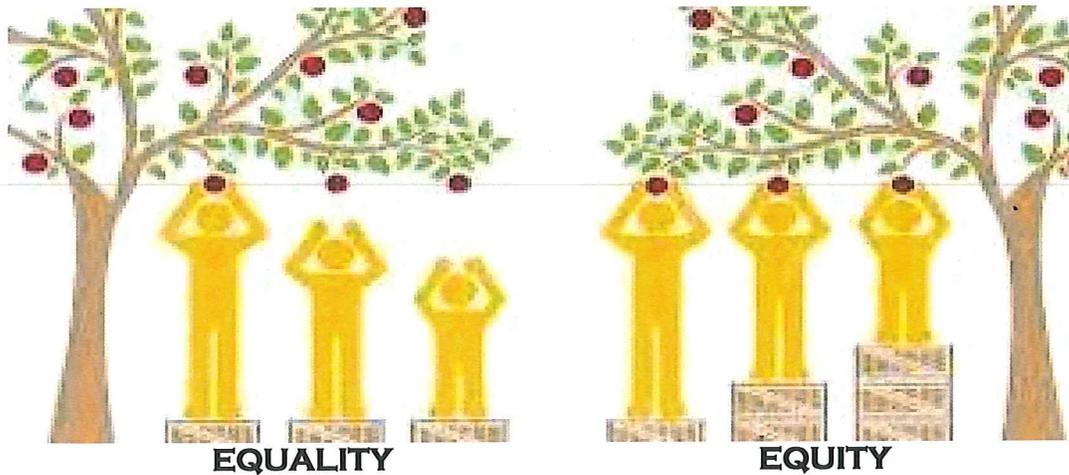
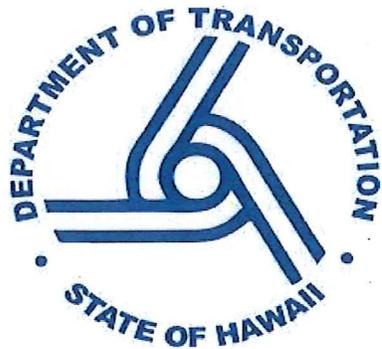


Hawai'i Department of Transportation Title VI FHWA Program Plan



Approved: 
FORD N. FUCHIGAMI
Director of Transportation
State of Hawai'i

8.15.16
DATE

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IN REPLY REFER TO:
OCR 1.8489

TITLE VI NONDISCRIMINATION POLICY STATEMENT

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, disability, age, or sex 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 Department or its subrecipients.

To comply with this policy, HDOT Office of Civil Rights staff 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, Engineering Program Managers, Section Heads of the Department's major program areas, and the Department's subrecipients, 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 Civil Rights Coordinator.



FORD N. FUCHIGAMI
Director of Transportation
State of Hawai'i

5.15.16

Date

Standard DOT Assurances

The United States Department of Transportation (USDOT)

Standard Title VI/Nondiscrimination 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 (DOT), through the Federal Highway Administration (FHWA), 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);
- 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);
- 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.

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, or national origin, 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 FHWA."

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other nondiscrimination 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 nondiscrimination 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 Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted Federal Highway 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 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.
2. 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 Highway Programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

“In accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC. §§ 2000d to 2000d-4) and the Regulations, the State of Hawai’i, Department of Transportation, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, affords disadvantaged business enterprises full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.”

3. 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.
4. 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.
5. 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.
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 will extend to rights to space on, over, or under such property.
7. 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.

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 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, subrecipients, subgrantees, 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. Appendix "F" and Appendix "G"
10. 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 subrecipients, subgrantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA access to records, accounts, documents, information, facilities, and staff. The Recipient also recognizes that it must comply with any program or compliance reviews, and/or complaint investigations conducted by the FHWA. It must keep records, reports, and submit the material for review upon request to FHWA, or its designee in a timely, complete, and accurate way. Additionally, it must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The 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 U.S. Department of Transportation under the Federal Highway Program. This ASSURANCE is binding on the State of Hawai'i, other recipients, subrecipients, subgrantees, contractors, subcontractors and their subcontractors, transferees, successors in interest, and any other participants in the Federal Highway Program.



FORD N. FUCHIGAMI
Director of Transportation
State of Hawai'i

8.15.16

Date

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, Federal Highway Administration, 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, or national origin 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, 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 nondiscrimination on the grounds of race, color, or national origin.
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 Federal Highway Administration 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 Federal Highway Administration, 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 nondiscrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration 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 Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance.
7. 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.

