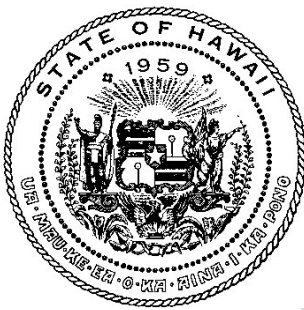


STATE MANAGEMENT PLAN

FEDERAL TRANSIT ADMINISTRATION SECTION 5310, SECTION 5311 & SECTION 5339 PROGRAMS



State of Hawaii
Department of Transportation Statewide
Transportation Planning Office 200
Rodgers Boulevard
Honolulu, Hawaii 96819

2023-2026

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FIGURES

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Table 11-1a Section 5310 Grant Process

Table 11-1b Section 5311 and 5339 Grant Process

DRAFT

ACRONYMS AND ABBREVIATIONS

| | |
|---------------------|---|
| ADA | Americans with Disabilities Act |
| ARP | American Rescue Plan |
| B&F | Department of Budget and Finance (State of Hawaii) |
| BUS | Business Management Office (Hawaii DOT) |
| CAA | Clean Air Act |
| CDL | Commercial Driver's License |
| CE | Categorical Exclusion |
| CMAQ | Congestion Mitigation and Air Quality Improvement Program |
| CNG | Compressed Natural Gas |
| CON | Contracts Office |
| CSP | Coordinated Public Transit-Human Services Transportation Plan |
| DAGS | Department of Accounting and General Services (State of Hawaii) |
| DBE | Disadvantaged Business Enterprise |
| DEP-HWY | Deputy Director-Highways (HDOT) |
| DEP-S | Deputy Director-Staff (HDOT) |
| EA | Environmental Assessment |
| EAMS | Electronic Award and Management |
| System EEO | Equal Employment Opportunity |
| EJ | Environmental Justice |
| FAST | Fixing America's Surface Transportation Act |
| FHWA | Federal Highway Administration |
| FMVSS | Federal Motor Vehicle Safety |
| Standards FONSI | Finding of No Significant Impact |
| FTA | Federal Transit Agency |
| FY | Fiscal Year |
| HART | Honolulu Authority for Rapid Transportation |
| HDOT | State of Hawaii Department of Transportation |
| HDOT STPO Office | HDOT Statewide Transportation Planning |
| HRS | Hawaii Revised Statutes |
| HSTP | Hawaii Statewide Transportation Plan |
| IFB | Invitation For Bids |
| IIJA | Infrastructure Investment and Jobs Act |
| ISTEA | Intermodal Surface Transportation Efficiency Act of 1991 |
| ITS | Intelligent Transportation Systems |

| | |
|----------------|--|
| LEP | Limited English Proficiency |
| LTAP | Local Technical Assistance Program |
| LNG | Liquified Natural Gas |
| MAP-21 | Moving Ahead for Progress in the 21 st Century |
| MIS | Management Information System |
| MMPO | Maui Metropolitan Planning Organization |
| MOA | Memorandum of Agreement |
| MPO | Metropolitan Planning Organization |
| MPA | Metropolitan Planning Area |
| MPR | Milestone Progress Reports |
| MSO | Manufacturer's Certificate of Origin |
| NAAQS | National Ambient Air Quality |
| Standards NEPA | National Environmental Policy Act |
| NHTSA | National Highway Traffic Safety Administration |
| NTD | National Transit Database |
| NTP | Notice To Proceed |
| OCR | Office of Civil Rights (HDOT) |
| OMB | Office of Management and Budget (federal agency) |
| OMPO | Oahu Metropolitan Planning Organization |
| POP | Program of Projects |
| PPB | Planning Programming & Budgeting |
| (HDOT) | |
| QHSO | Qualified Human Service Organizations |
| RTAP | Rural Transit Assistance Program |
| SAFETEA-LU | Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users |
| SAM | System of Award Management |
| Section 5307 | Urbanized Area Formula Grants |
| Section 5310 | Enhanced Mobility of Seniors and Individuals with Disabilities |
| Section 5311 | Formula Grants for Rural Areas |
| Section 5339 | Bus and Bus Facilities |
| SGR | State of Good Repair |
| SIP | State Implementation Plan |
| SMP | State Management Plan |
| SPO | State of Hawaii Procurement Office |
| State | State of Hawaii |
| STIP | Statewide Transportation Improvement Program |
| STP | Surface Transportation Program |

| | |
|----------------|--|
| TAM | Transit Asset Management |
| TEAM | Transportation Electronic Award |
| Management TIP | Transportation Improvement Program |
| TrAMS | Transit Award Management System |
| TVM | Transit Vehicle Manufacturer |
| ULB | Useful Life Benchmark |
| UPWP | Unified Planning Work Program |
| USDOT | United States Department of Transportation |
| USOA | Uniform System of Accounts |
| UZA | Urbanized Area |

DRAFT

1.0 INTRODUCTION

This State Management Plan (SMP) describes the State of Hawaii's (State's) policies and procedures for administering three United States Department of Transportation (USDOT) Federal Transit Administration (FTA) grant programs: 49 U.S.C. Section 5310 (Enhanced Mobility of Seniors and Individuals with Disabilities); 49 U.S.C. Section 5311 (Formula Grants for Rural Areas);¹ and 49 U.S.C. Section 5339 (Bus and Bus Facilities Formula Program). It is designed to address the specific topics prescribed by FTA for each grant program, demonstrate how the State (direct recipient) administers the programs, and describe key procedures of interest to prospective subrecipients. To address the specific topics prescribed by FTA, the SMP is organized as shown in the following table.

| SMP Section | Required Topic | Section | | |
|----------------|---|---------|------|------|
| | | 5310 | 5311 | 5339 |
| 2.0 | Program Goals and Objectives | X | X | X |
| 3.0 | Roles and Responsibilities | X | X | X |
| 4.0 | Coordination | X | X | X |
| 5.0 | Eligible Subrecipients | X | X | X |
| 6.0 | Eligible Services and Services Areas | | X | |
| 7.0 | Eligible Assistance Categories | | X | |
| 8.0 | Local Share and Local Funding Requirements | X | X | X |
| 9.0 | Project Selection Criteria and Method of Distributing Funds | X | X | X |
| 10.0 | Intercity Bus Transportation | | X | |
| 11.0 | Annual Program of Projects Development and Approval Process | X | X | X |
| 12.0 | State Administration, Planning and Technical Assistance | X | X | |
| 13.0 | State RTAP | | X | |
| 14.0 | Transfer of Funds | X | X | X |
| 15.0 | Private Sector Participation | X | X | |
| 16.0 | Civil Rights | X | X | X |
| 17.0 | Maintenance | | X | |
| 18.0 | Charter Rule | | X | |
| 19.0 | Section 504 and ADA Reporting | X | X | X |
| 20.0 | National Transit Database Reporting | | X | X |
| 21.0 | Program Measures | X | | |
| 22.0 | State/Designated Recipient Program Management | X | X | X |
| 23.0 | Other Provisions | X | X | X |

¹ Other than urbanized areas, rural areas are defined as areas with populations of less than 50,000 as determined in the decennial census. See 49 USC § 22907(g)(2)

Section 11.0, Annual Program of Projects Development and Approval Process, includes a step-by-step description of the grant application process. Section 22.0, State/Designated Recipient Program Management includes key procedures associated with program management.

The State is required to have an approved SMP on file with its respective FTA regional office (Region IX) because it is the designated recipient of FTA program funds. The Section 5310, Section 5311, and Section 5339 grant programs were authorized and funded for FY 2016 through FY 2021 by the Fixing America's Surface Transportation Act (FAST Act) and the Consolidated Appropriations Act, 2021. Subsequent grant allocations for continuing transit operations have been made via Coronavirus Aid, Relief, and Economic Security (CARES) Act and Consolidated Appropriations Act of 2021, and American Rescue Plan (ARP). For FY2022 to FY2026, authorization and appropriations for funding are authorized via the Infrastructure Investment and Jobs Act (IIJA), passed in November 2021.

2.0 PROGRAM GOALS AND OBJECTIVES

Program goals and objectives under the Section 5310, Section 5311, and Section 5339 programs are summarized below. Program goals are set forth by the FTA (grantor). Program objectives are established by either the FTA or the State of Hawaii (grantee/recipient), specifically its Department of Transportation Statewide Transportation Planning Office (HDOT STPO). Attainment of program goals and objectives are made possible through the State's subrecipients, with HDOT STPO and FTA coordination, management, and oversight.

2.1 SECTION 5310

The goal of the 49 U.S.C. Section 5310 program is to improve mobility for seniors and individuals with disabilities throughout the country by removing barriers to transportation services and expanding the transportation mobility options available. To achieve this goal, FTA provides financial assistance for transportation services planned, designed, and carried out to meet the special transportation needs of seniors and individuals with disabilities in all areas—large urbanized, small urbanized, and rural. The program requires coordination with other federally assisted programs and services in order to make the most efficient use of federal resources (FTA Circular 9070.1G, "Enhanced Mobility of Seniors and Individuals with Disabilities: Program Guidance and Application Instructions," July 7, 2014).

To meet the goal of the 49 U.S.C. Section 5310 program, the objectives of the HDOT STPO are to:

1. Ensure that elderly persons and persons with disabilities have the same rights as all people to utilize transportation facilities and services;
2. Improve mobility for the elderly and individuals with disabilities;
3. Provide financial assistance for accessible transportation services planned, designed and carried out to meet the special transportation needs of the elderly and disabled; and

4. Continue to provide for the special needs of elderly persons and persons with disabilities for which transportation services are unavailable, insufficient, or inappropriate.

2.2 SECTION 5311

Pursuant to 49 U.S.C. Chapter 53, FTA apportions or awards funds to states, Indian tribes, or other eligible recipients located in rural areas for planning, public transportation capital projects, operating costs, job access reverse commute projects, and the acquisition of public transportation service. The Section 5311 program supports both the maintenance of existing public transportation services and the expansion of those services through the following program goals (Refer to FTA Circular 9040.1G, "Formula Grants for Rural Areas: Guidance and Application Instructions," November 24, 2014):

1. Enhancing access in rural areas to health care, shopping, education, employment, public services, and recreation;
2. Assisting in the maintenance, development, improvement, and use of public transportation systems in rural areas;
3. Encouraging and facilitating the most efficient use of all transportation funds used to provide passenger transportation in rural areas through the coordination of programs and services;
4. Providing financial assistance to help carry out national goals related to mobility for all, including seniors, individuals with disabilities, and low-income individuals;
5. Increasing availability of transportation options through investments in intercity bus services;
6. Assisting in the development and support of intercity bus transportation;
7. Encouraging mobility management, employment-related transportation alternatives, joint development practices, and transit-oriented development; and
8. Providing for the participation of private transportation providers in rural public transportation.

The FTA objectives for 49 U.S.C. 5311(b)(3)--Rural Transportation Assistance Program (RTAP) are to:

1. Promote the safe and effective delivery of public transportation in non-urbanized areas and to make more efficient use of public and private resources;
2. Foster the development of state and local capacity for addressing the training and technical assistance needs of the rural/small urban transportation community;
3. Improve the quality of information and technical assistance available through the development of training and technical assistance resource materials;
4. Facilitate peer-to-peer self-help through the development of local networks of transit professionals;

5. Support the coordination of public, private, specialized, and human service transportation services; and,
6. Build a national database on the rural segment of the public transportation industry.

To meet the goals of the Section 5311 program, the objectives of the HDOT STPO are to:

1. Enhance access of people in non-urbanized areas to health care, shopping, education, employment, public services and recreation; and
2. Assist in the maintenance, development, improvement, and use of public transportation systems in rural and small urban areas.

2.3 SECTION 5339

Pursuant to 49 U.S.C. 5339, FTA awards grants under this section to the designated recipients in the large urbanized areas (UZAs) and states for the purpose of financing capital bus and bus-related projects that will support the continuation and expansion of public transportation services (FTA Circular 5100.1, "Bus and Bus Facilities Program: Guidance and Application Instructions," May 18, 2015).

To meet the goal of the 49 U.S.C. Section 5339 program, the objectives of the HDOT STPO are to:

1. Meet the needs of rural and small urban public transportation by providing resources for capital projects that maintain service levels and/or increase the capacity and frequency of transit services where appropriate; and
2. Ensure a fair and equitable distribution of program funds to eligible recipients.

3.0 ROLES AND RESPONSIBILITIES

The roles and responsibilities of each of the entities working to achieve the goals and objectives of the Section 5310, Section 5311, and Section 5339 programs are described below.

3.1 FEDERAL TRANSIT ADMINISTRATION (FTA)

The FTA headquarters office is responsible for providing overall policy and program guidance; apportioning funds annually to the states; developing and implementing financial management procedures; initiating and managing program support activities; and conducting national program review and evaluation.

The FTA regional offices have the day-to-day responsibility for administering the program. Regional office activities include reviewing and approving state grant applications; obligating funds; managing grants; overseeing the state's implementation of the annual program, including revisions to the Program of Projects (POP); receiving state certifications; reviewing and approving SMPs; providing technical assistance and advice to the states as needed; and performing state management reviews every three years, or as circumstances warrant.

3.2 HAWAII DEPARTMENT OF TRANSPORTATION (HDOT)

The Governor of Hawaii designated the HDOT as administrator and recipient of the FTA programs described in this SMP. The HDOT STPO is the specific office within the HDOT responsible for managing and overseeing these programs (Figure 3-1a). The HDOT STPO now functionally reports to the Deputy Director of Administration (DEP-S) due to the federal grant aspects with the Highways Division and the Federal Highway Administration federal program. The DEP-S is responsible for approving requests reviewed by HDOT STPO, e.g., subrecipient reimbursements, prior to release outside of HDOT.

As a Section 5310 program recipient, the HDOT STPO is responsible for administering the program. Activities include:

1. Documenting the State's procedures in a SMP;
2. Planning for future transportation needs, and ensuring integration and coordination among diverse transportation modes and providers;
3. Developing project selection criteria consistent with the coordinated planning process;
4. Notifying eligible local entities of funding availability;
5. Soliciting applications from potential subrecipients;
6. Determining applicant and project eligibility;
7. Certifying that allocations of funds to subrecipients are made on a fair and equitable basis;
8. Submitting an annual POP and grant application to FTA;
9. Ensuring subrecipients comply with federal requirements;
10. Certifying that all projects are included in a locally developed, coordinated public transit-human service transportation plan (CSP) developed and approved through a process that included participation by seniors; individuals with disabilities; representatives of public, private, and nonprofit transportation and human service providers; and other members of the public;
11. Certifying that to the maximum extent feasible, services funded under Section 5310 are coordinated with transportation services assisted by other federal departments and agencies;
12. Ensuring that at least 55 percent of the area's apportionment is used for traditional Section 5310 projects (capital projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when transportation is insufficient, inappropriate, or unavailable) carried out by the eligible subrecipients; and
13. Overseeing project audit and closeout.

As Section 5311, and Section 5339 program recipient, the HDOT STPO is responsible for administering the program. Activities include:

1. Documenting the state's procedures in a SMP;
2. Notifying eligible local entities of the availability of the program;
3. Planning for future transportation needs, and ensuring integration and coordination among diverse transportation modes and providers;
4. Soliciting applications;
5. Developing project selection criteria;
6. Reviewing and selecting projects for approval;
7. Forwarding an annual POP and grant application to FTA;
8. Certifying eligibility of applicants and project activities;
9. Ensuring compliance with federal requirements by all subrecipients;
10. Monitoring local project activity;
11. Overseeing project audit and closeout; and
12. Filing a National Transit Database (NTD) report each year for itself and on behalf of each subrecipient.

The HDOT STPO has the authority to halt reimbursement, suspend FTA assistance, withhold future funding, and employ other restrictive measure on subrecipients should non-compliance with the requirements referenced in this SMP occur. Non-compliance can also include actions inferred and failure to meet HDOT STPO-imposed due dates. See Section 22.7, Repercussions of Non-Compliance.

Along with the HDOT STPO, the **Office of Civil Rights (OCR)** and **Staff Services** support the objectives of the FTA programs (Figure 3-1b). The OCR is responsible for developing, managing, and implementing the Americans with Disabilities Act (ADA), Disadvantaged Business Enterprise (DBE), Equal Employment Opportunity (EEO)/Affirmative Action, and Title VI/Environmental Justice Programs within HDOT and supports FTA grant compliance with these requirements. The primary function of the OCR is to assure that the HDOT is in full compliance with all related federal and State antidiscrimination laws, regulations, directives and executive orders in all its programs and activities.

Staff Services includes the Business Management Office, the Contracts Office, and the Planning Programming & Budgeting Management & Analysis Office (Figure 3-1c).

- The **Business Management Office** provides business management advice, assistance and support to the Director, departmental staff offices and divisions in accounting, financial management, process improvement, internal control, records management and office services. It specifically provides fiscal management of federal-aid programs; guidance on the financial rules and regulations on the use and control of federal-aid funding as required by the Federal Government Policies and Procedures. The Business Management Office provides Federal-Aid Staff that performs the following:

- (1) Plans, directs and coordinates the fiscal activities of federal funds administered by the Federal Grant Program to the Departmental Administrative Staff, Oahu Metropolitan Planning Organization (OMPO), Maui Metropolitan Planning Organization (MMPO), and other grantees. Staff develops and maintains a cost accounting system to track federal expenditures, prepares billing vouchers, records reimbursements, and compiles financial information for reporting purposes.

- (2) Prepares reports or transmittals for reimbursement and performs electronic withdrawal from the Federal Government. Coordinates the timing of the receipts from federal agencies and distributes payments to applicable State, County and non-profit agencies to meet the applicable federal requirements on a timely basis.

- (3) Prepares financial reports required by the Federal Agencies by analyzing and compiling financial data and/or documents; prepares and supports schedules for the annual audit of federal-aid grants for the Administration, OMPO, and MMPO.

- (4) Provides technical assistance to managers by interpreting and explaining federal accounting and cost principles, audit requirements and financial rules and regulations on the use and control of these federal grants based on the Federal Government's policies and procedures.

- (5) Provides financial reporting to management on a regular basis and special reports as requested.

- The **Contracts Office** serves as the principal departmental resource on contracting practices, and State laws, rules, and regulations relating to contracting; establishes procedures within applicable State and DOT policies and guidelines for calling for tenders, processing bids, and determining awards; and reviews and approves contracts for conformance to departmental and State language and for format standards. This includes administering procedures for soliciting bids requiring formal advertisement, qualifying prospective bidders, processing bids, making awards, and processing consultant

contracts. The Office of Contracts monitors or reviews contracts to ensure compliance with Chapter 103, Hawaii Revised Statutes (HRS); procurement standards in compliance with Chapter 103D, HRS, and other support departmental approval requirements.

- The Budget Control and Execution Section of the **Planning Programming & Budgeting (PPB) Management & Analysis Office** is the staff office that performs the following:

- (1) Reviews reimbursement request.
- (2) Interprets and disseminates instructions from the Department of Budget and Finance (B&F) and provides direction to the Department staff.
- (3) Coordinates the preparation of the annual expenditure plan and request the operating budget allotments.
- (4) Provides position and expenditures control through evaluation of the multiple year Program Financial Plan personnel requirements; approval of requests to establish positions and fill vacancies; tracking and approval of administrative transfers; and the review, analysis and approval of selected department expenditure requests.
- (5) Reviews and approves all allotment requests to ensure that the purposes of the appropriations are being satisfied.

