall, on the grounds of race, color, national origin, sex, age, disability, low-income, or LEP 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 DOT, including the FMCSA.”

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973) by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally-assisted.

Specific Assurances

More specifically, and without limiting the above general Assurances, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted **FMCSA Program**:

1. The Recipient agrees that each “activity,” “facility,” or “program,” as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an “activity”) facilitated, or will

2. be (with regard to a “facility”) operated, or will be (with regard to a “program”) conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
3. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all Federal Motor Carrier Safety Programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

“The **State of Hawai’i Department of Transportation**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, all contractors will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of the owner’s race, color, national origin, sex, age, disability, income-level, or LEP in consideration for an award.”

4. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
5. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
6. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
7. 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 will extend to rights to space on, over, or under such property.
8. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
9. 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.
10. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
11. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the State of Hawai'i, Department of Transportation, also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the **FMCSA** access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the **FMCSA**. You must keep records, reports, and submit the material for review upon request to **FMCSA**, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The State of Hawai'i Department of Transportation gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the Department of Transportation under the **FMCSA Program**. This ASSURANCE is binding on HDOT, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the **FMCSA Program**. The person (s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

Department of Transportation, State of Hawai'i

By: _____


Ford N. Fuchigami, Director

Dated: _____

7.19.12

ASSURANCE APPENDIX A

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 (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, **FMCSA**, as they may be amended from time to time, 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, will not discriminate on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix E, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements 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 procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FMCSA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the FMCSA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FMCSA may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the FMCSA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

ASSURANCE APPENDIX B
CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the State of Hawai'i Department of Transportation as authorized by law and upon the condition that the Director of the State of Hawai'i Department of Transportation will accept title to the lands and maintain the project constructed thereon in accordance with the State of Hawai'i, Legislature, the Regulations for the Administration of **Federal Motor Carrier Safety Administration (FMCSA) Program**, and the policies and procedures prescribed by the **FMCSA** of the Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation 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 2000d-4), does hereby remise, release, quitclaim and convey unto The State of Hawai'i Department of Transportation all the right, title and interest of the 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 of Hawai'i Department of Transportation 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 will be binding on the State of Hawai'i Department of Transportation, its successors and assigns.

The State of Hawai'i Department of Transportation , 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 will on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP 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 of Hawai'i Department of Transportation will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the 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 purpose of Title VI.)

ASSURANCE APPENDIX C
CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the State of Hawai'i Department of Transportation pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her 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 add "as a covenant running with the land"] that:
 - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, the State of Hawai'i Department of Transportation will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the State of Hawai'i Department of Transportation will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the State of Hawai'i Department of Transportation its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to effectuate the purpose of Title VI.)

ASSURANCE APPENDIX D
CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by the State of Hawai'i Department of Transportation pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her 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 add, “as a covenant running with the land”) that (1) no person on the ground of race, color, national origin, sex, age, disability, income-level, or LEP will be excluded from participation in, denied the benefits of, or be otherwise 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, national origin, sex, age, disability, income-level, or LEP will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, the State of Hawai’i Department of Transportation will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, the State of Hawai’i Department of Transportation the State of Hawai’i Department of Transportation will there upon revert to and vest in and become the absolute property of the State of Hawai’i Department of Transportation and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to effectuate the purpose of Title VI.)

ASSURANCE APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin), as implemented by 49 C.F.R. § 21.1 et seq. and 49 C.F.R. § 303;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);

- The Civil Rights Restoration Act of 1987, (102 Stat. 28.), (“...which restore[d] the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964.”);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -- 12189) as implemented by Department of Justice regulations at 28 C.F.R. parts 35 and 36, and Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); and
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq), as implemented by 49 C.F.R. § 25.1 et seq.