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 Department of Transportation as authorized by law and upon the condition that the State of Hawai'i Department of Transportation (HDOT) will accept title to the lands and maintain the project constructed thereon in accordance with laws of the State of Hawai'i, the Regulations for the Administration of the Federal Highway Program, and the policies and procedures prescribed by the Federal Highway Administration of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by 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 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 2000d4), does hereby remise, release, quitclaim and convey unto HDOT 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 HDOT 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 HDOT, its successors and assigns.

HDOT, 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, 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 [L,] [and]* (2) HDOT 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, 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, and as said Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above mentioned nondiscrimination conditions, the Department of Transportation will have a right to enter or reenter 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 U.S. 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 make clear the purpose of Title VI.)

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 Hawai'i Department of Transportation (HDOT) 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 property described in this (deed, license, lease, permit, etc.) for a purpose for which a HDOT 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, or national origin, 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 nondiscrimination covenants, HDOT will have the right to terminate the (lease, license, permit, etc.) and to enter, reenter, 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 nondiscrimination covenants, HDOT will have the right to enter or reenter 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 HDOT and its assigns.*

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

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 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, or national origin, 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, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (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 nondiscrimination covenants, the Hawai'i Department of Transportation will have the right to terminate the (license, permit, etc., as appropriate) and to enter or reenter 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 nondiscrimination covenants, the Hawai'i Department of Transportation will there upon revert to and vest in and become the absolute property of the 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 make clear the purpose of Title VI.)

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 nondiscrimination 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); and 49 CFR Part 21;
- 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);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, subrecipients and contractors, whether such programs or activities are Federally funded or not);
- 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 Transportation Regulations at 49 C.F.R. parts 37 and 38;
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination 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).

APPENDIX F

<https://hidot.hawaii.gov/administration/files/2016/07/FTA-ComplaintProcedures.docx>

State of Hawai'i 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 based upon:	<input type="checkbox"/> Race <input type="checkbox"/> Color <input type="checkbox"/> National Origin <input type="checkbox"/> Sex <input type="checkbox"/> Age <input type="checkbox"/> Disability <input type="checkbox"/> Income Status <input type="checkbox"/> Retaliation <input type="checkbox"/> Other	Date of Alleged Discrimination:

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 of Signature:

APPENDIX G

Hawai'i Department of Transportation Title VI Civil Rights Complaint Procedures for FHWA/ FMCSA Funded Programs

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

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, Hawai'i, 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.

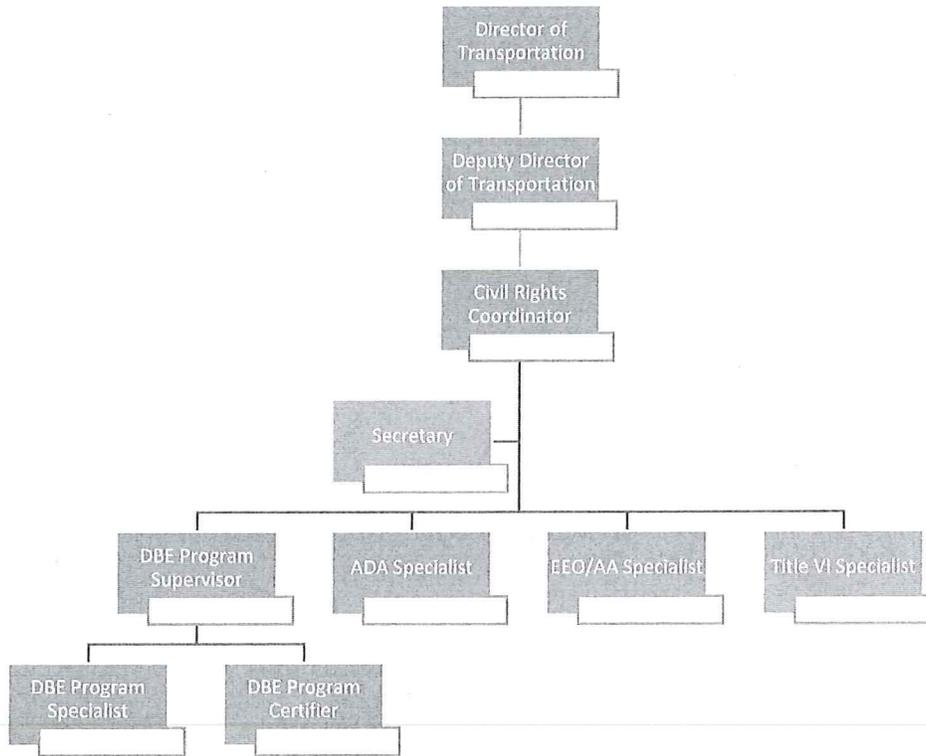
- d. Provide a detailed description of the issues including names and job title of those individuals perceived as parties in the discrimination.
 - e. Complaints that cannot be written should be reduced to writing and provided to the complainant(s) for confirmation and signature before actual submission.
 4. Upon receipt of the complaint, OCR will determine its jurisdiction, acceptability or need for additional information before 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.