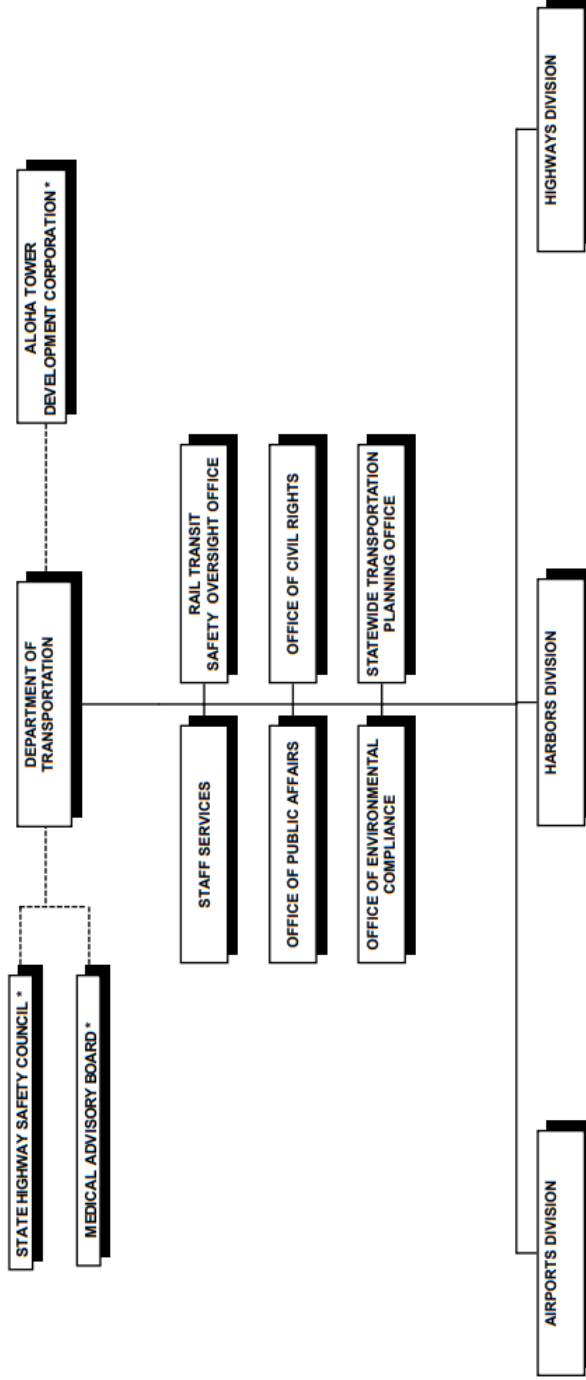
3.3 Oahu Metropolitan Planning Organization (OMPO)

The Oahu MPO is the governing authority for the multimodal cooperative, comprehensive, and continuing (3-C) planning process for Oahu. The OMPO, in cooperation with the HDOT, the City and County of Honolulu, and the Honolulu Authority for Rapid Transportation (HART), is responsible for developing/updating the Transportation Improvement Program (TIP) for Oahu. The TIP is established through a performance management approach to identify multimodal capital investments and project priorities.

3.4 Maui Metropolitan Planning Organization (MMPO)

The Maui MPO was formed in 2016 by the State of Hawaii and the County of Maui. Like the OMPO, the MMPO serves as the governing authority for multimodal cooperative, comprehensive, and continuing (3-C) planning process for the County of Maui, in cooperation with HDOT and the County of Maui Department of Transportation. This entails development of a Transportation Improvement Program (TIP) for Maui.

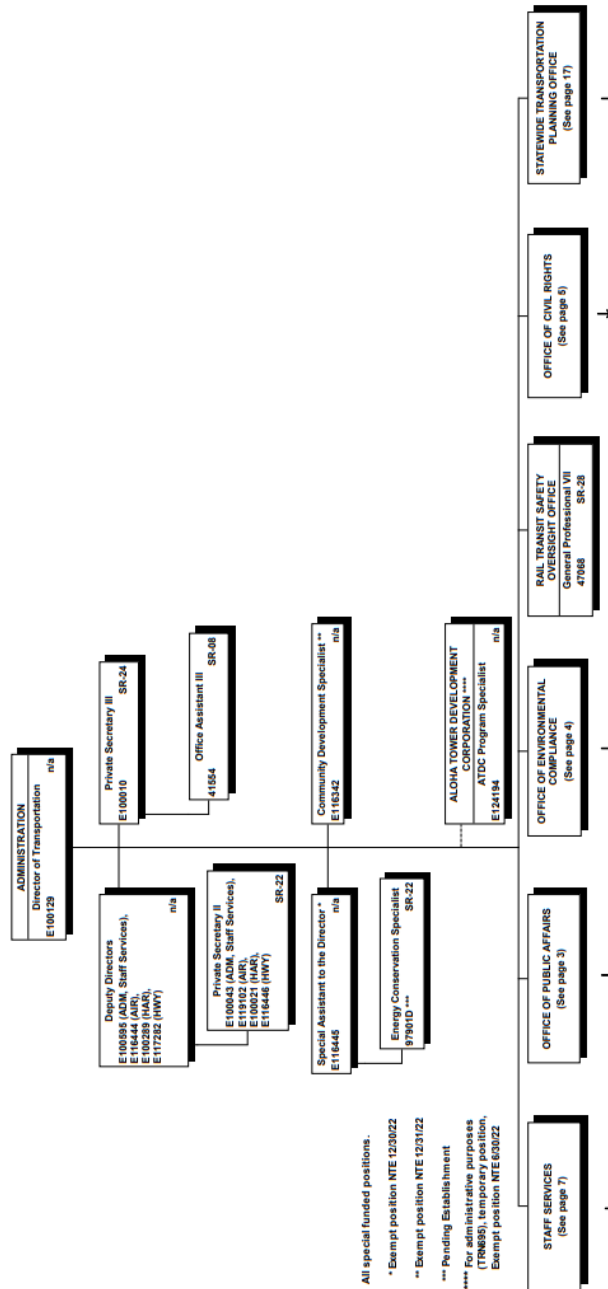
STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
ORGANIZATION CHART



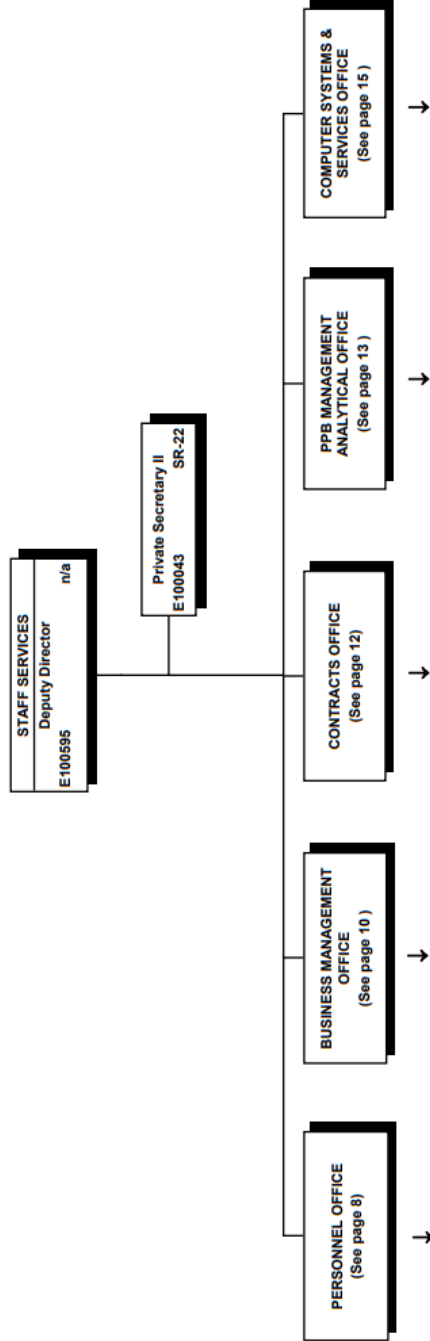
* For administrative purposes

6/30/22

Page 1



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
ADMINISTRATION
STAFF SERVICES
POSITION ORGANIZATION CHART

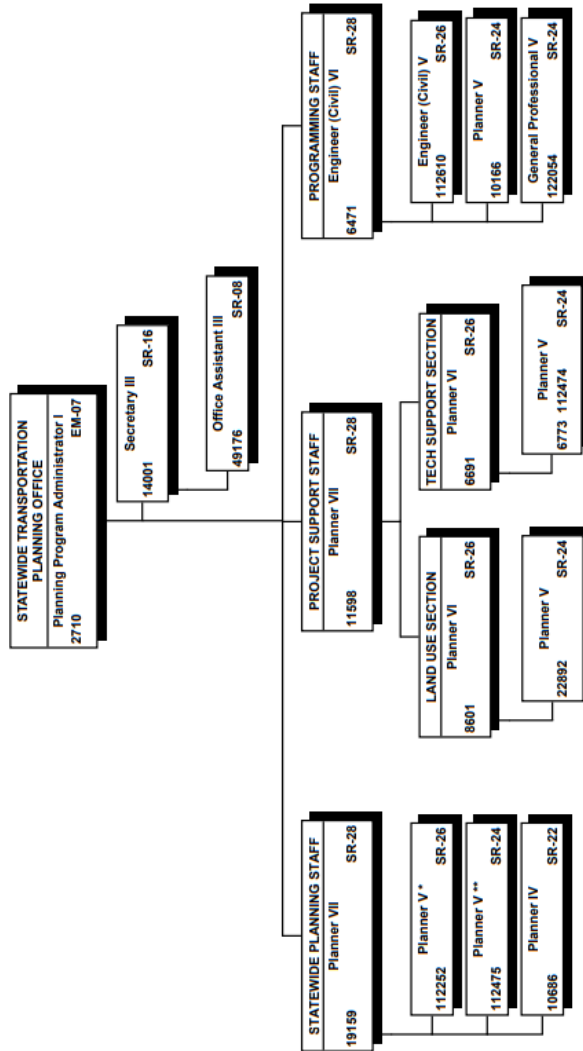


Special funded positions.

6/30/22

Page 7

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
ADMINISTRATION
STATEWIDE TRANSPORTATION PLANNING OFFICE
POSITION ORGANIZATION CHART



All positions special funded

* Position has been redescribed to Rail Transit Safety Administrator, EM-05 and is part of the Rail Transit Safety Oversight Office Reorganization.
** Position to be redescribed to Planner VI, SR-26 as part of the Rail Transit Safety Oversight Office Reorganization.

6/30/22

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4.0 COORDINATION

The key coordination and plans needed to implement FTA Section 5310, Section 5311, and Section 5339 programs are described below.

4.1 COORDINATED PUBLIC TRANSIT-HUMAN SERVICES TRANSPORTATION PLAN (CSP)

The CSP provides a unified, comprehensive strategy for public transportation service delivery that identifies the transportation needs of individuals with disabilities, older adults, and individuals with limited income; develops strategies for meeting these needs; and prioritizes services. Required CSP elements include:

- An assessment of available services that identifies current transportation providers (public, private, and non-profit);
- An assessment of transportation needs for individuals with disabilities, older adults, and people with low incomes;
- Strategies, activities, and/or projects to address the identified gaps between current services and needs, as well as opportunities to achieve efficiencies in service delivery; and
- Priorities for implementation based on resources (from multiple program sources), time, and feasibility for implementing specific strategies and/or activities.

The State CSP addresses the nonurban areas, including the counties of Hawaii, Kauai, and Maui, as determined by the United States Census. Due to the geographic nature of Hawaii (island archipelago), the small urban areas (population of 50,000 to 199,999) are addressed with the urban area (population of 200,000 or more) in the City and County of Honolulu's CSP. As of this update, a future update to the City and County of Honolulu's CSP is forthcoming. As noted previously, the County of Maui has formulated its MPO and is working with the HDOT and other stakeholders for coordination of the State CSP.

The CSP is a sub element of the Hawaii Statewide Transportation Plan (HSTP) and is therefore consistent with HSTP goals and objectives.

Projects funded through the FTA grant programs are required to be part of a locally developed CSP. Because the State is the direct recipient of FTA Section 5310, Section 5311, and Section 5339 funds and HDOT STPO is the specific State office responsible for managing and overseeing the program, HDOT STPO is required to certify that FTA grant funded projects are derived from an adopted CSP. The HDOT STPO satisfies this requirement by making it part of the application process and obligating the applicant to identify how its proposed project is supported by the CSP.

4.2 HAWAII STATEWIDE TRANSPORTATION PLAN (HSTP)

The HSTP is a policy document that establishes the framework to be used in the planning of Hawaii's transportation system. The goals and objectives identified in the HSTP provide the keys

to the development of an integrated, multi-modal transportation system for the safe, efficient, and effective movement of people and goods throughout Hawaii. The HSTP is coordinated and prepared in cooperation with the Planning, Transportation, and Public Works departments in each of the four counties, the OMPO, the MMPO, and other State, county and federal participating agencies, as well as the modal divisions of the HDOT (Highways, Airports, and Harbors). This effort also includes participation and input from the users of the transportation system, stakeholders, providers, and the general public. Additionally, research efforts to ensure that technical issues associated with the plan are analyzed and considered, and that applicable federal, state, and local rules and regulations are satisfied. As of this 2020 version of the Statewide Management Plan, the HSTP is estimated to be completed by Federal fiscal year 2023.

4.3 STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM (STIP)

The STIP is a product of the transportation programs planning process involving local governments, the OMPO, the MMPO, other state and transportation agencies, and the public. This four-year program identifies federal, State, and county transportation projects, statewide, that intend to be funded, in part, with Federal Highway Administration (FHWA) or FTA funds. The Hawaii STIP includes two additional years for informational purposes only. Projects in the two additional years are not financially constrained or endorsed/approved by the FTA and the FHWA.

Projects identified in the coordinated planning process and selected for FTA funding under Section 5310, Section 5311, and Section 5339 must be included in the STIP prior to FTA's award of the grant. The HDOT STPO is responsible for providing this input. Hawaii's STIP is updated every four years in accordance with federal requirements but can be amended at any time. There are two major pre-planned revisions during each federal fiscal year, in accordance with HDOT STIP protocols and procedures.

5.0 ELIGIBLE SUBRECIPIENTS

Eligible subrecipients for Section 5310, Section 5311, and Section 5339 programs are described below.

5.1 SECTION 5310

Eligible subrecipients of "Traditional" Section 5310 funds include:

- Private nonprofit organizations and
- A state or local governmental authority that (a) is approved by a state to coordinate services for seniors and individuals with disabilities; or (b) certifies that there are no nonprofit organizations readily available in the area to provide the service.

Governmental authorities eligible to apply for Section 5310 funds are those designated by the state to coordinate human service activities in a particular area. Examples of such eligible public bodies are a county agency on aging or a public transit provider which that state has identified as the lead agency to coordinate transportation services funded by multiple federal or state human service programs.

Eligible subrecipients for "Other" Section 5310 Projects include those eligible for Traditional Section 5310 Projects and the following:

- An operator of public transportation that receives a Section 5310 grant indirectly through a recipient.

5.2 SECTION 5311

Eligible recipients or subrecipients of Section 5311 funds include:

- State agencies,
- States and local governmental authorities,
- Nonprofit organizations, and
- Operators of public transportation or intercity bus service that receive FTA grant funds indirectly through a recipient.

Note that for the State of Hawaii, there are no intercity bus services because (a) there are no intercities, as defined by FTA, in Hawaii and (b) County transit agencies on the islands of Kauai, Maui and Hawaii are currently providing adequate bus service for the non-urbanized areas.

Private for-profit operators of transit services can participate in the program as third-party contractors for grantees or eligible subrecipients, but not as direct subrecipients. State agencies may further limit subrecipient eligibility requirements in order to comply with state laws or to further program goals.

Eligible recipients of Section 5311(b)(3) RTAP funds can be any transit operator in or serving a rural area. HDOT is also an eligible recipient of RTAP funds. Activities supported by these funds include training, technical assistance, research and related support services.

5.3 SECTION 5339

Eligible recipients or subrecipients of Section 5339 funds include:

- Direct recipients that operate fixed route bus service or that allocate funding to fixed route bus operators,
- State or local government entities, and
- Federally recognized Indian tribes that operate fixed route bus service that are eligible to receive direct grants under Section 5307 (Urbanized Area Formula Grants) and Section 5311 programs.

A designated recipient that receives a grant under this section may allocate amounts of the grant to subrecipients that are public agencies or private nonprofit organizations engaged in public transportation, including those providing services open to a segment of the general public, as defined by age, disability, or low income.

6.0 ELIGIBLE SERVICES AND SERVICE AREAS

6.1 SECTION 5310

Section 5310 funds are available for capital and operating expenses to support the provision of transportation services to meet the specific needs of seniors and individuals with disabilities. In summary:

- At least 55 percent of annual program funds must be used on capital projects that are:
 - Public transportation projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable.
- The remaining 45 percent (maximum) of annual program funds may be used for:
 - Public transportation projects (capital only) planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable;
 - Public transportation projects (capital only) that exceed the requirements of the ADA;
 - Public transportation projects (capital and operating) that improve access to fixed-route service and decrease reliance by individuals with disabilities on complementary paratransit; and
 - Alternatives to public transportation (capital and operating) that assist seniors and individuals with disabilities.

Specific examples of eligible activities are provided in Chapter III (subchapters 13 through 15) in the FTA Circular 9070.1G, “Enhanced Mobility of Seniors and Individuals with Disabilities Program Guidance and Application Instructions,” July 7, 2014.

The eligible service area for Section 5310 funding administered by the HDOT STPO is the entire state of Hawaii.

6.2 SECTION 5311

The Section 5311 program is designed to help meet the transportation needs of transit-dependent people and to enhance access to health care, shopping, education, employment, public services, and recreation; to assist in the maintenance, development, improvement and use of public transportation systems; to encourage and facilitate the most efficient use of all federal funds used to provide passenger transportation in nonurbanized areas through the coordination of programs and services; to assist in the development and support of intercity bus transportation; and to provide for the participation of private transportation providers in non-urbanized transportation to the maximum extent feasible. Through the Section 5311 program, the HDOT STPO provides administrative, operating, and capital assistance to public transportation projects in other than urbanized areas.

The RTAP, 49 U.S.C. Section 5311(b)(3), provides a source of funding to assist in the design and implementation of training and technical assistance projects and other support services tailored to meet the specific needs of transit operators in nonurbanized areas. The RTAP has both state and national program components. It authorizes the FTA Secretary “to make grants and contracts for transportation research, technical assistance, training, and related support services in non-urbanized areas.” The state program provides an annual allocation to each sub-recipient (for Hawaii, HDOT STPO) to develop and implement site specific training and technical assistance programs in conjunction with the state’s common training allocation of the Section 5311 formula assistance program. The national program provides for the development of information and materials for use by local operators and state administering agencies; and supports research and technical assistance projects of national interest.