III. Description of Federal-Aid Programs

HDOT is applying for the CDL Program Implementation Grants, Motor Carrier Safety Assistance Program Grant, and the Commercial Driver License Information System Grant for the next fiscal year. These grants are necessary, in part, to provide and fund infrastructure upgrades to the mainframe system maintained by the City and County of Honolulu (Department of Information Technology), which stores and processes CDL records and related transactions. Furthermore, the HDOT Highways Division, Motor Vehicle Safety Office (MVSO) receives these funds as it is the lead agency for enforcement of requirements of the Federal Motor Carrier Safety Assistance Program.

MVSO’s staff establishes and manages the Statewide Size and Weight Vehicle Program, Statewide Motor Carrier Safety Assistance Program (MCSAP), Statewide Pupil Transportation Safety Program, and other commercial motor vehicle programs. MVSO establishes and implements statewide standards and guidelines for commercial motor carrier drivers, driver training and driver improvement programs, commercial vehicle safety inspection stations, modification of commercial vehicles and transportation of hazardous materials (by commercial vehicles). In addition, MVSO develops and implements standards and guidelines for pupil transportation. Also, MVSO is responsible for updating and maintaining the SAFETYNET system and for preparing its statistical reports.

IV. HDOT Title VI Program Notification to Beneficiaries and Participants

HDOT shall detail its Title VI Program obligations and notify members of the public of the protections against discrimination afforded to them by Title VI Program requirements:

- **Dissemination of Information:** HDOT shall disseminate this information to members of the public via accessible printed brochures and electronic media, including posting on HDOT's website; and
- **Contents of Notification:** At a minimum, the Notification should include the following—
 1. Statement that HDOT operates the Program(s) without regard to race, color, national origin, sex, age, or disability, including income-level and LEP;
 2. Identify procedures to be followed by members of the Public to request additional information regarding HDOT's Nondiscrimination obligations; and
 3. Identify procedures and forms to be followed by members of the Public to file a discrimination complaint against HDOT, to include the name of a contact representative, address, and telephone number/e-mail address.

V. Sub-Recipient Compliance Reports

Title VI requires that HDOT conduct its federally funded programs without regard to race, color, national origin, sex, disability, or age, and that minority and low-income populations are not being denied the benefits of or excluded from participation in these programs. HDOT's role in ensuring non-discrimination is twofold as it has an obligation to not only consider civil rights in how it administers its own program at the state level, but also to make certain that recipients who receive federal funds through HDOT meet civil rights responsibilities. HDOT is responsible for monitoring the Title VI and nondiscrimination compliance of its sub-recipients, which includes: ensuring sub-recipients provide Assurances (as described below), conduct process and program reviews, and collect and analyze data. Each sub-recipient should identify a Title VI Specialist and develop a Title VI Program Nondiscrimination Plan patterned after HDOT's plan. Sub-recipients must submit an annual report to HDOT detailing its Title VI accomplishments and efforts.

HDOT will review its sub-recipients annually and will look at:

1. **Certifications and Assurances:** as part of its annual grant submission or agreement did the sub-recipient sign Title VI Certifications and Assurances?
2. **Public Notification:** does the sub-recipient have procedures in place for notifying the public of the Title VI rights and procedures that the public may follow to file a complaint?
3. **Public Participation:** does the sub-recipient have procedures in place for conducting public outreach and involvement activities?
4. **Investigation/Compliant/Lawsuit Process:** does the sub-recipient have written procedures for recording, responding to, and resolving Title VI investigations, complaints and lawsuits?

5. **A Limited English Proficiency (LEP) Plan:** does the sub-recipient have a written plan for providing access to meaningful activities and programs for persons with LEP based on federal DOT LEP guidance?
6. **Title VI Program:** has the sub-recipient prepared and submitted its general information, including its data collection and reporting efforts to HDOT?

VI. TITLE VI Program Training

HDOT shall provide Title VI training to all Counties in Hawaii for FMCSA-related activities. HDOT's Title VI Program shall make counties aware of Title VI Program requirements, how these requirements impact the conduct of the FMCSA-related activities, and how counties are required to enforce Title VI requirements.