Organization & Staffing

The Office of Civil Rights (OCR) is part of the Hawai'i Department of Transportation's Administration Division. The OCR is part of the Director's office and is administratively assigned to the Deputy Director of Transportation. The OCR is overseen by the Civil Rights Coordinator, who reports directly to the Deputy Director of Transportation. The Civil Rights Coordinator provides the OCR with the administrative direction necessary to ensure that HDOT 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 Coordinator is responsible for overseeing and administering the Title VI program. The Civil Rights Coordinator designates the Title VI Specialist as having easy access to the 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 subrecipients.

Organizational Chart – Office of Civil Rights



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 external subrecipient compliance reviews. The priority of reviews will be determined by Federal-aid subrecipients 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 with the Title VI Specialist.

The external compliance reviews will focus objectively on how effectively the MPOs or local public agencies have implemented their approved Title VI Plan. Equally, internal reviews will encompass the program areas within the HDOT project delivery system. All special emphasis programs will be reviewed by the Title VI Specialist to ensure effective compliance with the Title VI provisions. These reviews will be conducted annually. In the event that a deficiency is identified, the Title VI Specialist, in coordination with the Civil Rights Coordinator, will take corrective action. Annually, an accomplishment report to FHWA will provide information on compliance reviews, corrective action, and progress on goals.

Internal Monitoring

Each HDOT division and branch are minimally required to monitor activities that have an environmental justice impact, a language access impact, or other relevant Title VI impacts upon the public or beneficiaries.

Planning

The Highway Division Planning Branch and the Statewide Transportation Planning Office shall be responsible for the regular collection and tabulation of statistical data as follows:

- Statistical data on race, color, national origin, age, disability, or sex of participants in attendance at public participation opportunities.
- Data relating to LEP populations.
- Demographics of membership of advisory councils and policy boards.
- Number of public involvement opportunities (hearings, open houses, public meeting).

- Alternative languages used in translation of vital documents or communicating with LEP populations.
- Requests for accommodations at public meetings.

Design

The Highway Division's Design Branch will be responsible for the regular collection and tabulation of statistical data on race, color, national origin, age, disability or sex of participants in attendance at public participation opportunities.

Other types of data to take into consideration when evaluating environmental justice impacts include:

- Data relating to LEP populations.
- Demographics of membership of advisory councils and policy boards.
- Number of public involvement opportunities (hearings, open houses, public meeting).
- Alternative languages used in translation of vital documents or communicating with LEP populations.
- Requests for accommodations at public meetings.

Construction

The Highway Division's Construction Branch shall be responsible for the regular collection and tabulation of statistical data on the following:

- Monitor grant language.
- Gather data (race, color, national origin, sex, disability, and age) illustrating the number of minorities and low-income populations participate in construction contracts.

Maintenance

The Highway Division's Maintenance Branch shall be responsible for the regular collection and tabulation of statistical data on the following:

- Process to ensure that the development and implementation of the Maintenance Program is compliant with Title VI/nondiscrimination requirements.
- Process to periodically review the implementation of the actual process to ensure the Maintenance Program is being implemented in a nondiscriminatory manner.

- Ensures its subrecipients receiving Federal funds include the Title VI Assurances.

Right of Way

The Highway Division's Right-of-Way Branch shall be responsible for the regular collection and tabulation of statistical data on the following:

- Collect demographic data on relocates.
- Maintain a database of records of approved relocation and acquisition consultants and appraisers.
- Supporting data that illustrates objectivity when valuing the property.

Environmental

The Highway Division's Environmental Section and the Office of Environmental Compliance shall be responsible for the regular collection and tabulation of statistical data on the following:

- Collect data relating to the health and environment of minority and low-income populations.
- Collect information assessing and comparing environmental and health risks to determine whether their projects have a disproportionately high and adverse effect on minority or low-income populations.
- Collect information on project alternatives.
- Collect data related to public engagement by communities that are affected by the project.

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 Hawai'i:

- 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. Local public agencies that receive Federal funding are considered HDOT subrecipients. 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.

Special Emphasis Program Areas

Definitions

Federal Definition: Special Emphasis Program Areas are those designated as such by the USDOT.

State of Hawai'i Definition: In addition, HDOT may, at its discretion designate its own Special Emphasis Program Areas. When doing so it will use the following definition: Special Emphasis Program Areas are those areas that have been identified by OCR as having potential discriminatory trends or patterns, or any program so designated by the HDOT Director.

Implementation of Special Emphasis Program Areas

After designating a Special Emphasis Program Area, the OCR will:

1. Review identified areas of emphasis and define the practices or procedures related to the area.
2. Create a plan of action with clearly identifiable and achievable goals.
3. Ensure that the identified goals are in line with the ongoing Title VI mission priorities.
4. Prioritize the identified policies, practices or procedures (high, medium, low) in light of impact on opportunity.
5. Ensure that any action items or Special Emphasis Program Area efforts are linked to HDOT's Title VI Strategic Plan.

USDOT Designated Special Emphasis Program Areas

USDOT has not designated a Special Emphasis Program Areas for this fiscal year.

HDOT Designated Special Emphasis Areas:

Data Collection: Data collection responsibilities at HDOT are currently spread out between all HDOT Divisions. OCR will endeavor to increase coordination between divisions and ensure that the appropriate data is being collected. The centralization of data collection will assist HDOT in meeting its Title VI goals and is the first step in improving.

Language Access: HDOT has made significant strides in improving language access over the past few years. OCR will continue to monitor this area in keeping with Exec. Order 13166, Title VI and State law.

See Language Access Plan at <http://hidot.hawaii.gov/administration/files/2016/04/language-access-plan.pdf>.

Title VI Training

OCR provides numerous training opportunities, including quarterly Title VI Working Group Training and Bi-Annual Civil Rights training that includes two days of training on Title VI, Disadvantaged Business Enterprises (DBE), Americans with Disabilities Act (ADA) and Equal Employment Opportunity (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. Training will be monitored and data will be gathered as to which offices received training and how many participants attended.

External Training

The OCR's flagship training program is its Bi-Annual Civil Rights Symposium, which is made available to all government civil rights experts statewide. This includes the subrecipient counties of Maui, Oahu, Hawai'i 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.

Filing of Formal Complaints

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

Complaint Form in Appendix "F"

Agencies Authorized to Receive Complaints

Title VI Complaint of discrimination may be filed with:

- HDOT Office of Civil Rights (OCR), 200 Rodgers Blvd., Honolulu, Hawai'i, 96819
- Federal Highway Administration (FHWA), Hawai'i Division 300 Ala Moana Blvd. Suite 3-306, Honolulu, Hawai'i, 96813

- Other Federal agencies, as applicable.

Persons Eligible to File Complaints

Recipients shall ensure nondiscrimination and equal employment opportunity in the administration of any program or activity funded in whole or in part with Federal funds. This includes HDOT or its contractors, subcontractors, consultants, and other subrecipients. Any person who believes they have been subjected to discrimination based on race, color, national origin, sex, age, or disability has the right to file a complaint of discrimination under Title VI and related statutes and authorities.

Written Complaints

A complaint is a written or electronic statement concerning an allegation of discrimination that contains a request for the receiving office to take action. Complaints shall be in writing and signed and may be filed by mail, fax, in person, or via email. Complaints by fax or email should be followed up with hard copy documents and original signature. Limited English Proficient persons needing assistance with Complaint Procedures or with the Complaint Form may request translation or interpretive services without charge. Disabled individuals shall be assisted in filling out a written complaint form, if requested. Please follow directions in Appendices “G” and “F.”

Discrimination Complaint Procedures

Complaint Procedures in Appendix “G.”

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

Introduction

These Title VI complaint procedures are intended to provide aggrieved persons, contractors, subcontractors, consultants, and other prime or subrecipients of Federal funds an avenue to raise complaints of discrimination regarding HDOT’s programs, activities, and services. This process does not preclude HDOT from attempting to resolve Title VI complaints through mediation.

Purpose

The purpose of this discrimination procedure is to describe the process used by the Office of Civil Rights (OCR) for processing complaints of discrimination under Title VI of the Civil Rights Act of 1964 and related statutes and authorities.

Dissemination of Title VI Information

Information on Title VI of the Civil Rights Act of 1964, Exec. Order 13166, and Exec. Order 12898 (LEP and Environmental Justice) is available on our HDOT, Administration, OCR, Title VI website link, see <http://hidot.hawaii.gov/administration/ocr/title-vi-program>. All Title VI documents, including Title VI brochures, Title VI Notices, and language access posters, shall be available and prominently displayed at all HDOT divisions, branches, MPOs, and subrecipient agencies where members of the public are most likely to need assistance.

Limited English Proficiency

See <http://hidot.hawaii.gov/administration/files/2016/04/language-access-plan.pdf>.

As part of its overall Title VI obligations, HDOT is required to ensure individuals who are Limited English Proficient (LEP) are provided meaningful access to HDOT's programs and services. Hawai'i State law requires that HDOT have a language access plan to ensure that meaningful access is provided to persons who are LEP.

OCR will use the four factor test outlined in Executive Order 13166, on a project level, using U.S. Census data, city/county data, and other sources as appropriate. HDOT's Division Administrators and Program Managers are responsible for ensuring that meaningful services to persons who are LEP are provided in their respective divisions, programs, and regions. The Division Administrators shall assign a member of each branch's staff to act as a Title VI Liaisons. These Title VI Liaisons shall be responsible to continuously monitor their branch's programs to ensure LEP requirements are fulfilled, report annual accomplishments, and provide upcoming goals relating to LEP activities. The LEP related annual accomplishment reports and upcoming goals shall be provided to the Title VI Specialist every August, before the end of the Federal fiscal year. In determining LEP compliance, the Title VI Specialist will assess whether branch procedures allow persons who are LEP to overcome language barriers and participate in the programs, activities and services in a meaningful way.

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 shall integrate environmental justice concerns into every transportation decision – from the first thought about a transportation plan to post-construction operations and maintenance. It will follow Executive Order 12898 in all of its policies, programs, and other activities that are undertaken, funded, or approved by the Federal Highway Administration, and other Federal or State agency, as required. 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
- Preliminary Design
- Final Design Engineering
- Right-of-Way
- Construction
- Operations and Maintenance

HDOT shall 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.

In accomplishing these four goals, HDOT shall seek the meaningful involvement of minority and low-income populations. HDOT's hired Consultants shall provide outreach to all populations in the transportation decision making process. This will ensure that the input

from populations is considered prior to any policy or project decision that may impact their communities. At a minimum, HDOT shall 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 shall fully consider environmental justice principles throughout its planning and decision making process in the development of programs, policies, and activities. HDOT shall collect data and conduct 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, HDOT shall 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 HDOT responsibility. HDOT shall continuously monitor its 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 subrecipients through a recent training symposium and EJ specific training session. HDOT also provides ongoing training and discussions on EJ with its Title VI Working Group that meets on an “as needed” basis.

EJ Review Procedures:

EJ reviews shall 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;
2. Whether EJ populations were identified and included in the Environmental Document/Categorical Exclusion process and Environmental Public Participation process; and
3. How the Highways Division Right-of-Way Branch ensures that nondiscrimination principles are included in property appraisals, acquisitions, and relocation practices.

Review of STA Directives

The Title VI Specialist shall work collaboratively with the Title VI Working Group, a group of internal staff (normally divisional representatives) to create a method for reviewing the implementation and interpretation of policies and directives. The method created will be

designed to ensure that HDOT directives are in keeping with the Federal nondiscrimination mandates and Title VI of the Civil Rights Act of 1964.

Compliance and Enforcement Procedures

HDOT will conduct periodic reviews of compliance with Federal Title VI Regulations as follows:

1. **Compliance Review:** The HDOT Title VI Specialist will notify local public agencies and work through the program engineers to make arrangements to conduct periodic compliance reviews of local agencies having approved Title VI Plans/Nondiscrimination Agreements. The compliance review will focus on how effectively the local agency has implemented Title VI. During this process the Title VI Specialist will gather and review documentation and conduct interviews as part of the review process. The local agency will be notified in writing of the scheduled date and the documents that will be required for the on-site review.
2. **Local Public Agencies Found in Compliance:** If no deficiencies are found during the on-site review, the local agency will be informed at the conclusion of the review followed by a written notice of compliance.
3. **Local Public Agencies in Noncompliance:** If deficiencies are identified during the review, the local agency will be informed of the deficiencies at the conclusion of the review, followed by written notice, and given 90 days to correct the found deficiencies. After a local agency corrects the deficiencies, it will be notified in writing that it is in compliance. If a local agency does not correct the deficiencies identified by HDOT, it may be subjected to sanctions, up to and including suspension of FHWA funding.