Eligible service areas for Section 5311 funds managed by the HDOT STPO include areas to or from rural areas. Public transit operators and organizations that provide transportation service in rural/non-urbanized areas of Hawaii, including those eligible to receive FTA Section 5310 and/or Section 5311 funding are also able to apply for and receive RTAP funding under HDOT's RTAP Scholarship Program.

6.3 SECTION 5339

Section 5339 funds are available for capital projects to replace, rehabilitate and purchase buses, vans, and related equipment, and to construct bus-related facilities, including technological changes or innovations to modify low or no emission vehicles or facilities.

Purchases under the category of "Clean Fuel Projects," include passenger vehicles used to provide public transportation and powered by compressed natural gas (CNG), liquefied natural gas (LNG), biodiesel fuels, batteries, alcohol-based fuels, hybrid electric, fuel cell, clean diesel (ultra low sulfur content), or other low or zero emissions technology.

Section 5339 funds may be used for transit-related technology, such as innovative and improved products that provide benefits to transit, including Intelligent Transportation Systems (ITS). ITS refers to the use of electronics, communications, or information processing used as a single component or in combination to improve efficiency or safety of a transit or highway system.

The leasing of capital assets is eligible for capital assistance, provided leasing is more cost effective than purchase or construction. Leasing costs are eligible for capital assistance and requires compliance with 2 CFR Part 200 and FTA Circular 5010.1E, "Award Management Requirements", which prescribes the discount rates.

A subrecipient may utilize an outside source to provide public transportation service, maintenance service, or vehicles that are used in public transportation service. When a subrecipient enters a contract for such service, FTA will provide assistance for the capital consumed in the course of the contract. FTA refers to the concept of assisting with capital consumed as the "capital cost of contracting."

There are three components to this program. The first is a continuation of the formula bus program established under MAP-21, continued under the FAST Act and now implemented through IIJA. The remaining two components include the bus and bus facilities competitive program based on asset age and condition, and a low or no emissions bus deployment program.

The eligible service areas for Section 5339 funding administered by the HDOT STPO include:

- Funding for urbanized areas of 50,000 to 199,000 in population is allocated to Maui County for use in Kahului, Maui. If the funds cannot be utilized on Maui, then the funding will be used by the City and County of Honolulu for Kailua-Kaneohe on Oahu.
- Statewide funding is utilized for the Counties of Hawaii, Kauai, and Maui.

7.0 ELIGIBLE ASSISTANCE CATEGORIES

As identified in section 1.0 of this SMP, the "Eligible Assistance Categories" under the Section 5310 and Section 5339 programs is not a required SMP topic and is not further addressed. The "Eligible Assistance Categories" under Section 5311 are summarized below. Further details of each assistance category are presented in the FTA Circular 9040.1G, "Formula Grants for Rural Areas: Program Guidance and Application Instructions," November 24, 2014.

- **State Administration, Planning, and Technical Assistance.** The state may use not more than 10 percent of its apportioned Section 5311 funds, including funds apportioned under Section 5340 but not the RTAP allocation, to administer the Section 5311 program, related planning, and to provide technical assistance to subrecipients.

In addition, in accordance with 49 U.S.C. § 5329(e)(6)(C)(iv), a recipient may use up to 0.5 percent of the Section 5311 apportionment to pay for safety certification training for employees directly responsible for safety oversight at an 80 percent federal share.

- **Capital Expenses.** Eligible capital expenses include the acquisition, construction, and improvement of public transit facilities and equipment needed for a safe, efficient, and coordinated public transportation system as well as certain other expenses classified as capital in Section 5302(3).
- **Operating Expenses.** Operating expenses are those costs directly related to system operations. At a minimum, states must consider the following items as operating expenses: fuel, oil, drivers' salaries and fringe benefits, dispatcher salaries and fringe benefits, and licenses. Only net operating expenses are eligible for assistance. Net operating expenses are those expenses that remain after the provider subtracts operating revenues from eligible operating expenses.
- **Project Administrative Expenses.** Under the Section 5311 program, the state may treat project administrative expenses incurred by a local provider as a separate cost category from capital, planning, or operating expenses. This allows states to consider administrative expenses as "nonoperating" expenses. FTA may fund nonoperating expenses up to the 80 percent federal share or more if the state is eligible for the sliding scale of federal share.
- **Planning.** Planning is an eligible expense, providing that a grant under Section 5311 for planning activities shall be in addition to funding awarded to a state under Section 5305 for planning activities that are directed specifically at the needs of rural areas in the state.
- **Job Access and Reverse Commute Projects.** MAP-21 created a new eligible project category for "job access and reverse commute projects" under Section 5311. This category includes all types of projects that were formerly eligible under the Section 5316 Job Access and Reverse Commute Program.

The HDOT STPO has broad discretion in deciding how best to provide assistance and implement projects under the state program. Program delivery mechanisms include:

1. Technical assistance by HDOT STPO staff with additional assistance as needed by other appropriate HDOT offices (such as Office of Civil Rights);
2. Contracts with private consultants, universities, nonprofit organizations, state transit associations, or other organizations of transit or related operators;
3. Contracts for administration of the state program or particular elements of it by the state FHWA sponsored Local Technical Assistance Program (LTAP) center (a resource with a demonstrated capacity for delivering training and technical assistance on highway topics that may represent a valuable in-state resource for transit as well);
4. Support of peer-to-peer networks of individuals to provide assistance to each other;

5. Interagency agreements with other state agencies, both within the state and in other states; and
6. Scholarships or tuition and expenses for individuals to attend training courses or workshops.

8.0 LOCAL SHARE AND LOCAL FUNDING REQUIREMENTS

8.1 SECTION 5310

After 10 percent (not to exceed) of the total Federal Section 5310 program allocation to the State is set aside for grant administration, the remainder represents the federal share used to support eligible capital and operating expenses for subrecipients. For capital expenses, the federal share may not exceed 80 percent of the net cost of the activity. For operating expenses, the federal share may not exceed 50 percent of the net cost of the activity. The corresponding local share of eligible costs shall be no less than 20 percent for capital expenses and 50 percent for operating expenses of the net cost of the activity. All of the local share must be provided from sources other than federal funds, except where specific legislative language of a federal program permits its funds to be used to match other federal funds.

While MAP-21/FAST Act/IIJA authorizes the use of Section 5310 funds for operating expenses, a minimum requirement for capital expenses must be met. At least 55 percent of any rural or small urbanized area's annual apportionment must be used for public transportation capital projects that are planned, designed, and carried out to meet the specific needs of senior and individuals with disabilities

Exceptions, e.g., related to the Clean Air Act (CAA), ADA, and higher federal share rates based on a sliding scale, are available and referenced in the FTA Circular 9070.1G, "Enhanced Mobility of Seniors and Individuals with Disabilities Program Guidance and Application Instructions."

8.2 SECTION 5311

After 10 percent (not to exceed) of the total Federal Section 5311 program allocation to the State is set aside for grant administration, the remainder represents the federal share used to support eligible planning, capital, and operating expenses for subrecipients.

In general, Section 5311 funds are apportioned such that the federal share of eligible planning and capital expenses may not exceed 80 percent of the net cost of the project, and the federal share for transit operations shall not exceed 50 percent of the net operating deficit included in the project.

The corresponding local share of eligible costs shall be no less than 20 percent for capital expenses and 50 percent for operating expenses of the net cost of the activity. All of the local share must be provided from sources other than federal funds, except where specific legislative language of a federal program permits its funds to be used to match other federal funds.

Hawaii is one of fourteen states that are afforded a higher federal share than the standard 80 percent for planning and capital expenses, and 50 percent of the operating deficit. Using the FTA-prescribed sliding scale provided in 23 U.S.C. § 120(b)(1), Hawaii subrecipients are afforded some relief in their portion of the local share (FTA Circular 9040.1G, "Formula Grants for Rural Areas: Program and Guidance and Application Instructions," November 24, 2014). Section 5311 program funds are allocated as follows (subject to discretion of STPO in implementation per FTA Circular 9040.1G, Section III, Subsection 2):

- Federal Share to Subrecipient:
 - For capital grants, the federal share increases from 80 percent to 81.30 percent in proportion to the ratio of public lands to the total area in the state

- For operating grants, the federal share increases from 50 percent to 62.5 percent (5/8) of the rate for capital grants or 50.81 percent for the federal share
- Local Share from Subrecipient²:
 - For capital grants, 18.70 percent
 - For operating grants, 49.19 percent

No local share is required for state administration and RTAP.

Exceptions, e.g., related to the Clean Air Act (CAA), ADA, higher federal share rates based on a sliding scale, are available and referenced in the FTA Circular for Formula Grants for Rural Areas: Program Guidance and Application Instructions.

8.3 SECTION 5339

Section 5339 program funding is used to support eligible planning, capital, and operating expenses for the subrecipients.

The federal share of eligible capital costs is 80 percent of the net capital project cost. Net project cost is that portion of the cost of a project that cannot reasonably be financed from the grantee's revenues. The Federal share may exceed 80 percent for certain projects related to the ADA and the CAA as follows:

- Vehicles – The federal share is 85 percent for the acquisition of vehicles for the purposes of complying with or maintaining compliance with the ADA (42 U.S.C. 12101 *et seq.*) or the CAA (42 U.S.C. 7401 *et seq.*).
- Vehicle-related Equipment and Facilities – The federal share for project costs for acquiring vehicle-related equipment or facilities (including clean fuel or alternative fuel vehicle-related equipment or facilities) for the purposes of complying or maintaining compliance with the CAA, or for meeting the requirements of the ADA, is 90 percent.

After the appropriate federal share is established, the subrecipient must provide the local share of the net project cost in cash (or in-kind) and must document in its grant application the source of the local match.

9.0 PROJECT SELECTION CRITERIA AND METHOD OF DISTRIBUTING FUNDS

9.1 SECTION 5310

Project selection criteria used to evaluate applicants are listed below.

- *Effectiveness* of the project in meeting the transportation needs of the elderly and/or disabled,
- *Appropriateness* of the project in meeting the transportation needs of the elderly and/or disabled (including identifying how the proposed project is supported by the CSP),
- *Financial capability* to meet the local match, and to operate and maintain the project and the transportation program, and
- *Management and operations capabilities* needed to operate and maintain the project.

² Subject to future adjustment as Federal/local share rates change for both capital and operating grants.

If the applicant previously received Section 5310 funding, additional information, including but not limited to, compliance review findings, site inspection documents, and reporting records will be used in the evaluation of the application.

Project awards are based on eligibility, and every attempt is made to award eligible applicants. STPO will review all applications for completeness and consistency with the Section 5310 formula grant program requirements. An appointed FTA 5310 Selection Committee will be convened to review qualified applications and recommend approval to the Director of Transportation. The FTA 5310 Selection Committee will evaluate and rank the qualified applications utilizing predetermined and weighted evaluation criteria which will total up to a maximum of 100 points per applicant. Eligible agencies must receive a minimum grand total average combined score of 70 points for further consideration of their application for 5310 formula grant funding.

At project award (as described in section 11.0), the following are assured: (1) equity of distribution of benefits among eligible groups, as required by Title VI³ and (2) project applicability based on the CSP (assuring projects were included in CSP with documentation that CSP was developed and approved in cooperation with stakeholders).

9.2 SECTION 5311

Section 5311 funds are distributed based on eligibility, as there has not been a need to use additional selection criteria. To demonstrate eligibility, the applicant must:

- Provide transportation service to the general public;
- Provide a fixed route or demand response system;
- Provide a display on its vehicles indicating that it is a public transportation system and its telephone number and/or web address (the display must be visible from at least a distance of 30 feet); and
- Ensure that adequate funds are available to match Section 5311 funds and provide for ongoing operations.

The system must be equipped and available to serve the needs of the elderly, semi-ambulatory, wheelchair confined, and other disabled and transit-dependent public. The applicant is subject to the ADA of 1990, and Section 504 of the Rehabilitation Act of 1973, both of which address what the system must do to provide transportation to persons with disabilities.

Section 5311(b)(3) funds are made available to rural transit operators through the HDOT RTAP Scholarship Program. Applicants must be a public transit operator or an organization that provides transportation service in a rural/non-urbanized area of Hawaii. Eligible expense categories include training, seminars, workshops, travel, and specialized equipment related to an eligible training activity. Evaluation of HDOT RTAP Scholarship Program applications is based on eligibility of activities and availability of funds. Additional details and guidance on submitting applications and request for reimbursement for pre-approved activities can be found on the HDOT website (<https://hidot.hawaii.gov/administration/rtap/>)

At project award (as described in section 11.0), the following are assured: (1) equity of distribution of

³ Equity analysis on Title VI and Environmental Justice grounds performed as needed on case by case basis.

benefits among eligible groups, as required by Title VI⁴ and (2) project applicability based on the CSP (assuring projects were included in the CSP with documentation that the CSP was developed and approved in cooperation with stakeholders).

9.3 SECTION 5339

Section 5339 funds are distributed based on eligibility, as there has not been a need to use additional selection criteria. To demonstrate eligibility, the applicant must:

- Operate fixed route bus service;
- State or local government entities; or
- Public agencies or private nonprofit organizations engaged in public transportation.

At project award (as described in section 11.0), the following are assured: (1) equity of distribution of benefits among eligible groups, as required by Title VI⁵ and (2) project applicability based on the CSP (assuring projects were included in CSP with documentation that CSP was developed and approved in cooperation with stakeholders).

9.4 PRIORITIZATION OF FTA PROGRAM FUNDS

For the Section 5310, Section 5311, and Section 5339 programs, funding has been sufficient for the eligible applicants received.

Should Section 5310 funding become insufficient for the eligible applicants, the applicants will be ranked according to the criteria presented in section 9.1. With IIJA, ranking will be done by region, i.e., rural and small urban. Eligible applicants that do not receive funding in any one year because of the competitive ranking will be moved to the eligible funding list for the next year, as funds allow.

For Section 5311 and Section 5339 funding, HDOT STPO works with its subrecipients (county transit agencies) to determine how funding should be apportioned. To date, this has been an amenable process for participating parties. Current funding levels, after setting aside the portion for program administration for the HDOT, are apportioned as follows: 1/5 to Maui County, 2/5 to Hawaii County, and 2/5 to Kauai County.

Effective January 1, 2023, for Section 5311(b)(3) (RTAP funding under Section 5311), to ensure opportunity is provided for participation of rural transit operators, both public and private, the maximum amount a public transit operator (County of Hawaii, County of Kauai and County of Maui) can receive through the HDOT RTAP Scholarship Program between January 1 and September 30 of each year will be limited to 25% of the annual RTAP apportionment. HDOT will set aside 25% of the annual RTAP apportionment for operators/organizations that provide rural public transportation (other than the counties), joint transit conferences/symposiums, and for State personnel to attend training events. On October 1 of each year, the balance of a public transit operator's annual RTAP share (that has not been awarded) will be made available to all applicants on a first come, first serve basis. On December 31 of each year, the balance of the total RTAP apportionment for that year will roll over into the subsequent year's cycle. HDOT will use additional discretion as needed to ensure fairness and alignment with the key objectives of the program.

⁴ Equity analysis on Title VI and Environmental Justice grounds performed as needed on case by case basis.

⁵ Same as above.

10.0 INTERCITY BUS

Intercity bus requirements apply to the Section 5311 program only.

In Hawaii, an intercity bus as defined in Section 5311 is not applicable. Hawaii's archipelagic configuration prevents the connection via bus of two or more urban areas not in close proximity. Currently, no island contains more than one urban area. The two urban areas recognized within the state--City & County of Honolulu [island of Oahu] and County of Maui [island of Maui]--are on separate islands.

In consideration of the other national objectives that intercity bus service funding provides, the state has consulted with bus operators as required by 49 U.S.C. § 5311(f)(2). As a result, bus service needs for non-urbanized areas have been determined to be met by county transit agencies who will continue to do so by virtue of the transportation programs that have been established. Assurance that the county bus needs are being adequately met is being provided by way of certifying letters from the county transit agencies to the HDOT STPO. In turn, the HDOT STPO requests that the Governor certify that the State's intercity bus needs are being adequately met and submit its certification letter to the FTA Administrator. With the Governor's certification, the state-apportioned funds under Section 5311(f) can be reallocated to the subrecipients—non-urbanized transportation programs for use in providing approved transit services. Should the conditions within any of the counties regarding intercity bus needs change, HDOT will consult with the county governments and transit agencies to reevaluate the application of the intercity bus apportionment.

11.0 ANNUAL PROGRAM OF PROJECTS (POP) DEVELOPMENT AND APPROVAL PROCESS

The annual POP development and approval processes for Section 5310, Section 5311, and Section 5339 programs are described in the following subsections. These processes include the grant application processes for prospective subrecipients (applicants). The annual POP development and approval processes are initiated by HDOT STPO as soon as FTA notifies Hawaii of its annual program allocation.

11.1 SECTION 5310

The Section 5310 POP process, including the grant application procedure, is shown in Figure 11-1a. Both FTA and State requirements are assured by the subrecipients as the subrecipient is required to satisfy the stipulations in the Memorandum of Agreement (MOA) and the current FTA Certifications and Assurances, and provide specific information in the grant application.

11.2 SECTION 5311 AND SECTION 5339

The Section 5311 and Section 5339 POP process are similar, and include the grant application procedure, as shown in Table 11-1b. Both FTA and State requirements are assured by the subrecipients as the subrecipient is required to satisfy the stipulations in the MOA and the FTA Certifications and Assurances, and provide specific information in the grant application.

11.3 SECTION 5311 (B)(3) – RURAL TRANSIT ASSISTANCE PROGRAM

The RTAP annual POP development and approval process generally follow those described in section 11.2. Differences include: (1) HDOT RTAP Scholarship Program applications are accepted throughout the year on a rolling basis, (2) determination of eligibility and notification of award occurs within ten (10) working days of HDOT STPO's receipt of the application.

Applications for the HDOT RTAP Scholarship Program will be evaluated based on need and adherence to the HDOT RTAP Scholarship Program Policy and Guidelines. Effective January 1, 2023, projects will be prioritized based on the method described in section 9.4 for RTAP funds.

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Table 11-1a Section 5310 Development and Approval Process

| Steps | Duration (Weeks) | Cumulative Duration (Weeks) | Action |
|-------|------------------|-----------------------------|--|
| 1 | 8 | 8 | Grant notices of availability are posted in electronic form, on both the State Procurement Office (SPO) and HDOT websites. |
| 2 | 4 | 12 | The HDOT STPO reviews the application for eligibility and content. |
| 3 | 6 | 18 | The HDOT's 5310 committee reviews and prioritizes applications. |
| 4 | 1 | 19 | The HDOT STPO posts an announcement of project award on its website within 20 working days of award. |
| 5 | 2 | 21 | Award/rejection letters are sent out. |
| 6 | 4 | 25 | The HDOT STPO prepares a Section 5310 POP and grant application package and submits electronically via TrAMS to FTA. |
| 7 | 4 | 29 | The HDOT STPO finalizes vehicle specifications with the subrecipient. |
| 8 | 10 | 39 | Upon execution of the grant, HDOT STPO provides a MOA and FTA Certification and Assurances to the approved applicants. The MOA is a contract between the subrecipient and the HDOT. By signing the MOA and FTA Certifications and Assurances, the subrecipient agrees to comply with the terms and conditions imposed by the Federal Government and the State of Hawaii, including Title VI of the Civil Rights Act. |
| 9 | 12 | 51 | The HDOT Contracts Office advertises the Invitation for Bids. |
| 10 | 6 | 52 | The HDOT Contracts Office opens the bids. |
| 11 | 5 | 57 | The HDOT STPO conducts a bid analysis and the HDOT Contracts Office awards the contract to the lowest responsive, responsible bidder(s) of vehicles. |
| 12 | 16 | 73 | Vehicles are delivered. |

Table 11-1b Section 5311 and 5339 Development and Approval Process

| Step | Duration (Weeks) | Cumulative | Action |
|------|------------------|------------|--|
| 1 | 4 | 4 | Grant applications are distributed to eligible subrecipients in electronic form, approximately three months after the beginning of the federal FY in which the funds are eligible for use. The release date varies with the date of the annual federal allocation. When applicable, the subrecipients are notified of lapsing fund amounts. |
| | | | Completed applications are usually due to the HDOT STPO within 30 calendar days of the Application Notification. |
| | | | The HDOT STPO reviews the application for eligibility and content. If the application is incomplete or contains incorrect responses, a deadline is set for the applicant to furnish that information to the HDOT STPO. HDOT STPO will make every effort to work with the applicants, however, If the information is not received by the deadlines requested, the applicant may be deemed ineligible and will no longer be able to apply for that year's funds. All Section 5311 and Section 5339 projects must be included in the STIP, as specified in 49 CFR Part 613 and 23 CFR Part 450. |
| 2 | 4 | 8 | Every attempt is made to fund eligible applicants, however, financial restrictions may prohibit this practice as Congressional Appropriations can vary. |
| 3 | 3 | 11 | The HDOT STPO prepares a POP for Section 5311 and grant application package for Section 5311 and Section 5339 and submits electronically via TrAMS to FTA. |
| 4 | 20 | 31 | The HDOT STPO works with FTA to resolve any comments during the grant application process. This phase could take as long as 20 weeks to complete based on recent experience and due to evolving FTA requirements for applications in TrAMS. HDOT will make efforts to reduce this time, however, much of the duration is dependent on FTA and the level of complexity for the grant scope of work and funding. |
| 5 | 2 | 33 | Upon execution of the grant, HDOT STPO provides an MOA and FTA Certification and Assurances to the approved applicants. The MOA is a contract between the subrecipient and the HDOT. It defines how much funding will be received and for what purposes the funding will be used. The MOA specifically describes the services that the subrecipient will provide under the terms of the grant. Use of funding, equipment, or vehicle for a service other than what is described in the MOA without prior permission from HDOT STPO is prohibited and is cause for termination of the MOA. If the MOA is terminated, the funding and equipment would be redistributed to other applicants. By signing the MOA and FTA Certifications and Assurances, the subrecipient agrees to comply with the terms and conditions imposed by the Federal Government and the State of Hawaii, including Title VI of the Civil Rights Act. |
| 6 | 8 | 41 | The subrecipient's attorney reviews the MOA and it is signed by an executive authorized to execute the agreement. Due to various subrecipients processes and protocols, the duration of time needed can vary significantly. |
| 7 | 2 | 43 | Once the MOA is returned to HDOT, it will be reviewed by the State Attorney General's Office and executed by the Director of Transportation. |
| 8 | 1 | 44 | The HDOT STPO will notify awardees through a letter that indicates the recipient can begin to draw down funds ("drawdown letter"). |

12.0 STATE ADMINISTRATION, PLANNING, AND TECHNICAL ASSISTANCE

State administration, planning, and technical assistance provided under the Section 5310, Section 5311, and Section 5339 programs are described below.

12.1 ADMINISTRATION

As described in Section 3.2 of this SMP, the HDOT STPO is responsible for administering the Section 5310, Section 5311, and Section 5339 programs. For all the aforementioned programs, STPO stresses a continuous improvement process via coordination and communication with all appropriate subrecipients and stakeholders. Specific activities are described in section 3.2 of this SMP.

12.2 PLANNING

The HDOT STPO coordinates intergovernmental and intra- and inter-departmental activities related to transportation planning. This includes securing the necessary endorsements and approvals, integrating established plans and parameters, and establishing the groundwork for the implementation of the transportation plan. The latter involves intergovernmental agreements on systems and jurisdictional designation; recommending conditions of land use development for exactions and to reserve required rights-of-way; and providing the necessary technical support and data and transitioning the project from conceptual planning to project development. As a consequence, the HDOT STPO is continually refining its grant management and oversight system to optimize the use of limited resources to implement the transportation plans; coordinate with the FTA, counties, and other state offices to obtain funding, concurrence, and agreements on SAFETEA-LU, MAP-21, FAST Act, and IIJA appropriations; manage and monitor rural transit grant programs, submit required reports; and coordinates the preparation of budgetary and programming submittals.

12.3 TECHNICAL ASSISTANCE

The HDOT STPO provides technical assistance, including training, to small urban and rural public transit operators. This assistance is geared toward the development of competent transit management and improving the effectiveness of transit operations.

A variety of technical assistance services are provided to support Section 5310, Section 5311, and Section 5339 programs, such as vehicle and equipment procurement, project management, and management evaluation. The HDOT STPO reviews subrecipients' major procurement of vehicles and construction. Project management and management evaluations are generally offered through telephone conversations and on-site visits/meetings. For Section 5311 and Section 5339 subrecipients, annual on-site technical assistance audits/visits are conducted with follow up "request for action" reports.

The HDOT STPO conducts periodic meetings with the County public transit agencies and the City and County of Honolulu. The purpose of the meetings is to provide a forum to share information regarding FTA program updates and transit problems/solutions. In light of the impact of COVID-19 on in-person meetings, HDOT STPO meetings with transit authorities and related are conducted in a virtual format. To supplement both in-personal and virtual meetings, HDOT STPO is also in contact with these agencies through telecom, videoconferencing and email.

13.0 STATE RTAP

RTAP funding under Section 5311(b)(3) is primarily made available to eligible recipients through the HDOT RTAP Scholarship Program for rural transit operators to offset expenses related to training events, seminars, workshops, and conferences. Key objectives of the program are to promote safe and effective delivery of public transportation in rural areas; to support coordination of public, private, specialized, and human service transportation services; to facilitate peer-to-peer self-help through the development of local networks of transit professionals; and to make more efficient use of public and private resources., which includes activities such as training and travel to events (courses, conferences, conventions, seminars and workshops) related to the transportation industry. The HDOT STPO works directly with all subrecipients to identify training needs. Subrecipients are encouraged to attend training sessions, and some sessions may be mandatory.

14.0 TRANSFER OF APPORTIONMENTS

14.1 SECTION 5310 APPORTIONMENTS

No transfers from or to Section 5310 funds with other FTA funds have been identified. Transfers of Section 5310 funds to other areas within the same Section 5310 program is allowed if the Governor certifies that all of the objectives of the Section 5310 program are being met in the specified area. The transfer of FHWA flexible funds to FTA is described in section 14.4.

14.2 SECTION 5311 APPORTIONMENTS

14.2.1 Transfer from Section 5307 to Section 5311

The HDOT STPO may transfer an amount of the state's Section 5307 (Small Urbanized Formula Funding) apportionment for small urbanized areas (50,000 to 199,999 in population) to supplement funds apportioned to the State under Section 5311, or to supplement funds apportioned to urbanized areas with populations of 200,000 or more. The HDOT STPO may make such transfers only after consultation with responsible local officials and publicly owned operators of mass transportation services in each area to which the funding was originally apportioned.

The HDOT STPO recognizes that, in the past, several small-urbanized areas have not elected to become actively involved in FTA-assisted projects. In order to prevent the loss of their respective Section 5307 apportionments and to avail those funds statewide, the HDOT STPO consults with the local officials and operators in those areas on an annual basis (December through January of each year) to establish an understanding in writing of their intent to apply for their designated FTA funds. In the event they opt not to use their funds for eligible projects within the urbanized areas, the HDOT STPO can exercise the option of transferring and obligating such funds for eligible projects in other urbanized or non-urbanized areas in the state in accordance with FTA regulations and procedures.

As required, the HDOT STPO notifies the FTA Regional Administrator of each transfer of apportionments. Notification includes:

- A statement by the HDOT STPO that responsible local officials and operators have been consulted prior to the transfer;
- The program, project description, and amount of funds to be transferred;
- Fiscal year in which they were apportioned;

- Program section(s) transferring to; and
- The HDOT STPO contact information.

If Section 5307 funds are transferred to supplement the HDOT STPO Section 5311 apportionment, they are treated as additional Section 5311 funds and all the requirements of Section 5311 apply. Two conditions follow Section 5307 funds transferred to Section 5311:

- The period of availability of the transferred funds is the same as it was under the Section 5307 apportionment.
- Any capital or operating assistance limitations applicable to the Section 5307 apportionment apply to amounts transferred to Section 5311. For example, the sliding scale for federal share available under Section 5311 does not apply to funds transferred from Section 5307.

The transfer of Section 5307 funds to Section 5311 does not increase the amount of Section 5311 funds that HDOT STPO may use for administration, planning, and technical assistance with no local share.

14.2.2 Transfer from Section 5311 to Section 5307

The HDOT STPO may transfer Section 5311 funds to supplement Section 5307 funds that FTA apportioned to the state for UZAs with populations of less than 200,000. The HDOT STPO may transfer funds without consultation within the last 90 days in which the funds are available for obligation, for use anywhere in the state. The period of availability of the transferred funds is that of the Section 5311 apportionment (three years). HDOT STPO notification of FTA Regional Administration for transfer of apportionments is the same as for Section 5310 funds. HDOT STPO notification of the FTA Regional Administrator for transfer of funds is the same as for Section 5310 funds.

14.3 SECTION 5339

Consistent with 49 U.S.C. 5339(e)(1), the HDOT STPO may transfer any part of the state's apportionment, specifically the National Distribution allocation, to supplement amounts apportioned to the state under Section 5311(c) or amounts apportioned to the state for areas under 200,000 in population under Section 5307. Transferred funds must be used for eligible Bus Program activities, even if combined in a grant with other Section 5311 funding. HDOT STPO notification of FTA Regional Administrator for transfer of apportionments is the same as for Section 5311 funds.

14.4 TRANSFER FROM FEDERAL HIGHWAY ADMINISTRATION (FHWA) FLEXIBLE FUNDS

Flexible funds are legislatively specified funds that may be used either for transit or highway purposes. The HDOT may transfer Congestion Mitigation and Air Quality funds, Surface Transportation Program funds, and certain other flexible funds from FHWA to FTA to use for transit projects. Transfers can be used when funds are available.

- **Congestion Mitigation and Air Quality Improvement Program (CMAQ).** The primary purpose of the CMAQ program is to improve air quality in areas designated by the U.S. Environmental Protection Agency (EPA) as "nonattainment" areas. Because CMAQ funds are intended to improve air quality, funds must be spent in nonattainment or maintenance areas. A nonattainment area is an area formally designated by EPA as not meeting the National Ambient Air Quality Standards (NAAQS). A maintenance area is an area that was nonattainment but has

subsequently attained the NAAQS and officially designated to attainment by EPA.

- **Surface Transportation Program (STP).** The primary purpose of STP funds is for construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements for highways and bridges including construction or reconstruction necessary to accommodate other transportation modes.

Capital costs of transit projects that are eligible under 49 U.S.C. Chapter 53 include vehicles and facilities, publicly or privately owned, that are used to provide intercity bus service; carpool projects and fringe and corridor parking facilities; transit safety infrastructure improvements and programs; transit research, development and technology transfer; surface transportation planning programs; or public transportation management systems under 23 U.S.C. § 303.

The FHWA program funds transferred to FTA-sponsored programs can be transferred to Section 5310, Section 5311, or Section 5339.

The CMAQ or STP flexible funds transferred to Section 5310, Section 5311, or Section 5339 are treated as additional program funds and all the requirements of the receiving program apply. Flex transfers to Section 5311 do not increase the amount the State must spend for intercity bus service. The period of availability of flexible funds transferred to Section 5311 is three years.

In urbanized areas with a population over 200,000, the decision on the transfer of flexible funds is made by its respective MPO. In rural areas and in areas with populations under 200,000, the decision is made by the HDOT. The decision to transfer funds flows from the transportation planning process and the priorities established for an area as part of the planning process.

Opportunities for transfer of FHWA funds to FTA-sponsored programs will be considered by HDOT STPO on a case-by-case basis. Opportunities can be identified at the local level or through the HDOT. The HDOT Highways Division and the HDOT STPO are responsible for coordinating transfers. For transfer of flexible CMAQ or STP funds to state administered Section 5310, Section 5311, or Section 5339 programs, HDOT must notify both the FHWA and FTA and HDOT Highways Division will request that FHWA transfer the funds. A request for transfer of flexible funds will include:

- A statement by the HDOT that responsible local officials and operators have been consulted prior to the transfer;
- Information on the originating program and amount of funds to be transferred;
- Fiscal year in which they were apportioned;
- Program section(s) transferring to;
- Anticipated use (project scope) of transferred funds; and
- The HDOT contact information.

Interagency transfer of funds may be administered by FHWA or may be transferred to FTA for transit projects eligible for CMAQ or STP funds under 23 U.S.C. § 149(b) or 23 U.S.C. § 133(b), respectively.

15.0 PRIVATE SECTOR PARTICIPATION

No private sector participation exists under HDOT STPO's Section 5310, Section 5311, and

Section 5339 programs. Within the state of Hawaii, public transportation is provided by the counties, e.g., County of Kauai, County of Maui, and County of Hawaii, which are subrecipients. No private providers of public transportation exist within Hawaii.

16.0 CIVIL RIGHTS

16.1 TITLE VI AND LIMITED ENGLISH PROFICIENCY (LEP)

In accordance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.*, USDOT implementing regulations, and the FTA Circular 4702.1B, “Title VI Requirements and Guidelines for Federal Transit Administration Recipients,” October 1, 2012, HDOT has developed requirements and procedures to ensure that no person in the State of Hawaii shall, on the basis of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance under Section 5310, Section 5311, Section 5339, or any other federally funded program.

Limited English Proficiency (LEP) persons are addressed in this section as the Supreme Court, in *Lau v. Nichols*, 414 U.S. 563 (1974), interpreted Title VI regulations promulgated by the former Department of Health, Education, and Welfare to hold that Title VI prohibits conduct that has a disproportionate effect on LEP persons because such conduct constitutes national origin discrimination. Furthermore, Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency”, requires that recipients of Federal financial assistance provide meaningful access to their LEP applicants and beneficiaries. Requirements and procedures are documented in the HDOT FTA Title VI Program Plan. This plan is updated every three years, with last plan submitted to FTA on December 2, 2021.

In accordance with Title VI of the Civil Rights Act, its implementing regulations, Executive Order 13166 and USDOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (“LEP”) Persons (70 FR 74087, December 14, 2005), subrecipients must submit a Title VI Plan prior to HDOT STPO’s release of federal funds for use. The Title VI Plan should be submitted on a schedule determined by HDOT STPO and include the following information.

All Subrecipients:

1. A copy of the subrecipient’s Title VI notice to the public that indicates the subrecipient complies with Title VI and informs members of the public of the protections against discrimination afforded to them by Title VI. Include a list of locations where the notice is posted.
2. A copy of the subrecipient’s instructions to the public regarding how to file a Title VI discrimination complaint, including a copy of the complaint form.
3. A list of any public transportation-related Title VI investigations, complaints, or lawsuits filed with the subrecipient since the time of the last submission.
4. A public participation plan that includes an outreach plan to engage minority and LEP populations, as well as a summary of outreach efforts made since the last Title VI Program Plan submission. A subrecipient’s targeted public participation plan for minority populations may be part of efforts that extend more broadly to include other constituencies that are traditionally underserved, such as people with disabilities, low- income populations, and others.
5. A copy of the subrecipient’s plan for providing language assistance to persons with LEP, based on the DOT LEP Guidance.
6. A table depicting the racial breakdown of the membership of committees/councils and a

description of efforts made to encourage the participation of minorities on such committees/councils (for subrecipients that have transit-related, non-elected planning boards, advisory councils or committees, or similar bodies, the membership of which is selected by the recipient).

7. A copy of the Title VI equity analysis conducted during the planning stage with regard to the location of the facility (if the subrecipient has constructed a facility, such as a vehicle storage facility, maintenance facility, operation center, etc.).

All Fixed-Route Transit Providers:

1. All requirements for “All Subrecipients” (see above)
2. Service standards
 - Vehicle load for each mode
 - Vehicle headway for each mode
 - On time performance for each mode
 - Service availability for each mode
3. Service policies
 - Transit Amenities for each mode
 - Vehicle Assignment for each mode

Transit Providers that Operate 50 or More Fixed-Route Vehicles in Peak Service and are Located in an Urbanized Area (UZA) of 200,000 or More People:

1. All requirements for “All Subrecipients” and “All Fixed-Route Transit Providers”
2. Demographic and service profile maps and charts
3. Demographic ridership and travel patterns, collected by surveys
4. Results of their monitoring program and report, including evidence that the board or other governing entity or official(s) considered, was aware of the results, and approved the analysis
5. A description of the public engagement process for setting the “major service change policy,” disparate impact policy, and disproportionate burden policy
6. Results of service and/or fare equity analyses conducted since the last Title VI Program Plan submission, including evidence that the board or other governing entity or official(s) considered, was aware of, and approved the results of the analysis

The HDOT STPO and/or OCR maintains a file of all Title VI submittals and requires that the subrecipient have records available for review by HDOT STPO, HDOT OCR, or the FTA. Signed FTA Civil Rights Assurances ensure that all such records and other information required in the FTA Circular 4702.1B, “Title VI Requirements and Guidelines for Federal Transit Administration Recipients,” are compiled as appropriate, and maintained by HDOT STPO and the subrecipient. In addition, a signed USDOT Certifications and Assurances will be maintained as part of the FTA submission file.

The HDOT is also required to submit a Title VI Program to the FTA Regional Civil rights officer once every three years or as otherwise directed by the FTA. The Title VI Program must be approved by the State DOT Director, who is the official responsible for policy decisions regarding

the FTA. The FTA will review and concur or request the submission of additional information. The HDOT shall include a narrative or description of efforts used to ensure subrecipients are complying with Title VI, as well as a schedule of subrecipient Title VI program submissions. The HDOT shall upload their Title VI Program information into FTA's TrAMS. The HDOT shall notify their FTA Regional Civil Rights Officer via email that the Title VI Program has been uploaded to TrAMS. The Title VI program must be uploaded no later than 60 calendar days prior to the date of expiration of the Title VI Program.

The HDOT STPO is responsible for providing information about the grant programs to all potential subrecipients. This is accomplished by posting information on its website and the Hawaii State Procurement website.

All subrecipients are required to provide HDOT STPO a report at a minimum once a year, the numbers of minorities served. This information will be included in the Section 5310, Section 5311, and Section 5339 progress reports. The HDOT STPO will monitor each subrecipient through site visits and desk audits to assure that each subrecipient is in compliance with the Title VI requirements. Subrecipients will be forwarded a written evaluation of their program within two weeks of a site visit. If it is determined that any Section 5310, Section 5311, or Section 5339 subrecipient is in non-compliance, funds will be withheld until corrections are made.

16.2 ENVIRONMENTAL JUSTICE (EJ)

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, requires the USDOT and FTA to make environmental justice (EJ) part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects on their programs, policies, and activities on minority populations and/or low-income populations. The USDOT Order 5610.2a and FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients" (August 15, 2012) sets forth the policy to consider EJ principles in all DOT programs, policies, and activities. These documents are used to incorporate EJ principles into transportation decision-making processes and any environmental review documents, and ultimately to determine applicability and analysis.

16.3 DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

A Disadvantaged Business Enterprise (DBE) is a for-profit small business concern:

- That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and
- Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

The DBE program as prescribed under 49 CFR Part 26 seeks to achieve the following objectives:

- (a) To ensure nondiscrimination in the award and administration of USDOT-assisted contracts;
- (b) To create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts;
- (c) To ensure that the HDOT's DBE program is narrowly tailored in accordance with applicable law;

- (d) To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as DBEs;
- (e) To help remove barriers to the participation of DBEs in USDOT-assisted contracts;
- (f) To promote the use of DBEs in all types of federally assisted contracts and procurement activities conducted by recipients;
- (g) To assist the development of firms that can compete successfully in the marketplace outside the DBE program; and
- (h) To provide appropriate flexibility to recipients of federal financial assistance in establishing and providing opportunities for DBEs.

A DBE program is required of HDOT STPO or any FTA recipients receiving planning, capital and/or operating assistance who will award prime contracts (excluding transit vehicle purchases) the cumulative total value of which exceeds \$250,000 in FTA funds in a federal fiscal year. As such, the HDOT STPO and any of its subrecipients meeting this threshold must:

- Have a DBE program meeting the requirements of 49 CFR Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs,
- Implement a DBE program approved by FTA, and
- Establish a DBE participation goal covering the entire program period and established over three-year (triennial) periods.

The HDOT's DBE program Plan, dated January 28, 2022, is based on requirements set forth in 49 CFR § 26.11. As HDOT STPO works closely with the HDOT OCR to carry out the HDOT's DBE obligations, the HDOT OCR performs the following:

- (a) Transmits the Uniform Report of DBE Awards or Commitments and Payments, described in Appendix B to 49 CFR Part 26;
- (b) Provides data about the DBE program to the FTA Region IX Civil Rights Officer;
- (c) Creates and maintains an eligible bidders list:
 - (1) The purpose of the eligible bidders list is to provide as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on federally assisted contracts for use in helping set overall goals;
 - (2) The eligible bidders list is populated with DBE and non-DBE contractors and subcontractors who seek to work on federally assisted contracts. Eligibility is based on HDOT's review of the following contractor-provided information:
 - (i) Firm name;
 - (ii) Firm address;

(iii) Firm's status as a DBE or non-DBE;

(iv) Age of the firm; and

(v) The annual gross receipts of the firm. This information may be obtained by gross receipt brackets (e.g., less than \$500,000; \$500,000-\$1 million; \$1-2 million; \$2-5 million; etc.) in lieu of exact figures;

(3) Information for the bidders list may be obtained in a variety of ways. For example, data can be collected from all bidders, before or after the bid due date. Surveys can be conducted that will result in statistically sound estimate of the universe of DBE and non-DBE contractors and subcontractors who seek to work on federally assisted contracts. Different data collection approaches can be combined (e.g., collect name and address information from all bidders, while conducting a survey with respect to age and gross receipts information);

(d) Maintains records documenting a firm's compliance with the requirements of 49 CFR Part 26. At a minimum, a complete application package for each certified firm and all affidavits of no-change, change notices, and on-site reviews will be maintained. These records will be retained in accordance with applicable record retention requirements for the recipient's financial assistance agreement. Other certification or compliance related records must be retained for a minimum of three years unless otherwise provided by applicable record retention requirements for the recipient's financial assistance agreement, whichever is longer;

(e) Reports to the USDOT's Office of Civil Rights are due annually by January 1st, and each year thereafter. The reports should include the percentage and location in the state of certified DBE firms in the UCP Directory controlled by the following:

(1) women;

(2) socially and economically disadvantaged individuals (other than women); and

(3) individuals who are women and are otherwise socially and economically disadvantaged individuals.

The HDOT STPO submits its triennial goal to the FTA Region IX Civil Rights Officer (The original FY2021-2023 goal was submitted on December 8, 2020, and has since been revised and approved on January 20, 2022 and is in place until September 30, 2023.). In accordance with 29 CFR § 26.45, goals are submitted to FTA by August 1 every three years. The subrecipient of USDOT assistance may contact the HDOT OCR (DBE Section) to obtain the current goal.

In order to ensure continuing compliance with DBE reporting procedures and HDOT timeliness in DBE goal and shortfall reporting, all HDOT subrecipients of FTA grant funding shall report to the HDOT OCR DBE Liaison Officer or HDOT OCR Civil Rights Coordinator and the HDOT STPO the following on a quarterly basis:

- Current active subrecipient procurements using FTA-sourced grant funds, with DBE goal amount.
- Anticipated future procurements within a 6-month window from date of reporting along with projected DBE goal, if available.

- Other pertinent details as deemed necessary by the subrecipient or as requested by the OCR DBE Liaison Officer, HDOT OCR Civil Rights Coordinator or STPO.

This reporting will be provided by the subrecipient to HDOT via a standardized form promulgated by HDOT.

The HDOT commitment to DBEs are made part of the Memorandum of Agreement (MOA) for each grant program.

16.4 EQUAL EMPLOYMENT OPPORTUNITY (EEO)

Under Federal Transit laws, FTA is responsible for ensuring that its recipients do not engage in employment discrimination:

A person may not be excluded from participation in, denied a benefit of, or discriminated against under, a project, program, or activity receiving financial assistance under this chapter because of race, color, religion, national origin, sex, disability, or age. (49 U.S.C. 5332(b)).

The commitment to comply with EEO requirements is made part of the MOA for each grant program in accordance with FTA Circular 4704.1A, "Equal Employment Opportunity (EEO) Requirements and Guidelines for Federal Transit Administration Recipients," October 31, 2016. In addition to these federal requirements, the laws of the State of Hawaii further protects persons from unlawful discrimination based on their ancestry, marital status, arrest/court record, sexual orientation, or National Guard Participation. Persons breast-feeding or expressing milk are also protected. A State DOT must only submit a full or abbreviated transit-related EEO Program if: (1) It employs 100 or more transit-related employees; and (2) requests or receives capital or operating assistance in excess of \$1 million in the previous Federal fiscal year, or requests or receives planning assistance in excess of \$250,000 in the previous Federal fiscal year. Given that HDOT does not employ 100 or more transit-related employees, having a transit-related EEO program is not required. In the event that any subrecipients of HDOT are required to have a transit-related EEO program, HDOT will work with the subrecipient(s) to establish a transit-related EEO program and engage in compliance reviews of said program regularly.

16.5 ADA AND SECTION 504 OF THE REHABILITATION ACT OF 1973

The Americans with Disabilities Act (ADA), as amended (42 U.S.C. § 12101 et seq.), prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services of public entities, as well as imposes specific requirements on public and private providers of public transportation. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), prohibits discrimination on the basis of disability by recipients of federal financial assistance. The FTA Circular 4710.1, "Americans with Disabilities Act (ADA): Guidance," dated November 4, 2015 is also referenced.

The HDOT STPO agrees, complies and assures that compliance of each third-party contractor, and each subrecipient at any tier of the project, with the applicable laws and regulations for non-discrimination on the basis of disability as referenced in its FTA Master Agreement, Certification and Assurances, and MOAs. Construction and facility projects are reviewed in conjunction with federal, State and local laws governing ADA and Section 504 of the Rehabilitation Act of 1973.

Furthermore, the HDOT OCR, in coordination with STPO, will implement the following compliance regime with periodic reviews to ensure that any and all applicable subrecipients are fully in

compliance with ADA/Section 504:

- Pursuant to HDOT Departmental policy, a master file will be developed by OCR for each ADA complaint and shall be filed in a secure area for at least five (5) years following final disposition of the complaint.
- HDOT OCR and/or STPO will conduct periodic reviews of subrecipients via compliance review checklist. This checklist will describe the compliance review procedures, list ADA requirements and ADA paratransit requirements, and reference the applicable section in the FTA Circular(s) for guidance.
- Prior to the formal review being conducted, subrecipients and contractors are required to complete a desk review that includes documentation supporting compliance with each of the ADA requirements listed in the checklist. Example of documentation includes photos, policies and procedures, website links, maintenance logs, and training certificates and/or attendance sheets. When supporting documentation cannot be provided, a statement must be provided explaining ADA compliance by the subrecipient.
- After evaluation of the desk review, the formal review will be conducted via interview of subrecipient and/or contractor. This formal review is expected to be a site visit, with a separate site visit checklist governing the review and interview process. However, in light of the COVID-19 pandemic, this interview may be via videoconference or other virtual means as necessary.
- For any findings of noncompliance, the appropriate authority within the subrecipient and contractor under review must implement a corrective action plan, detailing the corrective action to be implemented, and a due date for when compliance with all findings of noncompliance will be corrected.

As requirements are amended and conditions for handling ADA oversight and compliance may change at both the state and federal level, additional policy or procedural documents further outlining how ADA compliance is to be maintained and handled may be drafted by HDOT to ensure full compliance for ADA and Section 504.

17.0 MAINTENANCE

A specific maintenance section in the SMP is not required for the Section 5310 and Section 5339 programs. However, because Sections 5310, Section 5311, and Section 5339 require provisions to ensure satisfactory continuing control of vehicles, capital equipment, and facilities that are FTA-funded, maintenance plans and procedures are summarized with the Section 5311 provisions.

As provided in the FTA Circular 5010.1E, "Award Management Requirements," February 29, 2016, each Section 5310, Section 5311, and Section 5339 subrecipient agency agrees to maintain project property in good operating order, and is required to keep satisfactory records pertaining to the use of project property and to submit to HDOT STPO or FTA upon request, such information as may be required to assure compliance with federal requirements. Further, the subrecipient is required to have a written vehicle maintenance plan and facility/equipment maintenance plan. These plans should describe a system of periodic inspections and preventive maintenance to be performed at certain defined intervals.

Accordingly, the subrecipients and contractors must prepare a maintenance plan (including preventative maintenance) for vehicles, facilities, and facility related equipment funded by FTA. The plan is submitted to HDOT STPO and is used as a standard of assessment during site visits. Subrecipients and contractors are required, at a minimum, to follow the manufacturer's suggested maintenance intervals and procedures and comply with warranty requirements.

The HDOT STPO's maintenance review program ensures that all federally funded transit vehicles, equipment and facilities are maintained in a state of good repair. On October 1, 2016, FTA issued its final rulemaking on Transit Asset Management, a business model that uses asset condition to help the transit industry maintain assets in a state of good repair (see section 22.5).

17.1 VEHICLES AND ADA-ACCESSIBLE EQUIPMENT

Vehicle procurement specifications of FTA-funded vehicles under Section 5310, Section 5311, and Section 5339 programs ensure that vehicles be equipped with ADA-accessible equipment for transit and commuter service. For all FTA-funded vehicles equipped with ADA-accessible equipment (such as, but not limited to wheelchairs, wheelchair lifts, and wheelchair ramps, gurneys, and tie-downs), subrecipients must have on file an ADA-accessible equipment maintenance plan. This plan must be specific to ADA-accessible equipment used in and for FTA-funded vehicles for ADA-accessible purposes. The subrecipient must keep current maintenance records, work and repair receipts, related reports, etc., for this equipment.

The subrecipient of FTA-funded vehicles under Section 5310, Section 5311, and Section 5339 programs shall ensure that preventative maintenance, pre- and post-trip inspection, regular maintenance and repairs are conducted, and associated records maintained on FTA funded vehicles equipped with ADA-accessible equipment. Records shall be available for random inspection(s) as requested by HDOT STPO. If the inspection finds equipment defects or failure which compromises the safety and operation of the vehicle and ADA-equipment, the vehicle and ADA-equipment shall be removed from service until the problem is repaired.

Subrecipients are also required to notify HDOT STPO within 10 working days of any loss or damage, including accident, fire, vandalism, and theft to any vehicle or equipment. All subrecipients are required to keep ADA-accessible features in working order.

17.2 FACILITIES AND OTHER ASSETS

The subrecipient of FTA-funded facilities shall ensure that a maintenance plan is prepared and followed. Subrecipients should also have a plan in place and make efforts to ensure non-federally funded transit facilities and other assets critical for operations and/or safety are maintained in a state of good repair.

17.3 COMPLIANCE INSPECTIONS

After a vehicle's initial inspection at the time of purchase and delivery, each project vehicle is inspected at the subrecipient's agency by a HDOT STPO staff member or its representative. The main purpose of the inspection is to determine whether the vehicles and equipment have been properly maintained and are in safe operating condition. The inspection covers tires, glass, engine, transmission, brakes, steering, exterior and interior conditions, as well as an inspection of any ADA-accessible equipment. The site inspection report includes the results of the inspection.

Maintenance inspections for vehicles, equipment, and facilities can be conducted at any time by HDOT STPO. Under the Section 5310, Section 5311, and Section 5339 programs, each vehicle is inspected at a minimum triennially, as corresponding vehicle use with the site inspection allows (i.e., the vehicle may not be inspected if it is in use every time the inspection occurs). Under the Section 5311 and Section 5339 programs, site inspections for vehicles and equipment are conducted annually (at a minimum). Qualified contractors may be hired by HDOT STPO to conduct additional and in-depth maintenance monitoring visits, inspections, and physical inventory requirements. In light of the COVID-19 pandemic, site visits may be conducted virtually instead

due to restrictions regarding in-person gatherings, however, having in-person site visits continues to be the primary option for conducting compliance reviews.

The HDOT STPO submits findings of inspections to the subrecipient, along with any corrective actions and associated due dates. If the subrecipient does not respond accordingly to the corrective actions and timelines, the HDOT STPO withholds reimbursements and reports the incidents to FTA (see SMP section 22.7 Repercussions of Non-Compliance).

18.0 CHARTER RULE

The purpose of 49 CFR Part 604 is to implement 49 U.S.C. § 5323(d), which protects private charter operators from unauthorized competition from recipients of federal financial assistance under the Federal Transit Laws. All FTA subrecipients are prohibited from providing charter service using FTA-funded equipment if there is at least one private charter operator in the area willing and able to provide charter service. Per 49 CFR Part 604:

“Charter service” means, but does not include demand response service to individuals:

(1) Transportation provided by a recipient at the request of a third party for the exclusive use of a bus or van for a negotiated price. The following features may be characteristic of charter service:

- (i) A third party pays the transit provider a negotiated price for the group;*
- (ii) Any fares charged to individual members of the group are collected by a third party;*
- (iii) The service is not part of the transit provider’s regularly scheduled service, or is offered for a limited period of time; or*
- (iv) A third party determines the origin and destination of the trip as well as scheduling; or*

(2) Transportation provided by a recipient to the public for events or functions that occur on an irregular basis or for a limited duration and:

- (i) A premium fare is charged that is greater than the usual or customary fixed-route fare; or*
- (ii) The service is paid for in whole or in part by a third party.*

The HDOT STPO requires all charter service subrecipients to comply with the procedures in the Final Rule on Charter Service. All requests for an exception shall be submitted prior to providing charter service, the applicant must notify HDOT STPO via email or postal service that the exception is being submitted and include all supporting documentation. HDOT STPO will then submit request to FTA for approval. Exceptions are available for:

- Transit systems transporting transit employees;
- Private charter operators receiving federal funds;
- Public transit agencies receiving funds under Section 5310, Section 5311 and Section 5339 programs;
- Emergency response and preparedness;
- Recipients in non-urbanized areas transporting employees for training;
- Government officials (80 hours annually);

- Qualified Human Service Organizations (QHSO) (qualified groups serving elderly, disabled, and low income);
- Leasing (must exhaust all available vehicles first);
- By agreement with other registered charter providers;
- When no registered charter provider responds to a notice sent by recipient; and
- Petitions to the Administrator regarding:
 - Special Events of regional or national significance;
 - Hardship; and
 - Discretion.

The HDOT STPO is required to submit reports, which are:

- Performed on a quarterly basis;
- Submitted through TrAMS;
- Required for all charter service performed; and
- Organized by dockets established for Government officials, Petitions to the Administrator, Advisory Opinions/Cease and Desist Orders, Complaints for Removal, Complaints, and Hearings. Check www.regulations.gov.

19.0 SECTION 504 AND ADA REPORTING

As the recipient of Section 5310, Section 5311, and Section 5339 program funds, HDOT STPO must comply with 49 CFR Part 27, Part 37 and Part 38, the Section 504 rule, and Hawaii state laws. In complying with 49 CFR Part 27, HDOT STPO requires applicants sign the Assurance of Nondiscrimination on the Basis of Disability prior to award of the grant, and HDOT STPO will retain the assurance in its files. This effort provides the FTA the assurance that the subrecipient meets the ADA requirements for public or private transportation. Also, subrecipients are required to sign the Certifications and Assurances that contains nondiscrimination assurances on transit services based on Federal and State laws.

49 CFR Part 37 and Part 38 pertain to the acquisition and accessible standards for transit vehicles and facilities. In general, all new and used vehicles for fixed-route and demand response systems must be ADA-accessible; and construction of new facilities or altering of existing facilities must be ADA-accessible. The HDOT STPO ensures vehicle compliance through the vehicle specifications and standards provided in the procurement process and use of its initial compliance inspection (section 17.3). The HDOT STPO ensures facility ADA-compliance by coordinating with the HDOT OCR. The HDOT OCR's ADA specialist may review construction plans submitted to Disability and Community Access Board and is available to inspect FTA-funded facilities (both new and existing) as well as engage in general ADA compliance reviews. In addition, HDOT STPO requires subrecipients maintain ADA-accessible equipment maintenance plans, and to document all pre-trip inspections of FTA-funded vehicles equipped with ADA-accessible equipment (see section 17.0, Maintenance). The HDOT STPO confirms the presence of these plans and procedures during on-site monitoring (See section 16.5 for specifics of the compliance monitoring process).

20.0 NATIONAL TRANSIT DATABASE (NTD) REPORTING

The NTD is FTA's primary national database for statistics on the transit industry. Recipients of FTA's Section 5311 and Section 5339 funds are required to submit data to the NTD, per Title 49 U.S.C. § 5335(a). The NTD is not applicable to the Section 5310 program.

Under the Section 5311 and Section 5339 programs, the HDOT STPO reminds each subrecipient to submit their data, ensures that each one has the proper codes for the system, and holds trainings as necessary. Each year in October, the HDOT STPO the county subrecipients enter the data in NTD required for their respective reports and verifies the information entered. Maui County is a direct reporter and is responsible for submission of their report package and HDOT submits the Statewide report package which includes Hawaii County and Kauai County reports. Each county subrecipient is responsible for responding to all data validation issues identified within the time periods specified by the NTD analysts.

Subrecipients will be subject to denial of reimbursement should data collection not be performed on time.

For NTD reporting requirements for the Transit Asset Management (TAM) Plan, please refer to Section 22.5.

21.0 PROGRAM MEASURES

The FTA is required by the Government Performance Results Act to establish performance goals to define the level of performance and to establish performance indicators to be used in measuring relevant outputs, service levels, and outcomes. Measures are designed to be used at a program level and not to be used to assess individual grants. Information is collected for FTA Section 5310 program measures. No such information is collected for FTA Section 5311 and Section 5339 as no program measures exist. The FTA program measures for the Section 5310 program are described below.

In its annual report to the HDOT STPO, subrecipients are required to report the following information:

Traditional Section 5310 Projects

(1) Gaps in Service Filled. Provision of transportation options that would not otherwise be available for seniors and individuals with disabilities measured in numbers of seniors and people with disabilities afforded mobility they would not have without program support because of traditional Section 5310 projects implemented in the current reporting year.

(2) Ridership. Actual or estimated number of rides (as measured by one-way trips) provided annually for individuals with disabilities and seniors on Section 5310– supported vehicles and services because of traditional Section 5310 projects implemented in the current reporting year.

Other Section 5310 Projects

Increases or enhancements related to geographic coverage, service quality, and/or service times that impact availability of transportation services for seniors and individuals with disabilities because of other Section 5310 projects implemented in the current reporting year.

(1) Additions or changes to physical infrastructure (e.g., transportation facilities, sidewalks, etc.), technology, and vehicles that impact availability of transportation services for seniors and individuals with disabilities because of other Section 5310 projects implemented in the current reporting year.

(2) Actual or estimated number of rides (as measured by one-way trips) provided for seniors and individuals with disabilities because of other Section 5310 projects implemented in the current reporting year.

22.0 STATE/DESIGNATED RECIPIENT PROGRAM MANAGEMENT

Program management generally occurs from the award of the project and continues until the project is closed out. As the HDOT STPO is responsible for management and oversight of these programs, the HDOT STPO performs the following activities to monitor compliance with Federal requirements.

- Documents the State's procedures in this SMP and makes it available to grantees, planning organizations, and the general public after the FTA approval;
- Monitors local project activity;
- Prioritizes use of older funding;
- Revises/amends grant, if needed;
- Declines distribution of grant funds to a subrecipient which has an open contract with the same type of funds that has been inactive for two years or more;
- Obligates subrecipients to comply with all federal requirements, including all certifications and assurances, prior to releasing federal funds;
- Oversees project audits and closeouts;
- Submits reports as required by FTA, e.g., NTD reporting for Section 5311 and Section 5339 grantee (HDOT), Milestone Progress Reports, and other specialty reporting;
- Reviews all major facets of subrecipients' procurements;
- Ensures that vehicles and equipment purchased with grant funds are maintained to manufacturers' specifications and operated consistent with project objectives;
- Administers the HDOT RTAP Scholarship Program to ensure fair and efficient use of RTAP funding for training and technical assistance activities;
- Ensures that projects funded through Section 5311 and Section 5339 have been developed in coordination with transportation projects assisted by other federal sources;
- Plans for future transportation needs; and
- Ensures coordination among transportation modes and associated subrecipients.

Details of the following specific program management activities are provided herein, unless referenced in other sections of this SMP:

- Financial Management;
- Procurement (including vehicles, other equipment and services, and real property);
- Construction Monitoring and Oversight;
- Disposition of Assets;
- Record-Keeping/Inventories;
- Transit Asset Management;
- Project Reporting and Monitoring; and
- Other Provisions.

22.1 FINANCIAL MANAGEMENT

The following financial management procedures apply to both Section 5310, Section 5311, and Section 5339 programs.

22.1.1 Grant Life

The STPO shall endeavor to have a grant duration (open time) of four years from the date of execution, depending on Section grant in question. Please see attached Attachment A for details as it relates to subrecipients.

Grant life shall depend on the program. Section 5310 grants may be open for up to four years due to the peculiarities of the Section 5310 procurement process. Section 5311 grant duration shall be three years, while Section 5339 grant duration may be up to five years due to length of capital projects. However, the STPO will endeavor to reduce such durations on an individual grant basis based on the specific scope of work.

STPO will notify the subrecipients three to six months prior to expected grant closure.

The subrecipient is responsible for the following:

- Managing their respective projects to ensure monies are used within the grant open time;
- Submitting timely change requests to STPO;
- Submitting all reimbursement requests on a timely basis.

Outstanding balances of \$1,000 or more on the closeout date (excluding pending reimbursements), will be offered to other subrecipients who can use it within three months for operational expenses or six months for capital expenditures.

22.1.2 Reimbursement Requests

Subrecipients must submit reimbursement requests within two months of the completion of the intended reimbursement request activity. The HDOT STPO has the right to reallocate funds with significant delays in reimbursement requests. Any credit balance at the end of a fiscal year may revert back to the HDOT for general redistribution the following fiscal year.

Valid reimbursements can take approximately six to eight weeks to process. Once this process is completed, PPB will process the approved invoice and purchase requisition with Administration, BUS, State Department of Accounting and General Services (DAGS), State Treasury, and B&F. This latter process is dependent on other State priorities.

22.1.3 Grant Closeout Procedures:

A grant is closed when (1) all projects are completed and the associated reimbursements made; or (2) when HDOT STPO determines that the activities can no longer be completed within the three-year grant life.

The HDOT STPO completes the following to close the grant.

1. Verifies the scope of work and completion dates for each project identified in the Progress and Expenditure Report. The HDOT STPO may require additional information from the sub-recipient to verify completed work and associated completion date. The HDOT STPO then checks the grant with the report for consistency, and if required revises the grant accordingly.
2. Verifies that the project expenditures are correct and checks for any undisbursed project amounts. The HDOT STPO confirms with HDOT Business Management Office on all project expenditure amounts and any undisbursed amounts before proceeding to the grant closeout process.
3. Finalizes the Milestone/Progress Report in FTA TrAMS for all projects identified in the grant. The HDOT BUS finalizes the Financial Status Report for the grant.
4. Executes procedures described in the FTA TrAMS Web User Guide – Project Management Closure to close the grant.
5. Formally notifies the subrecipient of grant closeout and provides a copy of the closeout amendment following approval from FTA.
6. Maintains files of the closed grant and related grant and project documents for three years from the date that the grant is closed.

22.2 PROCUREMENT

States (in this case, Hawaii via its HDOT STPO) and their subrecipients must comply with the applicable FTA Circulars for the Section 5310, Section 5311, and Section 5339 programs. The following federal procurement requirements are highlighted:

- (1) **States.** State procurement practices must, at a minimum, comply with the following:

- (a) **Section 5310:** For rolling stock, a five-year limitation on contract period of performance

Section 5311: A recipient procuring rolling stock with FTA assistance may make a multiyear contract to buy the rolling stock and replacement parts under which the recipient has an option to buy additional rolling stock or replacement parts for not more than five years after the original contract date for bus procurements;

Section 5339: For rolling stock and replacement parts, a five-year limitation on the contract period of performance.

- (b) A requirement for full and open competition;
- (c) A prohibition against geographic preferences;
- (d) Brooks Act procedures for procurement of architectural and engineering services if the state has not adopted a statute governing procurement of such services;
- (e) Inclusion in contracts of all federal clauses required by federal statutes and executive

orders and their implementing regulations. These clauses are identified in specific federal regulations cited in FTA's master agreement and incorporated by reference into the grant agreement. Additional technical assistance for third party contracting is available in FTA's "Best Practices and Lessons Learned Manual," October 2016 which is available on the FTA website; and

(f) Section 5311: comply with the Davis-Bacon Act on all construction contracts over \$2,000.

(2) **Subrecipients that are Governmental Authorities.** Subrecipients of states that are governmental authorities such as local or Indian tribal governments must comply with the same federal requirements governing state procurements. States are responsible for ensuring that subrecipients are aware of and comply with federal requirements.

(3) **Subrecipients that are Private Nonprofit Organizations.** Subrecipients that are private nonprofit organizations must comply with FTA procurement requirements contained in the current FTA Circular 4220.1F, "Third Party Contracting Guidance," March 18, 2013. States and designated recipients are responsible for ensuring that private nonprofit subrecipients are aware of and comply with these additional requirements.

(4) **Designated Recipients that are Not States/Subrecipients that are Private, For-Profit Organizations.**

Other recipients and their subrecipients must comply with FTA procurement requirements at 2 CFR Part 200⁶ and guidance contained in the current FTA Circular 4220.1F "Third Party Contracting Guidance."

Subrecipients that are private for-profit organizations must comply with FTA procurement requirements contained in the current FTA Circular for Third Party Contracting Guidance for procurements conducted with federal funds. States (e.g., HDOT STPO) are responsible for ensuring that private for-profit subrecipients are aware of and comply with these additional requirements.

If the State is procuring on behalf of the subrecipient, it must provide its share of the cost of the item to be procured prior to procurement. If the subrecipient is procuring on its own behalf, the subrecipient must pay 100 percent of the item before seeking reimbursement. Upon delivery of the procured item(s), the acceptance form, invoice, purchase order, cancelled check(s) and other paperwork (depending on the type of purchase) must be submitted to the HDOT STPO for reimbursement. The HDOT STPO will reimburse the subrecipient and then seek federal reimbursement.

The following is a timeline schema for the procurement of FTA-funded vehicles via Section 5310 funding:

HDOT/STP FTA Section 5310 Procurement Process

⁶ The guidance set forth at 49 CFR Part 18 will still be considered binding on any grants or cooperative agreements entered into prior to December 26, 2014. 2 CFR §1201.1 <https://www.ecfr.gov/current/title-2/subtitle-B/chapter-XII/part-1201/section-1201.1>

| Steps | uration (Days) | Cumulative Timeframe (Days) | Action |
|-----------|-------------------|-----------------------------------|--|
| 1 | 30 | 30 | The HDOT STPO compiles vehicle specifications from the subrecipient fiscal year award 5310 grant applications. |
| 2 | 30 | 60 | The HDOT STPO prepares the bid document to include special provisions, specifications, proposal and contract terms for furnishing and delivery of motor vehicles to various nonprofit and county agencies statewide. |
| 3 | 5 | 65 | The HDOT STPO submits the bid document to CON for review and consent to move forward with modifications, if any. |
| 4 | 30 | 95 | The HDOT STPO works w/ CON and AG Office as needed to revise and resubmit the bid documents. |
| 5 | 5 | 100 | The HDOT Contracts Office advertises the Invitation For Bids (IFB) on HANDS. |
| 6 | 5 | 105 | Pre-bid meeting conducted by HDOT STOP (within a week after advertising). |
| 7 | 15 | 120 | Deadline for bidders to submit RFIs (requests for clarification, substitution requests, etc.) to HDOT STPO. Addendum containing responses typically issued 10 days before bid opening to give all bidders sufficient time to consider the new information. |
| 8 | 15 | 135 | Deadline for bids to be received by CON. |
| 9 | 0 | 135 | The HDOT Contracts Office conducts a public hearing to open bids. |
| 10 | 5 | 140 | Deadline for bid protests to be submitted to DIR. |
| 11 | 55 | 195 | Deadline for Award (60 days after bid opening). Aim to resolve protests as quickly as possible within this timeframe. STPO sends hold bid price letters for all bidders if the award is unlikely to be made within 60 days from bid opening. After CON receives the (signed) Recommendation for Contract Award, the award posting will be made in HANDS. |
| 12 | 5 | 200 | Deadline for Award protests to be submitted to DIR. |
| 13 | 30 | 230 | Contract execution (as long as protests have been resolved contract execution can begin) Aim to complete within 30 days. STOP also coordinates w/ subrecipients and BUS to ensure the 20% local match is collected by this time. |
| 14 | 5 | 235 | STPO issues Notice to Proceed (NTP) shortly after contract is executed as long as insurance is verified, and contractor has valid HCE certificate. |
| 15 | 270 | 505 | Vehicle delivery. |
| 16 | 14 | 519 | STPO inspects vehicle at site to verify specifications. |
| 17 | 5 | 524 | STPO documents whether specifications are met. |
| 18 | 5 | 529 | STPO issues final acceptance of vehicle delivery. |
| 19 | 30 | 559 | STPO coordinates final payment for vehicles with contractor and BUS. |

Specific procurement processes for vehicles, other equipment and services, and real property are presented in the following subsections.

22.2.1 Vehicles

Pre-Award Review/Request to Award

Prior to selecting a vendor, the procuring agency is responsible for completing an award packet with a request to the HDOT STPO for concurrence. The award packet must include:

- a copy of the procuring agency's recommendation to award;
- plans/specifications for the requested items;
- bid tabulations;
- funding sources with federal share;
- results of the System for Award Management (SAM) search records (www.sam.gov);
- Buy America certification;
- Purchaser's Requirements certification;
- Transit Vehicle Manufacturer Disadvantaged Business Enterprises (DBE) Program Requirement (confirm with TVM listing on FTA website or check with FTA's Office of Civil Rights) in accordance with 49 CFR Part 26;
- Federal Motor Vehicle Safety Standards (FMVSS) certification; and
- Altoona testing report as required by FTA.

The HDOT STPO shall review the packet and submit a response. The following certifications must be kept in the subrecipient's files for future FTA reviews: (1) Buy America certification, (2) Purchaser's Requirements certification, (3) the FMVSS certification, and (4) Altoona testing report.

For DBE certification, the subrecipient must ensure that each transit vehicle manufacturer (TVM) certifies that it has complied with the requirements of 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Program" by checking the TVM listing on FTA's website or by checking with FTA's Office of Civil Rights at the time of bid opening.

For the Purchaser's Requirements certification, the subrecipient must verify that:

- the manufacturer's bid specifications are in compliance with the subrecipient's solicitation specifications, and
- the proposed manufacturer is responsible and capable of building the bus to the subrecipient's solicitation specifications.

For the FMVSS certification, the subrecipient must obtain either:

- a letter from the bus manufacturer stating the information that will be provided on the FMVSS vehicle sticker, or
- a letter from the bus manufacturer stating that the buses are not subject to FMVSS.

For the Altoona testing report, the subrecipient shall not proceed into manufacturing until a bus test report is submitted to HDOT STPO for review and concurrence. The make and model of the vehicle in the test report must clearly match the vehicle to be purchased. The report shall originate from the FTA-sponsored facility in Altoona, Pennsylvania. No FTA funds will be expended until this requirement is fulfilled. This requirement does not apply to unmodified vans with raised roofs or lifts installed in strict conformance with the original equipment manufacturer modifications guidelines. See 49 CFR Part 665 for further information.

Section 5310, Section 5311, and Section 5339 subrecipient's usage of capital purchases is monitored through routine site visits and on-line reviews of purchases over \$25,000.

Post-Delivery Review

A post-delivery review must be completed before a bus title is transferred to the organization, or before a bus is placed into revenue service, whichever occurs first. The review period begins when the organization signs a formal contract with the selected manufacturer and ends before title transfer or use in service.

Under the Section 5311 and Section 5339 programs, the organization shall notify the HDOT STPO a minimum of 20 working days prior to delivery of the vehicle to attend the on-site vehicle inspection. This visit shall be at the discretion of HDOT STPO. The organization shall provide the HDOT STPO with the Buy America certification, Purchaser's Requirements certification, and FMVSS certification at that time or if not present, have the organization submit it for concurrence. Once submitted, the HDOT STPO shall have 10 working days (upon receipt) of providing a response. The organization shall not place the vehicle in service without HDOT STPO concurrence.

As with the Pre-Award Review, the organization must complete three certifications: (1) the Buy America certification, (2) the Purchaser's Requirements certification, and (3) the FMVSS certification. All three certifications must be kept in the subrecipient's files for future FTA reviews.

The Buy America and FMVSS certification processes are similar to those completed during the Pre-Award Review, with the exception that the review now reflects information based on the actual buses versus the proposed buses. The post-delivery purchaser's requirements certification process is different from the pre-award purchaser's requirements certification process.

For the Purchaser's Requirements certification, the organization must:

- Complete visual inspections and road tests to demonstrate that the buses meet the contract specifications, and
- if purchasing more than 10 buses or modified vans, send a resident inspector to the manufacturer's production facility during the final assembly period to (1) monitor the final assembly process and (2) complete a final report describing the construction activities and explaining how the construction and operation of the buses fulfill the contract specifications. If the organization is purchasing 10 or fewer buses, 10 or fewer modified vans, or any number of primary manufacturer standard production unmodified vans, the resident inspector is not required.

In accordance with 49 U.S.C. § 5323(f) (formerly Section 3(g) of the Federal Transit Act, as amended), the use of FTA funds for exclusive school bus transportation for school students and school personnel is prohibited if it is in competition with a private school bus operator. The implementing regulation (49 CFR Part 605.11 “Exemptions”) does permit regular service to be modified to accommodate school students along with the general public.

Ownership Title, Lien, and Insurance

At the time the HDOT STPO pays the vendor for a vehicle, a Manufacturer’s Certificate of Origin (MSO) is sent upon receipt of the payment. An Odometer Mileage Statement and Application for Certificate of Title are provided at the time of vehicle delivery.

To facilitate the process of obtaining vehicle titles for the HDOT STPO subrecipients, the RFP will stipulate that the vendor will assist in obtaining an appropriate title to the vehicle. Vehicle titles are held by subrecipients and direct subrecipients.

The HDOT STPO requires that insurance be adequate to protect the federal and State interests in the vehicle until disposal. The insurance coverages in the following table are recommended by the FTA as minimum coverage amounts.

| Type | Vehicles carrying 15 or fewer people | Vehicles carrying 16 to 39 people | Vehicles carrying 40+ people |
|-----------------------------|---|--|-------------------------------------|
| Bodily injury or all deaths | \$1,000,000 | \$2,000,000 | \$3,500,000 |
| Property damage | \$750,000 | \$750,000 | \$750,000 |
| Cargo damage | \$10,000 | \$10,000 | \$10,000 |

Lease and Lease Restrictions

Under the Section 5310 and Section 5339 programs, equipment can be leased when it is more cost effective than to purchase. The lease of equipment or facilities must be treated as a capital expense and the recipient must establish criteria for determining cost effectiveness in accordance with FTA regulations as detailed in FTA Circular 5010.1E “Award Management Requirements”, and 2 CFR Part 200 “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”, which provides the necessary discount factors and formulas for applying the same. At present, the HDOT STPO (recipient) has not yet identified these criteria. Should a subrecipient desire this option, this should be discussed with the HDOT STPO so that discussions can ensue with the FTA.

Vehicles acquired under the Section 5310 program may be leased to other entities such

as local governmental authorities or agencies, other private nonprofit agencies, or private for-profit operators. Under such a lease, the lessee operates the vehicles on behalf of the Section 5310 subrecipient and provides transportation to the subrecipient's clientele as described in the grant application.

The lease between the Section 5310 subrecipient and the lessee contains the terms and conditions that must be met in providing transportation service to seniors and people with disabilities. Because the purpose of the Section 5310 grant is to provide transportation service to seniors and people with disabilities, other uses of the vehicle are permitted only as long as such uses do not interfere with service to seniors and people with disabilities. See section 23.3, Incidental Use.

The HDOT STPO is responsible for ensuring that the terms and conditions of the original grant with the FTA are met and must agree in writing to each lease of Section 5310 funded property between the subrecipient and the lessee. Such an agreement should specify that the leased vehicle shall be used to provide transportation service to seniors and people with disabilities, that the vehicle may be used for incidental purposes only after the needs of these individuals have been met, and that the subrecipient, state, or designated recipient must retain title to the vehicle.

Under the Section 5311 and Section 5339 programs, a recipient may use capital funds to lease capital assets from another party in cases where it determines that leasing would be more cost effective than either purchasing or constructing the asset. Recipients with pre-award authority must conduct the cost comparison before entering into the lease. Recipients should refer to FTA regulations for further details on conducting the cost effectiveness comparison (2 CFR Part 200 and FTA Circular 5010.1E).

When a recipient intends to enter into a lease of considerable duration (rather than paying for the lease in a lump sum at the beginning of the lease period), the recipient must be able to complete the acquisition with local funds in the event FTA funds are not available in later years. Generally, it is not considered cost effective to lease real estate.

Lease restrictions are used by the HDOT STPO as a means to maintain control over vehicles and these include the following:

- The lessee shall be required to operate the project property to serve the best interest and welfare of the subrecipient and the public. The terms and conditions for operation of service imposed by the subrecipient shall be evidenced in the lease;
- The lessee shall be required to maintain project property at a high level of cleanliness, safety and mechanical soundness under maintenance procedures outlined in the lessee's maintenance plan. The HDOT STPO and/or the FTA shall have the right to conduct periodic inspections for the purpose of confirming the existence, condition, and the proper maintenance of project equipment; and
- The lease shall contain a requirement that the leased property may not be subleased without subrecipient written approval and may not be otherwise encumbered without FTA written approval.

22.2.2 Other Equipment and Services

When procuring property, supplies, equipment, or services with funds from an FTA grant, designated recipients that are not states and their subrecipients must comply with FTA procurement requirements at 2 CFR Part 200 and guidance contained in the current FTA Circular 4220.1F, "Third Party Contracting Guidance." States will follow the same policies and procedures used for procurements from non-federal funds to the extent permitted by federal statutes and regulations. While the federal threshold for small purchases is currently \$100,000, the state may set a lower threshold for itself and its subrecipients. All governmental authority subrecipients may follow state procurement procedures. However, due to requirements set forth at 2 CFR Part 200, FTA third party contracting requirements are fewer for states and subrecipients that are local or tribal governments than for subrecipients that are private nonprofit organizations. For the sake of consistency, the state may choose to use the more detailed FTA requirements included in the current FTA Circular for Third Party Contracting Guidance for all subrecipients as part of its state procurement procedures.

Procurement of equipment and services follow the provisions identified in section 22.2, Procurement. Subrecipients undertaking procurement of equipment and/or services must also contact the HDOT STPO.

22.2.3 Real Property

Real property is land, including affixed land improvements, structures, and appurtenances and does not include movable machinery and equipment. If a subrecipient intends to use federal funds for real property acquisition, it shall notify the HDOT STPO in writing, at a minimum identifying the property including the following information: (1) tax map key (TMK) information, (2) cost of acquisition, (3) breakdown of funding for acquisition, and (4) timeline for acquisition. It will also provide assurances required by Sections 305 and 210 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act), as amended. The above information shall be provided to the HDOT STPO at least 120 days prior to taking action on the property.

The objective of the Uniform Act is to ensure equitable treatment of property owners of real property to be acquired for federal and federally assisted projects; that people displaced by a federally supported project be treated fairly, consistently, and equitably; and that acquiring agencies implement the regulations in a manner that is efficient and cost effective. The regulations, 49 CFR Part 24, implementing the Uniform Act, are very specific in naming the means to achieve those legislated objectives.

Title 49 CFR Part 24 applies to all federal or federally assisted activities that involve the acquisition of real property or the displacement of people. Certain actions must be taken that should be addressed early in the project development stage. The subrecipient shall contact the HDOT STPO for further guidance; however, the broad descriptions of requirements and processes follow.

(1) To ensure eligibility for federal funding, the grantee should follow the typical process sequence when acquiring real property for a project: National Environmental Policy Act (NEPA) Approval → Title Search → Appraisal → Appraisal Review → Just Compensation Determination → FTA Concurrence (if required) → Offer to Owner → Settlement.

If a grantee is considering leasing real property, whether facilities or equipment, rather than outright purchase of the same, and such lease is a capital not operating lease, then

the grantee must comply with 2 CFR 200, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” and FTA Circular 5010.1E “Award Management Requirements”.

22.3 CONSTRUCTION MONITORING AND OVERSIGHT

The HDOT STPO is responsible for construction monitoring and oversight for the Section 5310 and Section 5311 programs. This includes reviews to ensure that subrecipients comply with all applicable laws, regulations, and guidance, including the Davis-Bacon Act for labor and the FTA Circular 5010.1E, “Award Management Requirements” (e.g., standard assurances, historic preservation, all applicable environmental processes [NEPA], etc.) For construction projects, the HDOT STPO follows the Project and Construction Management guidelines, dated March 2016 and published by the USDOT FTA, in its oversight of construction projects by subrecipients. It also uses National RTAP’s ProcurementPRO⁷ service to verify the proper packaging of procurement offers.

In response to the FTA Circular for Grant Management Requirements, the HDOT requires that each facility with FTA investment have and follow a maintenance plan to keep all project property in good condition. Annual inspections are conducted by the HDOT STPO to check the facility, including activities associated with the maintenance plan. Inspection findings, such as any corrective actions and associated due dates, are submitted to the subrecipient. If the subrecipient does not respond accordingly to the corrective actions and timelines, the HDOT STPO withholds reimbursements and reports the incidents to FTA. See section 22.7, Repercussions of Non- Compliance.

22.4 DISPOSITION OF ASSETS

When FTA-funded assets (facilities, equipment, and real property) are no longer needed for the original project or program, disposition actions are taken. “Facilities” include all or any portion of a building or structure including roads, walks, and parking lots. “Equipment” is an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition level which equals or exceeds the lesser of the capitalization level established by the government unit for financial statement purposes, or \$5,000. “Equipment” includes rolling stock and all other such property used in the provision of public transport.

The subrecipient must initiate the request for disposition using one of the FTA allowable methods. Because vehicle disposition is the most common disposition action under the Section 5310, Section 5311, and Section 5339 programs, it is described below.

The Section 5310 program requires subrecipients to follow state laws and procedures for disposing of equipment (including vehicles). The HDOT STPO is not required to return the FTA proceeds from the disposition of equipment, regardless of the fair market value at the time the equipment is sold but should follow its own procedures regarding the use of proceeds, so long as the proceeds remain in use for public transportation purposes. FTA encourages maximum use of vehicles funded under the Section 5310 program. Consistent with the requirements of 2 CFR Part 200, vehicles are to be used first for program-related needs for which a Section 5310 grant is made and then to meet other federal programs or project needs, providing these uses do not interfere with the project

⁷ Found at: <http://www.nationalrtap.org/Web-Apps/ProcurementPRO>

activities originally funded. If the vehicle is no longer needed for the original program or project, the vehicle may be used in other activities currently or previously supported by a federal agency.

The Section 5311 and Section 5339 programs require subrecipients to follow state laws and procedures for disposing of equipment. All vehicles procured with FTA funds, must utilize the HDOT disposition procedures. The disposition procedures the HDOT implements, ensures that vehicles are utilized until the end of their useful lives as stated above and vehicle control is maintained. Vehicles no longer needed by a subrecipient can be reassigned to another subrecipient.

The State and subrecipients are required to use the net income from disposition of equipment to reduce the gross project cost of other capital projected (carried out under 49 U.S.C. Chapter 53) or return to the FTA the proceeds from the disposition of equipment, unless permitted to do otherwise under FTA 5010.1E (i.e., fair market value less than \$5,000). This applies to all equipment currently in use and purchased with federal assisted funds. This blanket disposition instruction satisfies the provision of 2 CFR Part 200 requiring private nonprofit organizations to seek disposition instructions from the federal awarding agency. In the event that a vehicle must be disposed of before the end of its useful life, the HDOT STPO will send a written request to the FTA requesting disposal before the end of the vehicle's useful life, with an explanation of why the disposal is justified. In the event of a systemic problem such as corrosion, the HDOT STPO can give permission to dispose of vehicles prior to the end of their useful lives. Useful life standards are presented in the following table. Note that the useful life standards will be replaced with the useful life benchmarks in the TAM Plan(see section 22.5).

Useful Life Standards*

| Type | Approximate Typical Characteristics (Gross Vehicle Weight [GVW]) | Useful Life |
|--|--|---------------------------|
| Vehicles*** | | |
| Heavy Duty Large Bus (35' to 40' and articulated buses) | 33,000 to 40,000 | 12 years or 500,000 miles |
| Heavy Duty Small Bus (30' to 35') | 26,000 to 33,000 | 10 years or 350,000 miles |
| Medium Duty and Purpose-Built Bus (25' to 35') | 16,000 to 26,000 | 7 years or 200,000 miles |
| Light Duty Mid-Sized Bus (25 to 35') | 10,000 to 16,000 | 5 years or 150,000 miles |
| Light-Duty Small Bus Cutaways, Regular & Modified Van (16' to 28') | 6,000 to 14,000 | 4 years or 100,000 miles |

| Type | Approximate Typical Characteristics (Gross Vehicle Weight [GVW]) | Useful Life |
|---|--|---|
| Equipment | | |
| Bus Lift | - | 15 years |
| Bus Communications Equipment | - | Equivalent to useful life associated with vehicle |
| Bus Stop Signs | - | 5 years |
| Communications Equipment | - | 3 years |
| Computer Equipment | - | 3 years |
| Fareboxes/Ticket Machines | - | 10 years |
| Surveillance Equipment | - | 3 years |
| Real Property | | |
| Asphalt Paving/Parking Lot | - | 10 years |
| Building Structures | - | 40 years |
| *-Subrecipients are required to maintain vehicles per manufacturers' suggested requirements or industry standards throughout the useful life of the vehicle. **-A heavy-duty transit bus is built as a bus. A medium-duty bus is built on a truck chassis. | | |

In the event of loss due to casualty, fire, or theft, the insurance settlement will be used toward the replacement of lost items. The HDOT STPO will release the lien on the title to a vehicle purchased with FTA funds after the established time or mileage limits. Upon maturity date or proof of mileage, the Program Manager will obtain the designated signature on the title and mail it to the subrecipient. The subrecipient will then, at their local level, re-register the title without a lien- holder.

After the lien is released, organizations disposing of vehicles with an appraised value of more than \$5,000 must return all proceeds to the local transit program or the HDOT STPO. Proceeds from the disposal of FTA-funded capital, over \$5,000 in value, may not be directed into the General Fund or used in other programs by the subrecipient/locality.

Any disposition of federally assisted property before the end of its useful life requires prior FTA approval. This includes instances where federally assisted property is lost or damaged by fire, casualty, or natural disaster. The FTA is entitled to its share of the remaining federal interest in accordance with the FTA Circular 5010.1E, "Award Management Requirements," February 29, 2016, Chapter IV, Section 4.

When disposing of a federally assisted property, the subrecipient shall notify HDOT STPO, who will in turn send written notification to FTA.

22.5 TRANSIT ASSET MANAGEMENT (TAM)

In 2012, MAP-21 mandated, and in 2015, FAST reauthorized FTA to develop a rule to establish a strategic and systematic practice of procuring, operating inspecting, maintaining, rehabilitating, and replacing transit capital assets to manage their performance, risks, and costs over their life cycles, for the purpose of providing safe, cost-effective, and reliable public an effective date of October 1, 2016. FTA published this final rule effective October 1, 2016.

A State of Good Repair (SGR) is the condition in which a capital asset is able to operate at a full level of performance. A capital asset is in a state of good repair when that asset:

- Is able to perform its designed function,
- Does not pose a known unacceptable safety risk, and
- Its lifecycle investments must have been met or recovered.

Under the TAM checklist, the Hawaii subrecipients would fall under the Tier II category. Tier II providers include subrecipients of Section 5311 funds or subrecipients who operates 100 vehicles across all fixed route modes or one non-fixed route mode. The TAM Plan elements for Tier II are:

- Inventory of Capital Assets
- Condition Assessment
- Decision Support Tools
- Investment Prioritization

It is expected that all assets used in the provision of public transit will be included in the TAM Plan asset inventory. This includes (with the exception of equipment) assets that are owned by third party or shared resources. The inventory must include all service vehicles, and any other owned equipment assets over \$50,000 in acquisition value. Providers only need to include condition assessment for assets for which they have direct capital responsibility.

Each Transit Provider must designate an Accountable Executive to ensure that the necessary resources are available to carry out the TAM Plan and the Transit Agency Safety Plan.

Asset performance is measured by asset class, which means a subgroup of capital assets

within an asset category. FTA has developed a “Transit Asset Management” webpage that includes postings for support documents, related links, and related documents. One of the posted documents is the “Asset Management Guide for Small Providers”, dated March 2016, which provides TAM Plan templates to assist in the development of TAM plans. Transit providers must measure performance and develop “Useful Life Benchmarks (ULB).” ULB is the expected lifecycle of a capital asset for a particular Transit Provider’s operating environment, or the acceptable period of use in service for a particular Transit Provider’s operating environment. The Guide includes worksheets for the TAM Plan elements.

The Final TAM rule required transit providers and group TAM plan sponsors to set initial State of Good Repair (SGR) performance targets by October 2018. TAM Plans must be updated in its entirety at least every 4 years, and it must cover a horizon period of at least 4 years.

Each entity preparing a TAM Plan will have to report annually to the FTA’s NTD. This submission should include:

- An inventory of assets;
- Projected targets for the next fiscal year;
- Condition assessment and performance results; and
- Narrative report on changes in transit system conditions and the progress toward achieving previous performance targets.

22.6 PROJECT REPORTING AND MONITORING

22.6.1 Quarterly and Annual Reports

Section 5310, Section 5311, and Section 5339 program subrecipients are required to submit Quarterly Reports. These reports are due to the HDOT STPO three weeks into the months of January, April, July, and October. Monthly invoices submitted without a current Quarterly Report or Annual Report, as applicable, will not be reimbursed. See section 22.7, Repercussions of Non-Compliance.

Section 5310 program subrecipients must submit Quarterly and annual Reports throughout the useful life of the vehicle(s) or until disposal of the vehicle(s). Subrecipients must submit Quarterly Reports on forms provided by the HDOT STPO detailing the project with regards to ridership, type of clients, condition of the vehicle, status of maintenance activities, accidents and any additional comments about their program. To this end, subrecipients should keep daily passenger reports which record the information on the passengers who ride the vehicles as required to complete the quarterly and annual reports. Operational costs should also be documented.

The FTA targets the following indicators to capture overarching program information as part of the annual report that each recipient (HDOT STPO) is required to submit.

Traditional Section 5310 Projects

- (1) Gaps in Service Filled: Provision of transportation options that would not otherwise be available for seniors and individuals with disabilities, measured in numbers of seniors

and individuals with disabilities afforded mobility they would not have without program support because of traditional Section 5310 projects implemented in the current reporting year.

(2) Ridership: Actual or estimated number of rides (as measured by one-way trips) provided annually for seniors or individuals with disabilities on Section 5310 supported vehicles and services because of traditional Section 5310 projects implemented in the current reporting year.

Other Section 5310 Projects

(1) Service Improvements: related to geographic coverage, service quality, and/or service times that impact availability of transportation services for seniors and individuals with disabilities because of other Section 5310 projects implemented in the current reporting year.

(2) Physical Improvements: Additions or changes to environmental infrastructure (e.g., transportation facilities, sidewalks, etc.), technology, and vehicles that impact availability of transportation services for seniors and individuals with disabilities because of other section 5310 projects implemented in the current reporting year.

(3) Ridership: Actual or estimated number of rides (as measured by one-way trips) provided annually for seniors or individuals with disabilities on Section 5310 supported vehicles and services because of other Section 5310 projects implemented in the current reporting year.

In order to collect as accurate information as possible, the HDOT STPO requests subrecipients report the above information in the Quarterly and Annual Report forms provided by the HDOT STPO. The HDOT STPO will then compile both quantitative and qualitative information about the program measures for use in its fourth quarter or annual milestone progress reports.

Section 5311 subrecipients are required to submit quarterly reports, to include charter bus service, to the HDOT STPO. Quarterly reports inform the HDOT STPO of any changes in schedules and associated reasons. This information is used by the HDOT STPO to prepare and submit its Milestone Progress Reports (MPRs).

Section 5339 subrecipients are required to submit a complete report to the NTD of all transit operations regardless of whether or not these operations are funded in whole or in part by the FTA. Financial information reported to the NTD must be in accordance with the Uniform System of Accounts (USOA).

22.6.2 Annual and Triennial Monitoring

An on-site review with Section 5310 subrecipients is conducted once every three years (triennially). The purpose of the review is to review the vehicle usage, and maintenance and service compliance. An on-site review is conducted with each Section 5311 subrecipient at least once a year. In light of the COVID-19 pandemic, on-site reviews may be conducted virtually due to restrictions regarding in-person gatherings, however, having in-person site visits continues to be the primary option for conducting compliance reviews.

The HDOT STPO visually inspects vehicles and other equipment during its site visits and maintenance reviews to (1) ensure continued use of assets in transit service, and (2) ensure that they are being used in accordance with the MOA. These visits also include, but are not limited to reviews of the following:

- Fares and contracting;
- Accounting and finance;
- Personnel and labor relations;
- Operations;
- Safety and training;
- Inventory;
- Vehicle titles;
- ADA compliance;
- Civil Rights compliance;
- Drug and alcohol policy;
- Route planning; and
- Maintenance.

The review is designed to be used as one part of a technical assistance effort. That is, after completion of a review, technical assistance is provided to the service to improve deficient areas and to document exemplary performance to share with other transit systems. If the subrecipient is deemed non-responsive, the HDOT STPO has the right to withhold federal reimbursements and other support (section 22.7, Repercussions of Non- Compliance). See section 12.0 for further information about technical assistance.

22.6.3 Reporting of Drug and Alcohol Testing Program

Recipients or subrecipients that receive only Sections 5310 funding are not subject to FTA's drug and alcohol testing rules but are subject to the Federal Motor Carrier Safety Administration (FMCSA) rule for all employees who are Commercial Driver's License (CDL) holders. Section 5310 subrecipients that also receive funding under Section 5307, Section 5309, or Section 5311 should include any employees funded under Section 5310 projects in their testing program. FTA Drug and Alcohol Management Information System (MIS) reporting is not required of Section 5310 subrecipients.

Recipients of Section 5311 and Section 5339 funds must have a drug and alcohol testing program with a written policy that is in accordance with 49 CFR Part 655 and Part 40 (FTA Drug and Alcohol regulations). Accordingly, Section 5311 and Section 5339 subrecipients must conduct random drug and alcohol testing for their "safety-sensitive employees," compile results, and submit results annually to the Drug and Alcohol Management Information System (DAMIS). The MIS report must be submitted by March 15th following the calendar year for which the reports were prepared. Concurrently, subrecipients must submit their reports (in Adobe Acrobat PDF files), electronically, to HDOT STPO quarterly. Each report is reviewed by HDOT STPO to identify any "positive" results on Drug and Alcohol, determine the situation surrounding the "positive" test result, and identify the action taken by the subrecipient.

If there is a criminal conviction for a drug statute violation that occurred in the workplace, the subrecipient must report the violation immediately to the HDOT STPO. The HDOT STPO in turn must report the conviction to the FTA regional counsel within ten calendar days. The subrecipient must take one of the following actions within 30 days of receiving notice of such conviction:

- 1) take appropriate personnel action up to and including termination, consistent with the Rehabilitation Act of 1973, as amended; or
- 2) require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes.

FTA regulation 49 CFR §655.45 requires random testing for drugs and alcohol for all employees that perform safety-sensitive functions. A safety-sensitive function is defined in 49 CFR §655.4, as any of the following duties, when performed by employees of recipients, subrecipients, operators, or contractors:

1. Operating a revenue service vehicle, including when not in revenue service;
2. Operating a non-revenue service vehicle, when required to be operated by a holder of a CDL;
3. Controlling dispatch or movement of a revenue service vehicle;
4. Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service. This section does not apply to the following: all maintenance contractors of grantee in an area with less than 200,000 in population, and subcontractors of maintenance contractors. Note that contractors that provide maintenance services as an operations contractor, are subjected to FTA's drug and alcohol testing regulations; and
5. Carrying a firearm for security purposes.

Each employer must decide for itself whether a particular employee performs a safety-sensitive function. FTA does not determine whether a particular job or job title is safety-sensitive.

Employees or contractors repairing, rebuilding, or overhauling a vehicle are included under the requirements, as well as anyone performing hands-on maintenance on the systems (rail, train control, etc.), but not someone in a factory that is manufacturing the parts or equipment. The drug and alcohol testing requirements do not apply to suppliers of material or equipment used in the maintenance of revenue vehicles.

The subrecipient must immediately notify the HDOT STPO of any changes to its Drug and Alcohol Testing Program. At the HDOT STPO's discretion, a random review of the subrecipients' Drug and Alcohol program may be conducted to ensure continued compliance.

22.6.4 FTA Grant Reporting

For each active grant under Section 5310, Section 5311, and Section 5339, the HDOT

STPO is required to provide a Financial Status Report (FSR) to FTA Regional Office, Region IX. This report is required to be submitted on an annual basis and electronically via the TrAMS, as initially performed as part of the FTA grant application process. In most cases, the completed POP Status Report and the Financial Status Report serve as the final closeout documents.

The Section 5310, Section 5311, and Section 5339 programs requires HDOT STPO to update project milestones quarterly. Milestone Progress Reports (MPRs) are submitted to the FTA Regional Office via the TrAMS and due 30 days after the close of the federal fiscal year.

The Section 5311(b)(3) RTAP requires the HDOT STPO to update the RTAP Financial Status Report, which includes the RTAP fund activity.

22.6.5 DBE Reporting

A DBE program is required of the HDOT STPO or any FTA recipients receiving planning, capital and/or operating assistance who will award prime contracts (excluding transit vehicle purchases) with a cumulative total value that exceeds \$250,000 in FTA funds in a federal fiscal year. The HDOT STPO submits an overall goal for utilization of DBEs on a triennial basis, and coordinates and reports the data to the FTA on behalf of Section 5310, Section 5311, and Section 5339 subrecipients in Hawaii. This report is submitted to the FTA Regional Office via the TrAMS by June 1 and December 1 of each year.

Pursuant to the procedures set forth in Section 16.3, Disadvantaged Business Enterprise (DBE) Program, and to ensure continued timely reporting to the FTA Regional Office, all HDOT subrecipients shall report on current and future procurements and their related DBE goals on a quarterly basis.

22.6.6 Rural National Transit Database (NTD) Reporting

The NTD is the FTA's primary national database for statistics on the transit industry. Section 5311 and Section 5339 recipients are required by statute to submit data to the NTD. The HDOT STPO coordinates and reports the data to the NTD on behalf of Section 5311 and Section 5339 subrecipients in Hawaii, with the exception of Maui County, who is a direct reporter for NTD.

22.6.7 Vehicle Productivity Standards

The HDOT STPO uses productivity standards, where appropriate, to ensure that vehicles are used in accordance with grant requirements. The HDOT STPO reserves the right to transfer vehicles that are underused. Annual NTD reports and grant applications are used to understand fleet utilization.

22.7 REPERCUSSIONS OF NON-COMPLIANCE

The HDOT STPO is committed to work with subrecipients in meeting requirements of the Section 5310, Section 5311, and Section 5339 programs. However, as with any program involving public funds, accountability is critical and enforcement will be used. Enforcement is detailed in 2 CFR Part 200, Subpart D, Remedies for Noncompliance, §§200.339-200.343. Section 200.339 addresses remedies for noncompliance and is as follows:

If a non-Federal entity fails to comply with the U.S. Constitution, Federal statutes, regulations or the terms and conditions of a Federal award, the Federal awarding agency or pass-through entity may impose additional conditions, as described in § 200.208. If the Federal awarding agency or pass-through entity determines that noncompliance cannot be remedied by imposing additional conditions, the Federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances:

- (a) Temporarily withhold cash payments pending correction of the deficiency by the non-Federal entity or more severe enforcement action by the Federal awarding agency or pass-through entity.*
- (b) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.*
- (c) Wholly or partly suspend or terminate the Federal award.*
- (d) Initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and Federal awarding agency regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency).*
- (e) Withhold further Federal awards for the project or program.*
- (f) Take other remedies that may be legally available.*

23.0 OTHER PROVISIONS

There are numerous FTA-specific and other federal requirements that grant recipients are responsible for complying with. Many of these have been addressed in the various sections of this SMP. Additional federal requirements are highlighted herein. In lieu of summarizing an exhaustive list of requirements, the circulars for each of the grant programs should be consulted.

23.1 COMMERCIAL DRIVERS LICENSE

All drivers of vehicles designed to transport more than 15 persons (including the driver) must have a CDL. Mechanics who drive the vehicles must also have a CDL.

23.2 ENVIRONMENTAL PROTECTION

23.2.1 Clean Air Act (CAA)

The principal requirement affecting subrecipients is the transportation/air quality conformity review process. In general, transportation plans, programs, and projects shall be found to conform to approved State Implementation Plans (SIP) before they can be funded by FHWA or FTA. Most of the projects typically funded under this program (operating assistance, purchase and rehabilitation of transit vehicles, operating equipment, construction of most storage and maintenance facilities, etc.) have been exempted by regulation from the conformity review process. A complete list of exempted highway and transit projects is found in 40 CFR § 51.361.

23.2.2 Alternative Fuels

The federal government encourages the State to investigate the use of alternative fuels, including propane, compressed natural gas and electricity. The HDOT STPO encourages Section 5310, Section 5311, and Section 5339 subrecipients to use alternative fuels where appropriate. The HDOT STPO recognizes that alternative fuels may not be available in all areas of the state and understands that goals for alternative energy must be in line with the Hawaii Governor's mandate as detailed at §269-92, Hawaii Revised Statutes, by or before 2045.

23.2.3 Environmental Impact Statements

As the obligation to comply with the National Environmental Policy Act (NEPA) is with FTA, the subrecipient must provide sufficient documentation for FTA to make a determination in accordance with the NEPA and its implementing regulations. In most cases, Section 5310, Section 5311, and Section 5339 projects are anticipated to be covered under an FTA NEPA categorical exclusion (CE), 23 CFR § 771.118, which requires the least level of documentation. If so, the subrecipient should cite the specific CE under 23 CFR § 771.118 that applies to the proposed project. A description of the project, as well as any maps or figures typically included with the application or as requested by the FTA regional office (Region IX), normally suffice for FTA's use in making a CE determination. The FTA's regulation classifies "categorically excluded" actions and projects into two groups, as follows.

- The first group contains activities and projects that have very limited or no environmental effects, such as planning and technical studies, program administration, operating assistance and transit vehicle purchases that have very limited or no environmental effects at all. Because environmental impacts of these activities are either non-existent or minimal, no further environmental documentation is required.
- The second group of projects which are normally categorically excluded are projects involving more construction and greater potential for off-site impacts. Examples include new construction or expansion of transit terminals, storage and maintenance garages, office facilities, and parking facilities. It is the applicant's responsibility to provide documentation that clearly demonstrates that the stated conditions or criteria are met and that no significant adverse effects will result.

If the proposed project is not described under one of the CE's, the applicant may be required to prepare an Environmental Assessment (EA) on behalf of the FTA, who is responsible for reviewing the EA and making a determination, e.g., Finding of No Significant Impact (FONSI).

Documentation demonstrating compliance with environmental requirements other than NEPA, such as Section 106 of the National Historic Preservation Act ("Section 106"), or Section 7 of the Endangered Species Act, may be necessary for the processing of the grant.

Additional approaches and outcomes can occur so coordination with the FTA Region IX office, via the HDOT STPO, should be initiated as early as possible.

23.3 INCIDENTAL USE

23.3.1 Real Property

All FTA-funded real property for non-transit purposes (incidental use) must be approved for use by FTA. The FTA's policy is to permit maximum flexibility in determining the best and cost-effective use of FTA-funded property. The use of incidental and joint development of real property is encouraged if it can raise additional transit system revenues or increase ridership at a modest cost. FTA approval is required for both joint development and incidental uses and must be compatible with the original purposes of the grant.

***Incidental Use:** The limited authorized non-transit use of project property. Such use must be compatible with the approved purposes of the project and not interfere with intended public transportation uses of project property. An incidental use does not affect a property's transit capacity or use. FTA may concur in incidental use after the award of the grant.*

***Joint Development:** A public transportation project that integrally relates to, and often co-locates with commercial, residential, mixed-use, or other non-transit development. Joint development may include partnerships for public or private development associated with any mode of transit system that is being improved through new construction, renovation, or extension. Joint development may also include intermodal facilities, intercity bus and rail facilities, transit malls, or historic transportation facilities. (Source: FTA Circular 7050.1, "Federal Transit Administration Guidance on Joint Development," August 25, 2014.*

Incidental and joint development uses of real property are subject to the following considerations:

- **Needed Property.** The property must continue to be needed and used for an FTA project or program. It is FTA's intention to assist only in the purchase of property that is needed for an FTA project.
- **Purpose & Activity.** The use must not compromise the safe conduct of the intended purpose and activity of the initial public transit project activity.
- **Continuing Control.** The use must not in any way interfere with the subrecipient's continuing control over the use of the property or the subrecipient's continued ability to carry out the project or program.
- **Non-Profit Use.** Non-profit use is permitted under certain circumstances.
- **Income.** Proceeds from licensing and leasing of air rights or other real property interest are based on competitive market rents and rates of return based on the appraised fair market value. Income received from the authorized incidental or joint development uses of air rights may be retained by the subrecipients (without returning the federal share) if the income is used for eligible transit capital and operating expenses. This income cannot be used as part of the local share of the grant from which it was derived. However, it may be used as part of the local share of another FTA grant.

Subrecipients must request prior approval for incidental use of real property. The request and approval process follows:

1. Subrecipient submits incidental use request in writing, along with documentation to the HDOT STPO. Documentation includes a justification covering any or all the above considerations with details on how each will be accomplished.
2. The HDOT STPO conducts desk review of documentation.
3. The HDOT STPO reviews request and associated documentation. If the incidental use request is deemed reasonable, the HDOT STPO forwards documentation to the FTA for approval. If not deemed reasonable, the HDOT STPO notifies subrecipient in writing.

The subrecipient shall not proceed until a formal determination is received.

The HDOT STPO observes for unauthorized incidental uses during its annual site visits. The FTA-funded real property inventory lists are used to compare with on-site observations. If an unauthorized incidental use is realized by the subrecipient or the HDOT STPO, the subrecipient must cease the incidental use of FTA-funded real property and immediately submit a letter to the HDOT STPO documenting the unauthorized incidental usage, along with a request for an “after-the-fact” approval and associated justification. If reasonable, the HDOT STPO forwards the request to the FTA for approval. The FTA determination is transmitted from HDOT STPO to the subrecipient.

23.3.2 Project Property (not Real Property)

Project property includes equipment, supplies, and rolling stock. Light duty vehicles such as vans, sedans, and pick-up trucks employed in administrative and maintenance purposes are considered equipment. Light duty vehicles employed to transport passengers are considered rolling stock.

The subrecipient may make project property available for use on other projects or programs currently or previously supported by the federal government, provided such use does not interfere with the work on the project or program for which it was originally acquired.

The subrecipient must not use project property acquired with grant funds to provide services to compete unfairly with private companies that provide equivalent services. Non-transit use of FTA-funded project property is acceptable as long as it is incidental, does not interfere with transit use (transit has priority) and income generated is retained by the grantee for transit use.

Incidental use of project property is permitted if any of the following considerations are involved: (1) the incidental use does not interfere with the grantee’s project or public transportation operations; (2) the subrecipient fully recaptures all costs related to the incidental use from the non-transit public entity or private entity, including all applicable excise taxes on fuel for fueling facilities and wear and tear to capital improvements; (3) the subrecipient uses revenues received from the incidental use for capital and/or operating expenses that are incurred to provide the public transportation; and (4) private entities pay all applicable excise taxes on fuel.

Subrecipients must request prior approval for incidental use of project property. The request and approval process are as follows:

- Subrecipient submits incidental use request in writing, along with documentation to the HDOT STPO. Documentation should include a justification covering any or all the above considerations with details on how each will be accomplished.
- The HDOT STPO conducts desk review of documentation. If incidental use request deemed reasonable, the HDOT STPO forwards documentation to the FTA for approval. If not deemed reasonable, the HDOT STPO notifies subrecipient in writing.

The subrecipient shall not proceed until a formal determination is received.

The HDOT STPO observes for unauthorized incidental uses during its annual site visits. The FTA-funded project property inventory lists are used to compare with onsite observations. If an unauthorized incidental use is realized by the subrecipient or the HDOT STPO, the subrecipient must cease the incidental use of FTA-funded project property and immediately submit a letter to HDOT STPO documenting the unauthorized incidental usage, along with a request for an “after-the-fact” approval and associated justification. If reasonable, the HDOT STPO forwards the request to FTA for approval. The FTA determination is transmitted from the HDOT STPO to the subrecipient.

23.4 INSURANCE FOR FEDERALLY FUNDED PROPERTY

The HDOT STPO requires that subrecipients purchase insurance for equipment purchased with FTA funds, and that coverage is adequate to protect the federal and State interests in the vehicle until disposal. This insurance shall be assured, and proof of evidence provided to HDOT STPO.

23.5 LABOR PROTECTIONS

23.5.1 Transit Employee Protection (Special Warranty)

Title 49 U.S.C. § 5333(b) requires that the interests of employees affected by assistance under most FTA programs shall be protected under arrangements the Secretary of Labor concludes are fair and equitable. This requirement does not apply to Section 5310. Section 5311 and Section 5339 subrecipients are required to provide a “special warranty” to ensure that a fair and equitable arrangement to protect the interests of the employees exists.

Subrecipients meet this requirement by certifying to the HDOT STPO the acceptance of the terms and conditions of the U.S. Department of Labor Special Section 13(c) Labor Warranty. The HDOT STPO submits an annual certification of continued agreement with the Special Section 13(c) Labor Warranty.

23.5.2 Davis-Bacon Act

Title 49 U.S.C. § Section 5333(a) requires that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of loans or grants of the federal government be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The subrecipient shall have language in its construction contracts requiring the implementation and enforcement of this Act.

23.6 LEASE VS. BUY CONSIDERATIONS

Capital funds may be used to lease capital assets from another party where a determination

is made that it is more cost effective than purchasing or constructing the asset. The subrecipient shall submit its determination to the HDOT STPO for review. When a subrecipient enters into a multi-year lease, it must be able to complete the acquisition with local funds in the event the FTA funds are not available in later years. See 2 CFR 200 and FTA Circular 5010.1E for further information.

23.7 LOBBYING

Recipients of federal grants and contracts exceeding \$100,000 certify that they have not and will not use federal funds to pay for influencing or attempting to influence an officer or employee of any federal department or agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal grant, cooperative agreement, or any other federal award. The agency must submit to the HDOT STPO a completed form LLL. The HDOT STPO will then submit the form to FTA. Subrecipients of Sections 5310, Section 5311, and Section 5339 funds also certify this to the State through the MOA.

23.8 PRE-AWARD AUTHORITY

In certain instances, the subrecipient is allowed to incur certain project costs before grant approval and retain their eligibility for subsequent reimbursement after grant approval. The subrecipient assumes all risk and is responsible for ensuring that all conditions are met to maintain eligibility. The subrecipient shall contact the HDOT STPO regarding the application of this rule for their respective program and application.

23.9 PROCUREMENT RESTRICTIONS

The subrecipient is fully required to comply with procurement rules and regulations set forth in the annual Master Agreement and the current FTA Circular 4220.1F, "Third Party Contracting Guidance," March 18, 2013. The intent is to ensure full and open competition and equitable treatment of all potential sources in the procurement process including planning, solicitation, award, administration, and documentation of all federally funded contracts. The HDOT STPO has the right to review any or all procurement documentation prior to solicitation.

23.10 SAFETY AND SECURITY

The HDOT STPO may conduct investigations into safety hazards and security risks associated with a condition in equipment, a facility, or an operation financed by the FTA in order to establish the nature and extent of the condition and how to eliminate, mitigate, or correct the safety hazard and/or security risk. The HDOT STPO will require the subrecipient to submit a plan of eliminating, mitigating or correcting the deficiency and can withhold further FTA funding pending completion and implementation of agreed upon corrective measures. To this end, and in accordance with FTA's Public Transportation Agency Safety final rule (published on July 19, 2018), a Fixed Route and Paratransit Small Public Transportation Provider Agency Safety Plan. This document was published on December 7, 2020.

23.11 SCHOOL BUS OPERATIONS

Subrecipients of Section 5311 and Section 5339 funds may not provide school bus transportation. School bus operations are defined by the FTA as transportation by bus exclusively for school students or personnel. Tripper service is authorized under the FTA

definition provided under Title 49 CFR § 605.3. Tripper service means regularly scheduled mass transportation service which is open to the public, and which is designed or modified to accommodate the needs of school students and personnel, using various fare collections or subsidy systems. Buses used in tripper service must be clearly marked as open to the public and may not carry designations such as “school bus” or “school special”. These buses may stop only at a grantee or operator’s regular service stop. All routes traveled by the tripper buses must be within a grantee’s or operator’s regular route service as indicated in their published route schedules.

23.12 SUSPENSION/DEBARMENT

To prevent fraud, waste, and abuse in federal transactions, persons or entities which by defined events or behavior potentially threaten the integrity of federally administered programs are excluded from participation in FTA-assisted programs. For agreements and contracts exceeding \$25,000, the subrecipient shall ensure FTA funds are not given to anyone who has been debarred, suspended, ineligible or voluntarily excluded from participation by verifying the contractor is not on the “Excluded Parties List System” (<https://www.sam.gov/portal/public/SAM/>). The subrecipient will provide a copy of the findings to the HDOT STPO with either: 1) a required packet; or 2) submitted individually with the respective purchase document.