OCR provides training opportunities, including quarterly Title VI Working Group Training and Biennial Civil Rights training that includes two days of training on Title VI, DBE, ADA and EEO topics. In addition, OCR has built relationships with the USDOT and other federal agencies to provide ongoing training throughout the year. The frequency of these classes is dependent upon the needs of the department and the availability of the instructors.

Internal Training:

OCR's Title VI Specialist will implement a training program specifically tailored to each of HDOT's internal program areas. Data will be gathered as to which offices received training and how many participants attended. The Title VI Specialist will maintain statistics logs on training provided and named attendees.

External Training:

The OCR's flagship training program is its Biennial Civil Rights Symposium, which is made available to all government civil rights experts state-wide. This includes the sub-recipient City and County of Honolulu, and the counties of Maui, Hawaii and Kauai. OCR will create targeted training that addresses Title VI common questions and best practices. Topics will include (but not be limited to) data collection, complaint investigations and reporting requirements. The next anticipated training year will be 2017.

VII. Access to Records

HDOT shall provide Title VI Program-related documents to FMCSA upon request during normal business hours, either through electronic format and/or hard copy. HDOT shall cooperate with FMCSA required reviews of its Title VI Program.

VIII. Complaint Disposition Process

HDOT shall use its general Complaint procedures regarding any Title VI complaints, as set forth in the HDOT website at:

<https://hidot.hawaii.gov/administration/files/2016/07/FHWAFMCSA-Complaint-Procedures.pdf>

(attached as Attachment “1”).

Also, the Complaint Form itself will be provided on our website at:

<https://hidot.hawaii.gov/administration/files/2016/06/TitleVI-Complaint-Form.docx>

and available in hard copy (attached as Attachment “2”). In addition, HDOT shall provide a separate log of any Title VI FMCSA Complaints received by OCR.

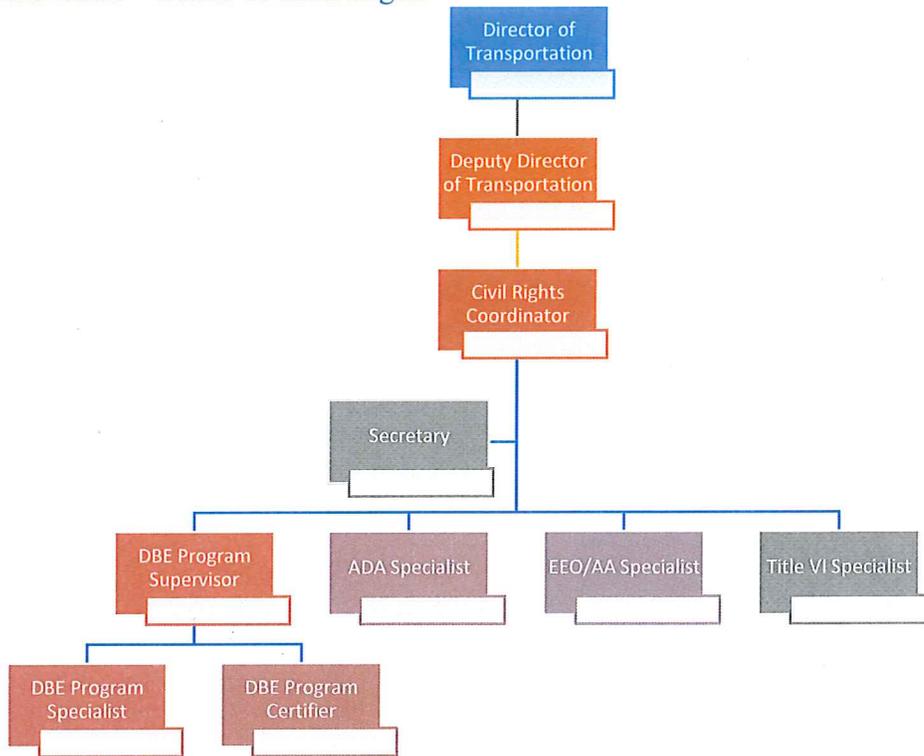
IX. Status of Corrective Actions Implemented by HDOT to Address Deficiencies Previously Identified During a Title VI Program Compliance Review

