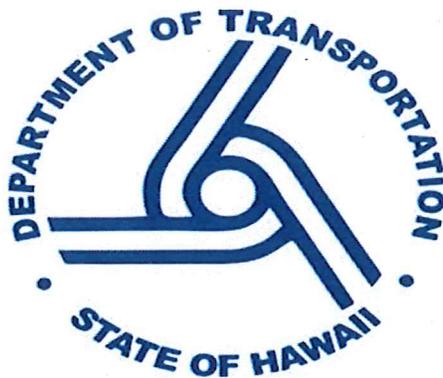


Hawaii Department of Transportation
2017 Title VI FHWA
Program Plan



Approved:  3-21-17
FORD N. FUCHIGAMI DATE
Director of Transportation

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TITLE VI NONDISCRIMINATION POLICY STATEMENT

It is the policy of the Hawaii 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 HDOT or its subrecipients.

In compliance 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 HDOT's major program areas, and HDOT'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

3-21-17

Date

Standard DOT Assurances

The United States Department of Transportation (USDOT)

Standard Title VI/Non-Discrimination Assurances

DOT Order No. 1050.2A

The State of Hawaii, Department of Transportation (herein referred to as the "Recipient"), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (USDOT), 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 Non-discrimination 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 Federal Highway Administration.

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 Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted State of Hawaii, Department of Transportation:

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 the State of Hawaii, Department of Transportation and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

"The State of Hawaii, 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, disadvantaged business enterprises will be afforded 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, 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.
10. 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 Hawaii, 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 Federal Highway Administration's 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 Federal Highway Administration. You must keep records, reports, and submit the material for review upon request to the Federal Highway Administration 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 Hawaii, 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 Administration. This

ASSURANCE is binding on the State of Hawaii, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in State of Hawaii, Department of Transportation programs. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

STATE OF HAWAII, DEPARTMENT OF TRANSPORTATION

By: 

FORD N. EUCHIGAMI
Director of Transportation

Dated: 3.23.17

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 Non-discrimination 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. **Non-discrimination:** 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 Non-discrimination 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 Non-discrimination 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. 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 U.S. Department of Transportation as authorized by law and upon the condition that the State of Hawaii will accept title to the lands and maintain the project constructed thereon in accordance with the Regulations for the Administration of the State of Hawaii Department of Transportation, 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, Non-discrimination 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 2000d-4), does hereby remise, release, quitclaim and convey unto the State of Hawaii all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto the State of Hawaii, 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 Hawaii, Department of Transportation, its successors and assigns.

The State of Hawaii 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 [,] [and]* (2) that the State of Hawaii, 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, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination 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 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 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 State of Hawaii, 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 U.S. 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, 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 Non-discrimination covenants, State of Hawaii, 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 Hawaii, 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 Hawaii, 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 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 Hawaii, 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, (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 Hawaii, 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, State of Hawaii, Department of Transportation, will there upon revert to and vest in and become the absolute property of the State of Hawaii, 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 non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination 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); 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);
- 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, (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, sub-recipients 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;
- 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 (EJ) 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);
- 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).

APPENDIX F

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

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

Link on Website: <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, 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 sixty (60) 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

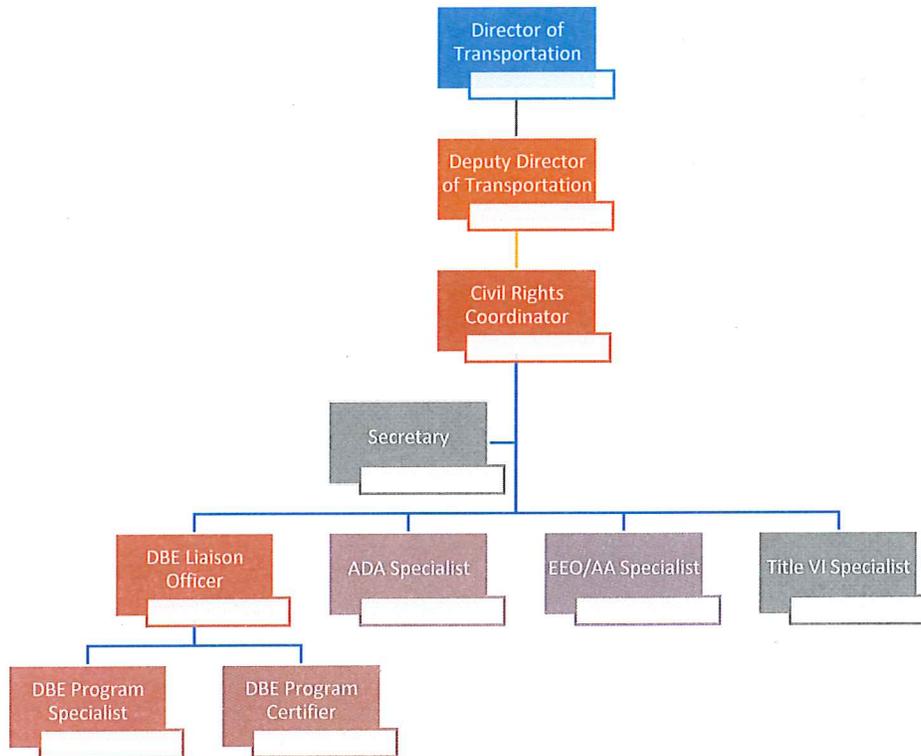
the incident, identification of persons interviewed, findings and recommendations for disposition.

11. The draft investigative report shall be reviewed and finalized by the OCR Supervisor, and HDOT Director.
12. A copy of both the complaint and the investigative report shall be provided to the parties, and to the FHWA division office within sixty (60) days of the date the complaint was received.
23 CFR 200.9(b)(3)
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 and Staffing

The Office of Civil Rights (OCR) is part of HDOT's Administration Division and is directly under the office of the Director of Transportation. The Civil Rights Coordinator oversees the OCR and reports directly to the Deputy Director of Transportation. The Civil Rights Coordinator is responsible for administering the Title VI Program and provides the OCR with the administrative direction necessary to implement HDOT procedures relating to this Title VI Plan. The Title VI Specialist reports to the Civil Rights Coordinator, and is granted direct access to the Director of Transportation on Title VI related matters. The Title VI Specialist is responsible for all aspects of the Title VI Program, and provides technical assistance to HDOT's Director, deputies, staff, and subrecipients.

Organizational Chart – Office of Civil Rights



Dissemination of Title VI Information and Environmental Justice Activities

HDOT's Highway Division branches follow the Public Involvement Plan (see link below) developed in 2012, for all dissemination of public information to beneficiaries or potential beneficiaries regarding transportation activities. This would include scoping, studies, public outreach, public meetings, and other educational gatherings related to Title VI, Environmental Justice and Highway Division projects. Also, the Public Involvement Plan assures access to information and services for minorities, those who are socioeconomically challenged, and for LEP (Limited English Proficient) persons in the community. The Public Involvement Plan sets forth possible stakeholders, community groups, and strategies for analyzing data to determine if knowledge in a sample group is representative of an affected community. See Public Involvement link below:

<http://www.oahumpo.org/wp-content/uploads/2013/02/Final-HDOT-Guide-for-Public-Input-7-27-12.pdf>

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 or "LPAs" that serve a population of two hundred thousand or greater, or those with previously identified deficiencies will be priority candidates for review. For example, Oahu MPO (OMPO) the City and County of Honolulu, and HDOT divisions will be reviewed yearly. For Maui MPO (MMPO) and other LPAs, HDOT may conduct reviews every other year, as necessary to encourage proper compliance.

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 LPAs have implemented their approved Title VI Implementation Plans. To start, each LPA, with a population of 100,000 or more, and MPOs shall provide HDOT with an annual Title VI Implementation Plan. LPAs with less than 100,000 in population shall, at the least, submit annually to HDOT, a Title VI Nondiscrimination Agreement that includes the following:

1. A Title VI Policy Statement;
2. Signed Title VI Assurances and language from DOT Order 1050.2A in agreements;
3. Procedures for collection of statistical data (race, color and national origin) of participants in, and beneficiaries of State highway programs such as impacted citizens and affected communities;
4. Written procedures for complaints, complaint procedures, for assisting LEP individuals and addressing EJ issues per Executive Order 12898; and

5. A point of contact for coordination of Title VI requirements and efforts.

Internal Monitoring

Each HDOT division and branch are minimally required to appoint a Title VI liaison to monitor activities that impact the public relative to environmental justice, language access, or other relevant Title VI issues. All HDOT divisions, in cooperation with their Title VI liaisons, shall support OCR in its Title VI efforts and shall develop quarterly Title VI reports, based on a calendar year. Accordingly, Title VI liaisons shall meet as part of a Title VI Working Group to address Title VI, environmental justice, and language access issues, as necessary to assure compliance. Based on the foregoing, the Title VI Specialist, working collaboratively with division heads and Title VI liaisons will annually review all projects (including consultant efforts) to ensure that no disparate impact has affected any protected group. This annual review of all HDOT projects will ensure that HDOT's activities are compliant with Federal non-discrimination mandates and with Title VI of the Civil Rights Act of 1964. 23 CFR Section 200.9(b)(9).

Planning and Design Branches/Statewide Transportation Planning Office

The Highways Division Planning and Design Branches, and the Statewide Transportation Planning Office (STPO) shall be responsible for the collection and tabulation of statistical data as follows:

- 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.

Construction and Maintenance & Right-of-Way Branches

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

- Grant language for compliance with Title VI requirements.
- Data (race, color, national origin, sex, disability, age) that illustrates the number of minorities and low-income populations disproportionately affected by construction or maintenance contracts.

Environmental Section

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

- Data relating to the health and environment of minority and low-income populations.

- 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.
- Information on project alternatives.
- 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 Hawaii:

- Oahu Metropolitan Planning Organization (OMPO).
- Maui Metropolitan Planning Organization (MMPO).

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. LPAs that receive federal funding are considered HDOT subrecipients. MPOs and LPAs 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 Hawaii 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 Program Plan.

USDOT Designated Special Emphasis Program Areas

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

HDOT Designated Special Emphasis Area

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

Title VI Training

OCR provides training opportunities, including Title VI Working Group training and general Civil Rights training that in the past has included 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 HDOT 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. Title VI liaisons from each branch or section, as mentioned above, shall provide feedback on Title VI training that may be needed for a specific HDOT program area.

External Training

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

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 Executive Order 13166, Title VI and state law. See Language Access Plan at <http://hidot.hawaii.gov/administration/files/2016/04/language-access-plan.pdf>

Environmental Justice Plan

There are three fundamental environmental justice (EJ) 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 includes EJ concerns in every transportation decision – from the conception of a transportation plan to post-construction operations and maintenance. HDOT follows Executive Order 12898 in all of its policies, programs and other activities that are funded, or approved by the FHWA, and other federal or state agencies, as required. EJ applies to, but is not limited to, the following:

- Policy Decisions
- Systems Planning
- Metropolitan and Statewide Planning
- Project Development and Environmental Review under the National Environmental Policy Act (NEPA)
- Preliminary Design
- Final Design Engineering
- Right-of-Way
- Construction
- Operations and Maintenance

Compliance with EJ Principles

HDOT shall include EJ principles into all of its activities by:

1. Creating the technical capabilities to assess the benefits and adverse effects of transportation activities in different population groups and use that capability to develop appropriate procedures, 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 EJ principles.
3. Furthering its public-involvement activities to ensure the meaningful participation of minority and low-income populations.
4. Cooperating 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 seeks out the meaningful involvement of minority and low-income populations. HDOT's consultants shall provide outreach to all populations in the transportation decision-making process. This ensures that input from various populations is considered before any policy or project decision that may impact their communities. HDOT shall complete a demographic analysis to assist in identifying the racial and ethnic composition as well as the income level of populations within project areas.

HDOT shall fully consider EJ 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 EJ 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 recent training symposiums and EJ specific training session. HDOT also provides ongoing training and discussions on EJ with its Title VI Working Group (made up of Title VI liaisons from within HDOT) 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 Highway Section heads, to annually examine each section’s Title VI and EJ policies and procedures on projects, using a general Title VI checklist. Specifically, each division’s projects and consultant efforts shall be reviewed to ensure that no disparate impact has occurred to any protected group. This annual review of all divisions’ projects will make certain that HDOT activities in keeping Federal nondiscrimination mandates and Title VI of the Civil Rights Act of 1964. 23 CFR Section 200.9(b)(9).

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 LPAs and work through the program engineers to make arrangements to conduct periodic compliance reviews of LPAs having approved Title VI Plans/Nondiscrimination Agreements. The compliance review will focus on how effectively the LPA has implemented its Title VI Plan/Nondiscrimination Agreement. During this process, the Title VI Specialist will gather and review documentation and conduct interviews as part of the review process. The LPA will be notified in writing of the scheduled date and the documents that will be required for the onsite review.
2. **LPAs Found in Compliance:** If no deficiencies are found during the on-site review, the LPA will be informed at the conclusion of the review followed by a written notice of compliance.

3. LPAs Found in Noncompliance: If deficiencies are identified during the review, the LPA 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 LPA corrects the deficiencies, it will be notified in writing that it is in compliance. If a LPA does not correct the deficiencies identified by HDOT, it may be subjected to sanctions, up to and including suspension of FHWA funding.

Accomplishment Report Procedures

All Title VI Accomplishment Reports from HDOT divisions, branches, MPOs, and LPAs shall be due to HDOT's Office of Civil Rights each year on September 1st. As September 30th is the end of the federal fiscal year, HDOT's Office of Civil Rights shall submit to FHWA its overall Title VI Accomplishment Report by this date (September 30th).