If FMCSA has previously conducted a Title VI Program review of HDOT and found deficiencies, HDOT shall indicate what corrective actions it has taken to address the deficiencies here. FMCSA Title VI Administrator Lester Finkle’s requests for HDOT action on Program Plan are addressed in this document.

X. Organization & Staffing

OCR is part of the Hawaii Department of Transportation’s Administration Division. OCR is part of the Director’s office and is administratively assigned to the Deputy Director of Transportation. OCR is overseen by the Civil Rights Coordinator, who reports directly to the Deputy Director of Transportation. The Civil Rights Coordinator provides OCR with the administrative direction necessary to ensure that HDOT procedures relating to the civil rights programs are implemented and that its established goals are appropriately attained. The Title VI Specialist is responsible for overseeing and administering the Title VI program, and has easy access to Director and Deputy Director of Transportation. The Title VI Specialist reports to the Civil Rights Coordinator and provides technical assistance to HDOT’s divisions. The Specialist is responsible for the operations of the Title VI Program, supporting and assisting divisions in Title VI matters, and for providing Title VI information and training for HDOT divisions, branch offices and sub recipients.

Organizational Chart – Office of Civil Rights



XI. Program Review Procedures

The Title VI Specialist will conduct both internal and external Title VI Program Reviews. The purpose of the program reviews is to objectively evaluate administrative procedures and examine the staffing and resources that are available to meet Title VI compliance.

The Title VI Specialist will develop a schedule for conducting compliance reviews. The priority of reviews will be determined by federal aid sub-recipient (e.g. the City and County of Honolulu) or MPOs with the greatest potential impact on populations served. Local public agencies that serve a population of two hundred thousand or greater, or those with previously identified deficiencies will be priority candidates for review.

Both internal and external compliance reviews will include a desk review to examine documents that outline processes including pre and post grant approvals and procedures. Reviews will also include staff interviews and on-site visits by the Title VI Specialist.

The compliance reviews will focus objectively on how effectively the MVSO, MPOs, or local public agencies have implemented their approved Title VI Plans. Equally, internal reviews will encompass the program areas within the HDOT project delivery system.

Internal Monitoring:

Each MVSO has unique responsibilities. The minimally required monitoring activity is described below.

Safety:

Safety includes the Motor Carrier Safety Office (MVSO)

- Ensure its sub-recipients receiving federal funds include the Title VI Assurances.
- Ensure its sub-recipients comply with Language Access laws.

External Monitoring:

MPOs are responsible for the transportation planning process within their urbanized areas. Each MPO must develop a Transportation Improvement Program (TIP) and implement an annual Unified Planning Work Program (UPWP). The following are the MPOs for the State of Hawaii:

- Oahu Metropolitan Planning Organization.
- Maui Metropolitan Planning Organization.

As previously discussed in the review section, reviews will be conducted under the direction of the Title VI Specialist and will include reviews to monitor compliance of MPOs. In addition, local public agencies that receive federal funding are considered HDOT sub-recipients. They are also charged with Title VI responsibilities, such as submitting a Title VI Plan and an Annual Accomplishment Report for OCR approval and are subject to periodic compliance reviews.

XII. Environmental Justice Plan

Introduction:

There are three fundamental environmental justice principles:

1. To avoid, minimize, or mitigate high and adverse human health and environmental effects, including social and economic effects, on minority 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.

HDOT will integrate environmental justice concerns into every transportation decision from initial conception to post-construction operations and maintenance. It will follow FMCSA guidance and all of its policies, programs and other activities that are undertaken, funded, or approved.

Environmental Justice applies to, but is not limited to, the following:

- Policy Decisions
- Systems Planning
- Metropolitan and Statewide Planning
- Project Development and Environmental Review under NEPA
- Operations and Maintenance

HDOT will integrate environmental justice into its activities by:

1. Developing the technical capabilities to assess the benefits and adverse effects of transportation activities among different population groups and use that capability to develop appropriate procedures, goals, and performance measures in all aspects of HDOT's mission.
2. Ensuring that HDOT's State Transportation Improvement Program (STIP) findings of statewide planning compliance and NEPA activities satisfy the letter and intent of the Title

- VI requirements and environmental justice principles.
3. Enhancing its public-involvement activities to ensure the meaningful participation of minority and low-income populations.
 4. Working with Federal, State, local, and transit planning partners to create and enhance intermodal systems, and support projects that can improve the natural and human environments for low-income and minority communities.

To accomplish these four goals, HDOT will seek the meaningful involvement of minority and low-income populations. This will be accomplished through consultation with these populations in the transportation decision-making process. This will ensure that the input from these populations is considered prior to any policy or project decision that may impact their communities. At a minimum, HDOT should complete a demographic analysis to assist in identifying the racial and ethnic composition as well as the income level of populations within the project area.

HDOT will fully consider environmental justice principles throughout its planning and decision-making process in the development of programs, policies and activities. HDOT will collect from MVSO, data and research associated with environmental justice concerns. To the extent permitted by existing law, and whenever practical and appropriate to assure that disproportionately high and adverse effects on minority or low income populations are identified and addressed, MVSO will collect, maintain, and analyze information on the race, color, national origin, and income level of persons adversely affected by HDOT programs, policies, and activities, and use such information to determine EJ compliance.

Compliance with EJ is an ongoing MVSO responsibility. HDOT will continuously monitor MVSO programs, policies, and activities to ensure that disproportionately high and adverse effects on minority populations and low-income populations are avoided, minimized or mitigated in an appropriate manner.

EJ Training:

HDOT has provided extensive EJ training to its staff and sub-recipients through a recent training symposium and EJ specific training session. HDOT also provides continuous training on Title VI and EJ through its quarterly interdisciplinary team meetings.

EJ Review Procedures:

EJ reviews will be included as part of the overall Title VI program reviews (please see reviews above). In addition to the Title VI review requirements, the Title VI Specialist will determine:

1. Whether EJ populations were identified and given a meaningful opportunity to participate in the planning process; and
2. Whether EJ populations were identified and included in the Environmental Document/Categorical Exclusion process and Environmental Public Participation process.

**Hawaii Department of Transportation
Title VI Civil Rights Complaint Procedures for
FHWA/ FMCSA Funded Programs**

I. HDOT External Complaint Procedures for Federal Highway Administration/Federal Motor Carrier Safety Administration (FHWA/FMCSA) Assisted Programs and Activities

These procedures cover external complaints for FHWA/FMCSA assisted programs or activities based on Title VI of the Civil Rights Act of 1964. These complaints cover discrimination based on race, color, national origin, sex, disability, age, environmental justice or language access. The procedures do not deny the right of the complainant to file formal complaints with other state or federal agencies or to seek private counsel for complaints alleging discrimination (FHWA, FMCSA, USDOT USDOJ).

II. Procedures

1. Any person or persons believing they have been subjected to discrimination based on Title VI of the Civil Rights Act of 1964, Exec. Order 13166 or Exec. Order 12898 may file a written complaint with HDOT's Office of Civil Rights (OCR), 200 Rodgers Blvd., Honolulu, Hawaii, 96819.
2. A formal complaint must be filed within 180 calendar days of the date of the alleged act of discrimination or the date when the alleged discrimination became known to the complainant(s), or where there has been a continuing course of contact, the date of the latest instance of the conduct. 49 CFR 21.11(b).
3. The complaint must meet the following requirements:
 - a. Complaint shall be in writing and signed by the complainant(s). The complaint shall be delivered by mail or in person to the Office of Civil Rights (address above). Faxed or emailed complaints shall be followed up by hard copy complaints with original signatures.
 - b. Limited English Proficient (LEP) Complainants needing assistance with Complaint Procedures or with the Complaint Form may request translation or interpretive service without charge.
 - c. Provide the date of the alleged act of discrimination; date when the complainant(s) became aware of the alleged discrimination; or the latest date of the discriminatory action.
 - d. Provide a detailed description of the issues including names and job title of those individuals perceived as parties in the discrimination.
 - e. Complaints that cannot be written should be reduced to writing and provided to the complainant(s) for confirmation and signature before actual submission.
4. Upon receipt of the complaint, OCR will determine its jurisdiction, acceptability or need for additional information before in initiating its own investigation. In cases where the complaint is related to transit or airports activities within HDOT's jurisdiction, the case will be investigation pursuant to FTA or FAA requirements, as applicable.

5. Acceptance of a complaint will be determined by:
 - a. Whether the complaint is timely filed.
 - b. Whether the allegations involved a covered basis such as race, color, national origin, sex, disability, age, language access, or environmental justice.
 - c. Whether the allegations involve a program or activity of a federal aid recipient, subrecipient, or contractor.
 - d. Whether the complaint is beyond the administrative authority of HDOT.

6. A complaint may be dismissed for the following reasons:
 - a. The complainant requests the withdrawal of the complaint.
 - b. The complainant fails to respond to repeated requests for additional information necessary to process the complaint, or otherwise fails or refuses to cooperate in the investigation.
 - c. The complainant cannot be located after reasonable attempts to contact such person(s).

7. OCR has sole authority for accepting complaints for investigation. Within ten (10) business days of receipt of the complaint, OCR will acknowledge its receipt to the parties as well as the course of action on the complaint. The course of action may include acceptance of the complaint for investigation, request for additional information or rejection of the complaint. The complaint will receive a case number and be logged into the OCR's complaint records identifying its basis, and the alleged discrimination.
8. All such complaints shall also be forwarded to the FHWA/FMCSA for review.
9. In cases where HDOT assumes investigation of the complaint, OCR will provide the respondent the opportunity to respond to the allegations in writing. The respondent will have ten (10) calendar days from the date of OCR's written notification of acceptance of the complaint to furnish his/her response to the allegations.
10. Within ninety (90) calendar days of the acceptance of the complaint, the HDOT investigator will prepare a draft investigative report. The report shall include a narrative description of the incident, identification of persons interviewed, findings and recommendations for disposition.
11. The draft investigative report shall be reviewed and finalized by the OCR Supervisor, and HDOT Director.
12. The final report shall be provided to the parties, and a copy sent to the FHWA/FMCSA and to the Office of the Attorney General.
13. Any complainant dissatisfied with the decision of HDOT will be notified of further appeal rights under Title VI and the U.S. Department of Transportation.

**State of Hawaii Department of Transportation
Complaint of Discrimination (External)**

Complainant(s) Name:	Complainant(s) Address:
Complainant(s) Phone Number:	

Complainant's Representative's Name, Address, Phone Number and Relationship (e.g. friend, attorney, parent, etc):

Name and Address of Agency, Institution, or Department Whom You Allege Discriminated Against You:

Names of the Individual(s) Whom You Allege Discriminated Against You (If Known):

Discrimination Because Of:	Race	Date of Alleged Discrimination:
	Sex	
	Income Status	
	Other	

Please list the name(s) and phone number(s) of any person, if known, that the Department of Transportation could contact for additional information to support or clarify your allegation(s).

Please explain as clearly as possible **how, why, when** and **where** you believe you were discriminated against. Include as much background information as possible about the alleged acts of discrimination. Additional pages may be attached if needed.

Complainant(s) or Complainant(s) Representatives Signature:

Date: