

**Hawaii Department of Transportation  
Federal Highway Administration  
FFY 2024 Title VI Program Plan**



Approved:   
**EDWIN H. SNIFFEN**  
Director of Transportation

Sep 22, 2023  
**DATE**



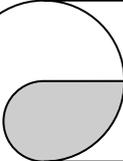
The Honorable  
Josh Green, M.D., Governor  
State of Hawaii



Edwin H. Sniffen, Director  
Department of Transportation  
State of Hawaii



Curtis Motoyama, Civil Rights Coordinator  
Department of Transportation  
State of Hawaii



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

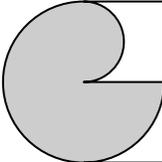
- Title VI of the Civil Rights Act of 1964 -

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

- President John F. Kennedy -

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

- U.S. Senator Pastore -



## TABLE OF CONTENTS

<b>INTRODUCTION</b> .....	<b>6</b>
<b>AUTHORITIES</b> .....	<b>7</b>
<b>POLICY FOR DEMOGRAPHIC DATA COLLECTION AND USE</b> .....	<b>9</b>
<b>ORGANIZATION &amp; STAFFING</b> .....	<b>10</b>
<b>DEFINITIONS</b> .....	<b>13</b>
<b>GENERAL ADMINISTRATION</b> .....	<b>16</b>
<b>PROGRAM AREAS AND COMPLIANCE RESPONSIBILITIES</b> .....	<b>17</b>
<b>Planning</b> .....	<b>17</b>
<b>Project Selection</b> .....	<b>18</b>
<b>Design</b> .....	<b>18</b>
<b>Environmental Considerations</b> .....	<b>19</b>
<b>Right of Way</b> .....	<b>20</b>
<b>Research</b> .....	<b>20</b>
<b>Construction</b> .....	<b>20</b>
<b>Education and Training</b> .....	<b>21</b>
<b>ATTACHMENT A</b> .....	<b>23</b>
<b>STANDARD TITLE VI HDOT ASSURANCES</b> .....	<b>23</b>
<b>ATTACHMENT A – APPENDIX A</b> .....	<b>26</b>
<b>ATTACHMENT A – APPENDIX B</b> .....	<b>28</b>
<b>CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY</b> .....	<b>28</b>
<b>ATTACHMENT A – APPENDIX C</b> .....	<b>29</b>
<b>CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM</b> .....	<b>29</b>
<b>ATTACHMENT A – APPENDIX D</b> .....	<b>30</b>
<b>CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM</b> .....	<b>30</b>
<b>ATTACHMENT A – APPENDIX E</b> .....	<b>31</b>
<b>ATTACHMENT B – FORMAT FOR ANNUAL</b> .....	<b>33</b>
<b>ACCOMPLISHMENTS REPORT</b> .....	<b>33</b>
<b>ATTACHMENT C – TITLE VI DISCRIMINATION</b> .....	<b>38</b>
<b>COMPLAINT PROCEDURE</b> .....	<b>38</b>
<b>COMPLAINT FORM</b> .....	<b>41</b>

**ATTACHMENT D – DATA COLLECTION<sup>27</sup> .....42**  
**ATTACHMENT E – LANGUAGE ACCESS<sup>29</sup> .....47**  
**ATTACHMENT F – TITLE VI PROGRAM RESPONSIBILITIES.....51**  
**ATTACHMENT G – ADDENDUM #1: PUBLIC INVOLVEMENT POLICY .....54**  
**ATTACHMENT H: NONDISCRIMINATION POLICY STATEMENT .....66**  
**ATTACHMENT I: HDOT TITLE VI POINTS OF CONTACT.....67**  
**ATTACHMENT J: ADDENDUM #2 – ENVIRONMENTAL JUSTICE COMPLIANCE.....68**

## **INTRODUCTION**

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

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

### **Policy**

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

### **Objectives**

The main objective of the HDOT is to ensure that its programs and activities treat every member of the community equally to the full extent of the law. The Department expects every manager, supervisor, employee, Local Public Agencies (LPA), and subrecipients of Federal-aid funds administered by HDOT to be aware of and apply the intent of Title VI of the Civil Rights Act of 1964 in performing assigned duties.

---

<sup>1</sup> 42 U.S.C. §§ 2000d – 2000d-7

## AUTHORITIES

### Statutory

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

### Regulations

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

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

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

### Executive Orders

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

**Executive Order 12898** of February 11, 1994 (59 Fed. Reg. 7629 (Feb. 16, 1994)) addresses Environmental Justice in Minority Populations and Low-Income Populations.

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

**Executive Order 13985** of January 20, 2021 (86 Fed. Reg. 7009 (Jan. 25, 2021)) advances Racial Equity and support for Underserved Communities through the Federal Government.

**Executive Order 14008** of January 27, 2021 (86 Fed. Reg. 7619 (Feb. 1, 2021)) addresses tackling the Climate Crisis at Home and Abroad.

**Executive Order 14091** of February 16, 2023 (88 Fed. Reg. 10825 (Feb. 22, 2023)) addresses further advancing Racial Equity and support for Underserved Communities through the Federal Government.

**Executive Order 14096** of April 21, 2023 (88 Fed. Reg. 25251 (April 26, 2023)) addresses revitalizing our Nation’s Commitment to Environmental Justice for all.

## **Directives**

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

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

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

## POLICY FOR DEMOGRAPHIC DATA COLLECTION AND USE

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

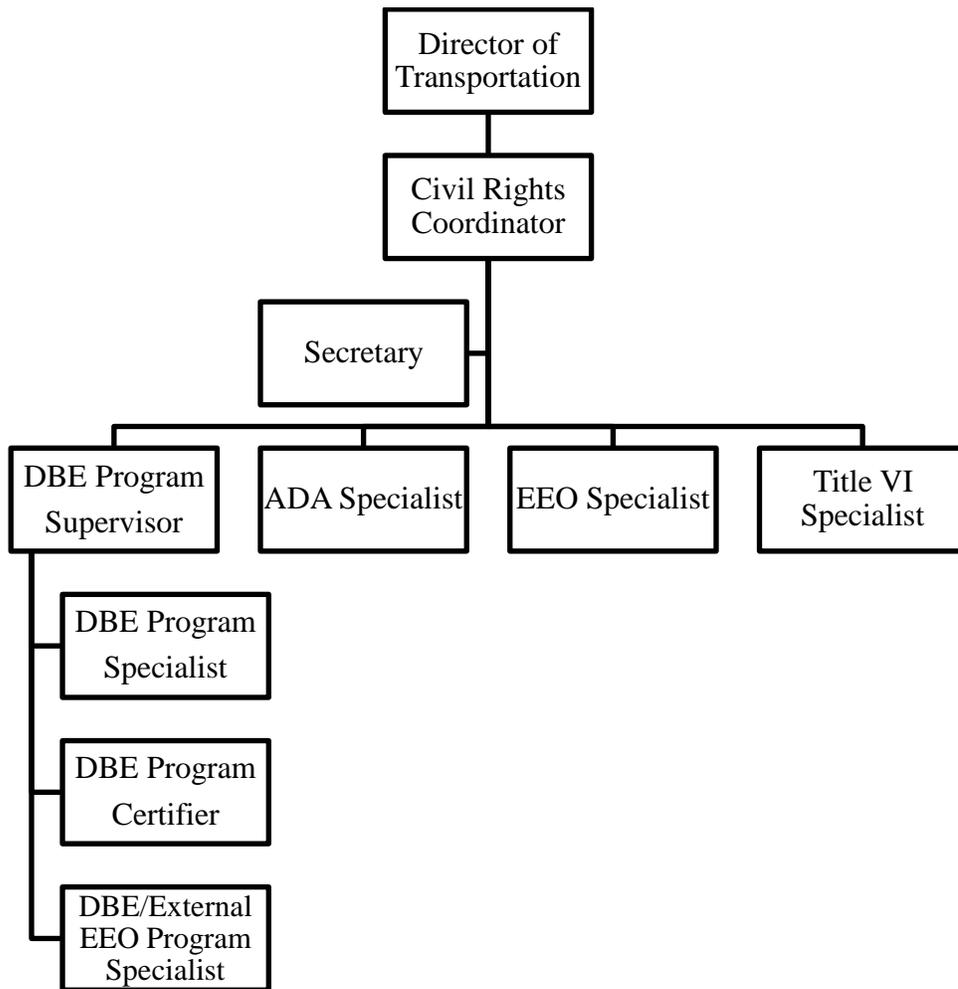
1. The 2020 U.S. Census Data will be the initial basis for demographic data. As data profiles for the 2020 U.S. Census continue to be released, it will augment current use of 2020 U.S. Census data for HDOT projects and programs.
2. According to the Office of Management and Budget, OMB, the minimum categories for data on race and ethnicity for Federal statistics (i.e. Census Bureau), program administrative reporting, and civil rights compliance reporting are defined as follows<sup>2</sup>:
  - a. **American Indian or Alaska Native:** A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.
  - b. **Asian:** A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
  - c. **Black or African American:** A person having origins in any of the black racial groups of Africa. Terms such as “Haitian” or “Negro” can be used in addition to “Black or African American.”
  - d. **Hispanic or Latino:** A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. The term, “Spanish origin,” can be used in addition to “Hispanic or Latino.”
  - e. **Native Hawaiian or Other Pacific Islander:** A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
  - f. **White:** A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.
3. Data on the population by poverty level<sup>3</sup>, education, travel characteristics, female head of household, public assistance, etc. shall be maintained by census tract and if needed, by block group.
4. Census data may be augmented by substantiated statistics from other Federal, State, County, and private agencies.

---

<sup>2</sup> 62 Fed. Reg. 58789 (October 30, 1997). HDOT uses OMB’s categories for data on race and ethnicity for data collection, Federal reporting, and civil rights compliance reporting purposes. HDOT is aware that updates to OMB standards are forthcoming (see 88 Fed. Reg. 5373 (Jan. 27, 2023), <https://www.federalregister.gov/documents/2023/01/27/2023-01635/initial-proposals-for-updating-ombs-race-and-ethnicity-statistical-standards>). The categories in this classification are social-political constructs and should not be interpreted as being scientific or anthropological in nature. 62 Fed. Reg. 58788 (October 30, 1997).

<sup>3</sup> Using the U.S. Department of Health and Human Services poverty guidelines updated annually and published in the Federal Register, (84 Fed. Reg. 3424 (January 19, 2023)).

**ORGANIZATION & STAFFING<sup>4</sup>**



---

<sup>4</sup> Current as of June 2023.

## **Director of Transportation**

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

## **Civil Rights Coordinator**

The Office of Civil Rights (OCR) was established to ensure that HDOT is in full compliance with the Civil Rights Act of 1964 and all related laws, regulations, directives, and executive orders in all its programs and activities. The OCR serves as the focal point for civil rights compliance through staff offices, the Airports (AIR), Harbors (HAR), and Highways (HWY) modal programs statewide. The Civil Rights Coordinator reports directly to the Director of Transportation. The Civil Rights Coordinator provides the OCR with the administrative direction necessary to ensure that HDOT policies and procedures relating to the Title VI Plan are implemented and that its established goals are appropriately attained. As the chief civil rights officer for HDOT, the Civil Rights Coordinator is responsible for overseeing and administering the following programs: Americans with Disabilities Act (ADA), Disadvantaged Business Enterprise (DBE) and Airports Concession Disadvantaged Business Enterprise (ACDBE), Equal Employment Opportunity/Affirmative Action (EEO/AA), and Title VI. See the organization chart above (current as of June 2023)

## **Title VI Specialist**

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

## **Title VI Liaison**

Each Modal Program may designate a Modal Title VI Liaison (MTL) to be the responsible party for all Title VI matters within their Modal Program. The MTL, if designated, shall:

1. Assist the Title VI Specialist in conducting Title VI reviews of Modal Program areas. The reviews will determine the effectiveness of program area activities at all levels.
2. Develop and maintain Modal Program procedures for the collection of statistical data (race, color, national origin, and sex) of participants in, and beneficiaries of HDOT programs, i.e., relocates, impacted citizens, and affected communities.
3. Conduct Title VI reviews of consultants, contractors, suppliers, planning agencies, and other recipients of HDOT funds.

4. Prepare a yearly report of Title VI accomplishments within the Modal Program for the past year and state goals for the next year. The report shall be submitted to the Title VI Specialist by the end of January for each Federal fiscal (October 1<sup>st</sup> through September 30<sup>th</sup>) year.

## **Title VI Interdisciplinary Approach**

The Interdisciplinary approach focuses on a team effort to ensure nondiscrimination in all of HDOT's programs and activities. In implementing this approach, HDOT has employed the guidance provided by FHWA's reference notebook entitled, *Preventing Discrimination in the Federal-Aid Program: A Systematic Interdisciplinary Approach*. To ensure HDOT complies with Title VI of the Civil Rights Act of 1964 and other related statutes, there is established within HDOT a Title VI Interdisciplinary Team. The Interdisciplinary Team will use a systematic approach, communication and continuous interaction to proactively ensure nondiscrimination and continue interaction to ensure nondiscrimination in all of HDOT's programs and activities.

### **The members of the team<sup>5</sup> will consist of:**

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

### **The roles and responsibilities of the Interdisciplinary Team are:**

1. Foster awareness of nondiscrimination requirements. This will require team members to report on providing Title VI awareness with division management and personnel, as appropriate and required. Coordination for public awareness will be required as well.
2. Participate in the development and implementation of the Title VI Plan. All members of the team will be expected to provide constructive comments for Title VI Plan drafting, implementation and compliance, regardless of the requirements for FHWA, other Federal transportation agencies, or otherwise.

---

<sup>5</sup> Please note: Interdisciplinary Team will only be created upon designation of all appropriate members for each division or MPO as noted above.

3. Identify and prioritize areas of vulnerability and/or need. Team members are expected to provide notice to the HDOT Title VI Specialist, if not the entire Interdisciplinary Team, regarding areas of vulnerability and/or need from their area(s) of responsibility.
4. Formulate and prioritize strategies to address areas of vulnerability. Team members are expected to determine strategy to address areas of vulnerability and, if possible, long-term planning for continued compliance with Title VI at team meetings.
5. Develop, revise, and implement the Title VI Plan. While general drafting and revisions are left to the Title VI Specialist to address, specific points of policy, compliance and other concerns may be brought up by Team members at meetings or otherwise.
6. Continuously assess and recommend adjustments to the Title VI Plan as necessary. Team members are expected to provide assessments and recommendations as necessary, at time of meetings or otherwise.

## DEFINITIONS

**Adverse Effects**<sup>6</sup> – The totality of significant individual or cumulative human health or environmental effects, including interrelated social and economic effects, which may include, but are not limited to:

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

---

<sup>6</sup> U.S. DOT Order 5610.2C

- The denial of, reduction in, or significant delay in the receipt of benefits of DOT programs, policies, or activities.

**Affirmative Action**<sup>7</sup> – A good faith effort to eliminate past and present discrimination in all federally assisted programs, and to ensure future nondiscriminatory practices.

**Beneficiary**<sup>8</sup> – Any person or group of persons (other than States) entitled to receive benefits, directly or indirectly, from any federally assisted program, i.e., relocates, impacted citizens, communities, etc.

**Citizen Participation**<sup>9</sup> – An open process in which the rights of the community to be informed, to provide comments to the Government and to receive a response from the Government are met through a full opportunity to be involved and to express needs and goals.

**Compliance**<sup>10</sup> – That satisfactory condition existing when a recipient has effectively implemented all of the Title VI requirements or can demonstrate that every good faith effort toward achieving this end has been made.

**Discrimination**<sup>11</sup> – That act (or action), whether intentional or unintentional, through which a person in the United States, solely because of race, color, religion, national origin, or sex has been otherwise subjected to unequal treatment under any program or activity receiving federal assistance from the Federal Highway Administration under title 23 U.S.C.<sup>12</sup>

**Federal Assistance**<sup>13</sup> – Includes:

1. Grants and loans of Federal funds;
2. The grant or donation of Federal property and interests in property, the detail of Federal personnel, the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient; and
3. Any Federal agreement, arrangement, or other contract, which has, as one of its purposes, the provision of assistance.

---

<sup>7</sup> 23 C.F.R. § 200.

<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> See also, U.S. DOT Order 1000.12C.

<sup>13</sup> 23 U.S.C. § 200.

**Minority**<sup>14</sup> – Means a person who is:

**Black** – A person having origins in any of the black racial groups of Africa.

**Hispanic** – A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

**Asian American** – A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.

**American Indian and Alaskan Native** – A person having origins in any of the original people of North America and who maintains cultural identification through tribal affiliation or community recognition.

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

**Minority Population**<sup>15</sup> – Any readily identifiable groups of minority persons who live in geographic proximity, and if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed DOT program, policy or activity.

**Modal Program** – Defined as any of the three constituent sub-departments of the Hawaii Department of Transportation (Airports, Harbors, Highways) and also including in the Administration sub-department by designation.

**Persons**<sup>16</sup> – Where designation of persons by race, color, or national origin is required, the following designations ordinarily may be used: “White not of Hispanic origin”, “Black not of Hispanic origin”, “Hispanic or Latino”, “Asian”, “Native Hawaiian or Other Pacific Islander<sup>17</sup>”, “American Indian or Alaskan Native.” **Additional subcategories based on national origin or primary language spoken may be used, where appropriate, on either a national or a regional basis.**

---

<sup>14</sup> From the U.S. DOT Order on Environmental Justice. See also, [www.fhwa.dot.gov/environment/ejustice/facts/index.htm](http://www.fhwa.dot.gov/environment/ejustice/facts/index.htm). Note: See, *Environmental Justice in the OMPO [Oahu MPO] Planning Process: Defining Environmental Justice Populations*, at <http://www.oahumpo.org/T6EJ/Final2001/2004Update.pdf>. Whenever feasible, for HDOT EJ purposes, the Asian American category, as well as the Native Hawaiian or Other Pacific Islander minority population category, may not be grouped collectively. Considering the unique characteristics of Asians and Native Hawaiian or Other Pacific Islanders in Hawaii, and because Hawaii remains a majority minority i.e., more than 50% of the area population is non-White, to avoid having the majority minority dominate the environmental justice identification process when feasible, HDOT reports and collects data on the following detailed races: Chinese, Filipino, Japanese, Korean, Vietnamese, Native Hawaiian, Samoan, Tongan, Guamanian (i.e. Chamorro).

<sup>15</sup> U.S. DOT Order 5610.2C.

<sup>16</sup> 23 C.F.R. § 200.

<sup>17</sup> Since the Regulations, at 23 C.F.R. § 200 defining Person vis- a-vis FHWA’s implementation of the Title VI Program, the Office of Management and Budget (OMB), the Federal agency charged with overseeing the preparation of the federal budget and to supervise its administration in Executive Branch agencies has made two modifications to the Standards for the Classification of Federal Data on Race and Ethnicity: (1) the Asian or Pacific Islander category will be separated into two categories – “Asian” and “Native Hawaiian or Other Pacific Islander,” and (2) the term “Hispanic” will be changed to “Hispanic or Latino.” See 62 Fed. Reg. 58782 (October 30, 1997). The standards have been developed to provide a common language for uniformity and comparability in the collection and use of data on race and ethnicity by Federal agencies.

**Program**<sup>18</sup> – Includes any highway, project, or activity for the provision of services, financial aid, or other benefits to individuals. This includes education or training, work opportunities, health, welfare, rehabilitation, housing, or other services, whether provided directly by the recipient of Federal financial assistance or provided by others through contracts or other arrangements with the recipient.

**Recipient**<sup>19</sup> – Any State, City, County, political subdivision or instrumentality thereof, or any public or private agency, institution, or organization, or other entity, or any individual to whom Federal assistance is extended, either directly or through another recipient (subrecipient), for any program. Recipient includes any successor, assignee, or transferee thereof.

**Title VI Program**<sup>20</sup> – The system of requirements developed to implement Title VI of the Civil Rights Act of 1964. References in this part to Title VI requirements and regulations shall not be limited to only Title VI of the Civil Rights Act of 1964. Where appropriate, this term also refers to the civil rights provisions of other Federal statutes to the extent that they prohibit discrimination on the grounds of race, color, national origin, or sex in programs receiving Federal financial assistance of the type subject to Title VI itself. These Federal statutes are:

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

## GENERAL ADMINISTRATION

To streamline the documentation and planning of Title VI Program implementation and management, a bulleted list and summary of all facets of Title VI Program management will be included below:

- **Complaint Management and Investigation** – If any individual in Hawaii believes that they have been subjected to unequal treatment or discrimination on the grounds of race, color, or national origin, they may exercise their right to file a complaint with HDOT. (See Attachment C)
- **Data Collection** - Statistical data on race, color, national origin, sex, age, disability, and income level of participants in and beneficiaries of HDOT's programs, (i.e. relocatees, affected populations) will be gathered and maintained by the Department to determine the transportation investment benefits and burdens to the eligible population, including minority and low-income populations. (See Attachment E)

---

<sup>18</sup> 23 C.F.R. § 200.

<sup>19</sup> Id.

<sup>20</sup> Id.

- **Title VI Reviews for HDOT and Subrecipients** – Coordination of efforts to ensure equal participation in all programs and activities at all levels, for both HDOT and subrecipients/stakeholders (including coordination with Metropolitan Planning Organizations (MPOs) and constituent counties of the State of Hawaii) to ensure compliance with Title VI.
- **Dissemination of Title VI Information** – Following the Public Involvement Plan released in 2012, with FFY2024 update anticipated, HDOT Highways branches engage in dissemination of public information to beneficiaries or potential beneficiaries regarding transportation activities.
- **Compliance and Enforcement Procedures** – HDOT will conduct periodic Federal Title VI regulation compliance reviews.<sup>21</sup> Said compliance reviews of LPA partners will include involvement by, and participation from, applicable Highways Division branch offices.<sup>22</sup>
- **Review of State Transportation Agency Directives** - The Title VI Specialist shall work collaboratively with the Highways Division’s branch heads, to annually examine each branch’s Title VI and other associated policies and procedures on projects as detailed throughout this plan. Procedures detailing the scope and intensity of the review process can be found below at **“Program Areas and Compliance Responsibilities.”**

The following items listed above all represent the multifaceted approach to Title VI Program management and implementation that HDOT OCR strives to perform as part of its overall responsibilities towards Title VI and civil rights compliance. Listed items are detailed further below, with note that compliance for HDOT and subrecipients will be performed on a rolling basis and do not necessarily reflect that ALL divisions/subrecipients/stakeholders will be reviewed for compliance, but only for those that require review.

**PROGRAM AREAS AND COMPLIANCE RESPONSIBILITIES**

**Planning**

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

<sup>21</sup>1. The HDOT Title VI Specialist will notify LPAs and work through the program engineers to make arrangements to conduct periodic compliance reviews of LPAs with approved Title VI Plans/Nondiscrimination Agreements. The compliance review will focus on how effectively the LPA has implemented its Title VI Plan/Nondiscrimination Agreement. During this process, the Title VI Specialist will gather and review documentation and conduct interviews as part of the review process. The LPA will be notified in writing of the scheduled date and the documents that will be required for the onsite review.

2. If no deficiencies are found during the on-site review, the LPA will be informed at the conclusion of the review followed by a written notice of compliance.

3. If deficiencies are identified during the review, the LPA will be notified in writing of the deficiencies and will be provided 90 days to correct the found deficiencies. Upon correction of the deficiencies, it will be notified in writing that it is in compliance. If a LPA does not correct the deficiencies identified by HDOT, it may be subjected to sanctions, up to and including suspension of FHWA funding.

<sup>22</sup> Cooperative program review efforts between OCR and applicable Highways personnel will promote greater exchanges of knowledge related to both Title VI compliance and highway planning, design, construction, etc..

**Responsibilities:**

1. Make special effort to contact and involve ethnic minorities and low-income populations in planning studies, meetings and hearings.
2. Use the input of low-income populations and ethnic minorities to improve proposed projects and to mitigate negative impacts of planned and proposed projects.
3. Collect, analyze and use data on ethnic minority populations and low-income populations to determine impacts of plans, programs and projects.
4. Review internal operational policies and procedures for consistency with Title VI.
5. Monitor accomplishments, notify OCR of problem areas and summarize findings for inclusion in Title VI accomplishment report.
6. Conduct Title VI reviews of program activities.
7. Conduct Environmental Assessments and Environmental Impact Statements for major projects, and ensure that Title VI and associated civil rights issues are addressed or mitigated.
8. Establish advisory committees as needed to ensure adequate representation by low-income populations and ethnic minorities in the planning of projects and programs.
9. Involve representatives from affected groups on citizen advisory committees when disproportionate impacts on low-income populations are possible. Special steps may be needed to effectively notify these groups of informational meetings and/or public hearings. (*See Techniques for Involving Environmental Justice Populations in Planning and Project Development, Attachment F*)
10. Consult with OCR when Title VI or associated issues are raised at public hearings.
11. Review by OCR of pre-draft environmental documents.
12. Monitor compliance with fields required of the 2018 Addendum. (*See Addendum*)

**Project Selection**

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

**Responsibilities:**

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

**Design**

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

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

**Responsibilities:**

1. Ensure that public involvement activities during the design phase provide opportunities for minority and low-income populations to receive information on the project, and an opportunity to comment and participate in public forums.
2. Conduct Title VI reviews of program activities.
3. Monitor accomplishments, notify OCR of problem areas and summarize findings for inclusion in Title VI annual report.
4. Maintain required statistical data by race/national origin and sex of participants and beneficiaries of the programs and projects. In some areas, data related to low-income populations needs to be acquired and maintained for projects that bypass the planning phase.
5. Identify potential Title VI impacts and possible mitigation measures.
6. Conduct Environmental Assessments and Environmental Impact Statements for major projects, and ensure that Title VI, LEP and associated issues are addressed or mitigated in those assessments.
7. Establish advisory committees as needed to ensure adequate representation by low-income populations and ethnic minorities in the planning of projects and programs.
8. Regardless of the project origination, the Project Manager will utilize the project scoping process to collect pertinent minority and low-income data to determine whether Title VI and/or LEP or other associated issues are likely to be present.
9. When disproportionate impacts on low-income and LEP populations are possible, special efforts are to be made to involve representatives from affected groups on citizen advisory committees. Innovative methods may be needed to effectively notify these groups of informational meetings and/or public hearings. (*See Attachment H*)
10. The OCR is to be consulted when Title VI issues are raised at public hearings/meetings.

**Environmental Considerations**

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

**Responsibilities:**

1. Utilize the project scoping process to collect pertinent minority and low-income data to determine whether Title VI and/or associated issues are likely to be present.
2. Involve representatives from affected groups, including, advisory committees when disproportionate impacts on low-income populations are possible. Special steps may be needed to effectively notify these groups of informational meetings and/or public hearings. (*See Attachment F*)
3. Conduct Title VI reviews of program activities.
4. Consult with OCR when Title VI issues are raised at public hearings/meetings.

5. Submit environmental documents for major transportation projects to OCR for review.
6. Ensure compliance with any associated standards and guidelines.  
(See Attachment I and Addendum: Environmental Justice Compliance)
7. Monitor accomplishments, notify OCR of problem areas and summarize information for the Title VI annual report.

## **Right of Way**

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

### **Responsibilities:**

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

## **Research**

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

### **Responsibilities:**

1. Conduct Title VI reviews of program activities.
2. Will analyze research contract services for Title VI objectives.
3. Include Title VI language in all agreements.
4. Monitor accomplishments, notify OCR of problem areas and summarize information for the Title VI annual report.

## **Construction**

The construction process includes pre-construction (design and contracting), construction and

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

1. Conduct Title VI reviews of program activities to ensure program compliance.
2. Monitor and take corrective action on any civil rights complaints involving competitive bidding procedures.
3. Monitor contract provisions, subcontract agreements, first and second tier, material supply and equipment lease agreements to ensure that they contain Title VI contract provisions for all federal-aid projects.
4. Monitor impacts of construction, ensuring analysis of the various aspects of the construction process are performed for impact on potentially affected populations.
5. Monitor accomplishments, notify OCR of problem areas and summarize information for the Title VI annual report.

## **Education and Training**

The Title VI Specialist shall plan, develop, conduct, secure and participate in training based on an annual schedule and availability of division/subrecipient/stakeholder staff. The OCR shall monitor accomplishments and problem areas and summarize information for the Title VI annual accomplishment report. Training will be held for all members of the HDOT staff, sub recipients, and other various stakeholders each fiscal year or as circumstances allow, in light of the impact of COVID-19. All information and training will be made available online through Adobe Connect or via other appropriate methods. Trainings will be held via in-person meetings at various HDOT locations, or on-site for subrecipients and stakeholders, across the State of Hawaii. Use of online training materials for division/subrecipient/stakeholder staff will be pursued for connectivity with staff on islands other than Oahu and improvement of scheduling. These trainings will be documented in the Title VI Accomplishment Report, as well as in a separate Title VI training log, the details of such reports laid below in Attachment B.

## **Administration**

In addition to the program areas described above, there are a number of administrative areas, which have Title VI implications. These include: 1) modal and program policies; 2) procedures and directives; 3) contracts; 4) agreements; 5) other legal instruments and proposed legislation; 6) Title VI training; and 7) dissemination of information to the public.

### **Responsibilities:**

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

## **Program Review**

HDOT OCR will conduct periodic reviews of applicable Highways branches/offices and LPAs on an annual basis. These reviews will be comprehensive and include a Plan of Action to address correction of deficiencies that the appropriate Highways branch or office, or the LPA under review, shall implement. Said action plans will detail all deficiencies found by OCR review, the appropriate authority within the entity under review that will implement corrections, and a due date for when compliance with all deficiencies are corrected.

For FFY 2024, the following are slated for review, subject to availability in light of COVID-19 and state policies regarding social distancing. Please note that this list may change at any time in light of the uncertainty of scheduling and conducting reviews due to COVID-19:

- HDOT-Highways – Planning Branch

Additional reviews will be conducted as time, opportunity, and scheduling warrant.

## **ATTACHMENT A STANDARD TITLE VI HDOT ASSURANCES**

The State of Hawaii, Department of Transportation (herein referred to as the "Recipient"), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (USDOT), through the Federal Highway Administration (FHWA) is subject to and will comply with the following:

### **Statutory/Regulatory Authorities**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation-Effectuation Of Title VI Of The Civil Rights Act Of 1964);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964).

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

### **General Assurances**

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

*"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity," for which the Recipient receives Federal financial assistance from DOT, including the Federal Highway Administration.*

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

### **Specific Assurances**

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted State of Hawaii, Department of Transportation:

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

conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.

2. The Recipient will insert the following notification in all solicitations for bids, Requests for Proposals for work, or material subject to the Acts and the Regulations made in connection with the State of Hawaii, Department of Transportation and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

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

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
  - a. For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or

structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:

- a. The period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
  - b. The period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, subrecipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

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

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

**STATE OF HAWAII, DEPARTMENT OF TRANSPORTATION**

  
\_\_\_\_\_  
EDWIN H. SNIFFEN  
Director of Transportation

Sep 22, 2023  
\_\_\_\_\_  
Date

## ATTACHMENT A – APPENDIX A

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

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.

6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

**ATTACHMENT A – APPENDIX B**  
**CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY**

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

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

**(HABENDUM CLAUSE)**

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

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

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

**ATTACHMENT A – APPENDIX C**  
**CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR**  
**IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM**

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

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

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

**ATTACHMENT A – APPENDIX D**  
**CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY**  
**ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM**

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

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non- discrimination covenants, the State of Hawaii, Department of Transportation, will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.\*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, State of Hawaii, Department of Transportation, will there upon revert to and vest in and become the absolute property of the State of Hawaii, Department of Transportation, and its assigns.\*

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

## ATTACHMENT A – APPENDIX E

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

### **Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects).
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex).
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27.
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age).
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, subrecipients and contractors, whether such programs or activities are Federally funded or not).
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38.
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).
- Executive Order 12898, Federal Actions to Address Environmental Justice (EJ) in Minority Populations and Low-Income Populations, which ensures Non-discrimination against minority populations by discouraging programs, policies, and activities with

disproportionately high and adverse human health or environmental effects on minority and low-income populations.

- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100).
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

## **ATTACHMENT B – FORMAT FOR ANNUAL ACCOMPLISHMENTS REPORT**

The Title VI Annual Report shall contain the necessary information to evaluate the HDOT's Title VI program as it pertains to accomplishments, shortfalls, and problem areas. HDOT shall submit the Accomplishments Report for Federal Fiscal Year 2023 by or before December 31, 2023. The various program areas should cover at least the minimum information listed below.

### **POLICY STATEMENT**

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

### **ORGANIZATION, STAFFING, STRUCTURES**

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

### **TITLE VI MONITORING AND REVIEW PROCESS**

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

### **COMPLAINTS**

Provide a summary of each complaint filed. Include the date complaint was filed, basis, demographic information of the complainant, status, and actions proposed and/or taken by the State and date of disposition.

### **ACCOMPLISHMENT REPORT FOR EACH PROGRAM AREA<sup>23</sup>**

List major accomplishments made regarding Title VI activities. Include instances where Title VI issues were identified and discrimination was prevented. Indicate activities and efforts the Title VI Specialist and program area personnel have undertaken in monitoring Title VI. Include a description of the scope and conclusions of any special reviews conducted by the Title VI Specialist. List any major problem(s) identified and corrective action taken. The following are examples<sup>24</sup> of possible Title VI and associated issues that should be included in the Accomplishment Report:

---

<sup>23</sup> FHWA Desk Reference: *Title VI Nondiscrimination in the Federal-Aid Highway Program*.

<sup>24</sup> Illustrative only, not an exhaustive listing of potential Title VI/EJ issues.

## A. Planning

1. How are Title VI considerations addressed through stakeholder involvement mechanisms?
2. Describe how minorities and low-income populations were provided opportunities to be involved in planning activities.
3. How are Social, Economic And Environmental (SEE) effects and impacts identified?
4. Whether contracting opportunities for planning studies, corridor studies, or other work haven been provided to minorities and women?
5. During the reporting period, was there a need to utilize bilingual advertisements, announcements, notices, etc.?
6. Has the 2012 HDOT Public Involvement Policy (or any subsequent new public involvement plans or policies)<sup>25</sup> been applied by the Modal Program(s) performing planning, project selection, etc.?

## B. Project Selection

1. How are Title VI considerations addressed through stakeholder involvement mechanisms?
2. Describe how minorities and low-income populations were provided opportunities to be involved in project selection processes.
3. Describe what project selection decisions, if any, were affected by Title VI or associated issues?
4. How many public hearings, and in what locations, were held on adoption of the Statewide Transportation Improvement Program (STIP) or in making other project selection decisions?
5. During the reporting period, was there a need to utilize bilingual advertisements, announcements, notices, etc.?
6. Was a Cultural Impact Assessment performed, pursuant to Chapter 343, HRS?

---

<sup>25</sup> Found at: <https://hidot.hawaii.gov/wp-content/uploads/2013/01/dot-public-involvement-policy.pdf>

## C. Design

1. What efforts were made to increase minority and female participation in obtaining consultant contracts?
2. During the reporting period, was there a need to utilize bilingual advertisements, announcements, notices, etc.?

## D. Environmental Considerations

1. List the Environmental Assessments/Environmental Impact Statements submitted to the Hawaii Department of Health, Office of Environmental Quality Control (OEQC) during the reporting period.
2. Describe how minorities and low-income populations were provided opportunities to be involved in planning activities.
3. Describe instances when Social, Economic And Environmental (SEE) impacts were identified?
4. Whether the potential for disproportionate or discriminatory impacts has been adequately addressed?
5. During the reporting period, was there a need to utilize bilingual advertisements, announcements, notices, etc.?
6. Was an archaeological inventory survey by the State Historic Preservation Division performed related to the scope of project considerations, pursuant to Chapter 6E, HRS?

## E. Right-of-Way

### Appraisal Review

1. Whether there is diversification in the use of appraisers?
2. Whether the selection or adjustment of comparable sales and rental properties reflects discrimination and stereotypes?
3. Whether adjustments to the comparable sales and rental properties reflect discrimination?
4. During the reporting period, was there a need to utilize bilingual advertisements, announcements, notices, etc.?

## Negotiation/Acquisition

1. Whether every effort was made to negotiate for required property before filing condemnation?
2. Whether property owners were fully informed of their rights to receive just compensation for their property before any donation of such property?
3. Whether the offer was made for the full amount of the review appraiser's determination of compensation?
4. Whether there is consistency in the application of minimum payment policy?
5. During the reporting period, was there a need to utilize bilingual advertisements, announcements, notices, etc.?

## Relocation Advisory Assistance and Payment

1. Whether relocation advisory assistance was provided equitably and without discrimination to displaced individuals?
2. Whether the selection of comparable replacement housing is fair, consistent, and without discrimination?
3. Whether decent, safe and sanitary inspection standards are consistently applied?
4. During the reporting period, was there a need to utilize bilingual advertisements, announcements, notices, etc.?

## F. Research

1. Discuss whether there is diversification in the selection of consultants/universities?
2. Is there diversification in proposal/problem statement solicitation?
3. During the reporting period, was there a need to utilize bilingual advertisements, announcements, notices, etc.?

## G. Construction

1. Are the appropriate contract provisions incorporated in Federal-aid contracts?
2. Discuss whether required mitigation measures have been effectively implemented, i.e., safety through construction zones; noise and air impacts; employment and contracting goals, etc.?

3. Do barriers exist in pre-qualification, approval of subcontractors, bonding and licensing requirements?

#### H. HDOT TRAININGS

1. What types of trainings were held and what material was discussed?
2. Who attended these meetings/trainings and what divisions/agencies do they belong to?
3. How was the information disseminated throughout HDOT and partner agencies?
4. Where were these trainings held at and when were they held during the fiscal year?

#### I. SUB RECIPIENTS TITLE VI IMPLEMENTATION COMPLIANCE

1. Are there any updates on subrecipients' adoption of Title VI implementation plans and agreements?
2. Are there summaries of data collected and analysis performed to maintain LPA compliance?

#### J. ANY AND ALL DATA AND UPDATES PURSUANT TO TITLE VI AND ENVIRONMENTAL JUSTICE

1. Any data related to public participation, environmental justice, demographics, and pursuant to any studies referred to above in this checklist (e.g. Cultural Impact Assessment, Equity Analysis, etc.) should be included and referred to in any future Title VI accomplishment reports.
2. Any informational updates regarding Title VI adoption and implementation among subrecipients to HDOT as well as related stakeholders.

## **ATTACHMENT C – TITLE VI DISCRIMINATION COMPLAINT PROCEDURE**

These procedures cover any program or activity administered by the HDOT.

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

Office of Civil Rights  
Hawaii State Department of Transportation  
200 Rodgers Boulevard  
Honolulu, Hawaii 96819

Complaints may also be directed to, in lieu of HDOT Office of Civil Rights:

Federal Highway Administration  
Hawaii Division  
ATTN: Kelly Okumura  
Box 50206, 300 Ala Moana Blvd  
Room 3-306  
Honolulu, Hawaii 96850

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

In order to have the complaint considered under this procedure, the complainant must file the complaint no later than one hundred eighty (180) days after:

1. The date of the alleged act of discrimination; or
2. Where there has been a continuing course of conduct, the date on which that conduct was discontinued.

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

### **Procedure**

Complaints submitted to the OCR or to FHWA Hawaii Division must be in writing, signed, and dated by the complainant or their authorized representative. The complaint must contain the complainant's name and address (or specify another means of contacting them) and must describe the allegations in sufficient detail to allow for a determination whether the appropriate agency has jurisdiction over the complaint, the complaint was filed in a timely manner, and that

the complaint has apparent merit. ALL complaints filed, regardless to OCR or FHWA Hawaii Division, will be routed to FHWA Office of Civil Rights in Washington D.C. for review and determination of jurisdiction.

1. If the complaint provides incomplete information, the complainant will be requested to complete the HDOT's discrimination complaint form or equivalent as promulgated by FHWA. Failure to complete the form may result in OCR or FHWA dropping the complaint for failure to prosecute.
2. Upon receipt of the signed complaint form, the Civil Rights Coordinator or their designee will log-in the complaint, route the complaint and any accompanying documentation to the FHWA Office of Civil Rights, and allow FHWA Office of Civil Rights to determine the basis of the complaint, authority/jurisdiction, and who should conduct the investigation.
3. Title VI complaints, after review of FHWA Office of Civil Rights and assignment of jurisdiction to either OCR, FHWA Office of Civil Rights, or other appropriate authority, will be assigned to a member of the OCR staff or other designated HDOT staff who is trained in conducting such investigations.
4. The first step in conducting the investigation will be the preparation of an investigation plan, identifying following elements:
  - a. Basis of complaint;
  - b. Issues to be addressed;
  - c. Information needed to answer the questions posed (what actually happened, who was involved, past practices, etc.);
  - d. Sources from which the information will be obtained (witnesses, written documents, etc.);
  - e. How the information will be obtained (telephone interviews, travel to other offices, review of records, etc.); and
  - f. Projected timeline for completion.
5. Within ten (10) working days of receiving the complaint and determination of jurisdiction by the FHWA Office of Civil Rights in Washington, D.C., the complainant will be notified in writing by the OCR regarding who will be conducting the investigation and the anticipated timeline for completion.
6. One of the first steps in the investigation will be to meet with the complainant to clarify the issues and obtain additional information.

7. The Branch or District Manager where the complaint occurred will be notified of the complaint.
8. The respondent (party named in the complaint) will be notified of the complaint and the status of the investigation.
9. There is no informal complaint process under Title VI. All complaints are treated as formal complaints whether they are investigated by HDOT or forwarded to U.S. DOT for processing.
10. Proceed with the steps outlined in the investigation plan (interview witnesses, obtain written documentation, etc.).
11. After completing the investigation, information will be evaluated, and a written report prepared. The report shall contain the following elements:
  - a. Description of the allegation.
  - b. Summary of the investigation.
  - c. Relevant facts (findings).
  - d. Supporting documents attached, when appropriate.
12. The written investigation report will be submitted to the Civil Rights Coordinator within ninety (90) days of the time the complaint was received. If circumstances require additional time, a status report will be submitted and a request for extension of time will be forwarded to the Office of the Secretary of Transportation (OST) for approval.
13. A copy of the report shall be sent to the Attorney General's Office for their information and file.
14. The investigator will meet with the Civil Rights Coordinator and/or their designee to discuss the findings and what further action may be appropriate.
15. The Civil Rights Coordinator and/or investigator will meet with the Director. The HDOT's Director shall make the final decision.
16. The complainant and appropriate managers will be notified in writing of the results of the investigation.
17. If the HDOT's decision is averse to the complainant, the complainant shall be notified that they have appeal rights under Title VI to the U.S. DOT.
18. Copies of all Title VI complaints and investigative reports will be sent to the affected agency of the U.S. DOT within sixty (60) days of receipt of the complaint.

## COMPLAINT FORM

Complainant(s) Name:	Complainant(s) Address:	
Complainant(s) Phone Number:		
Complainant's Representative's Name, Address, Phone Number and Relationship (e.g. friend, attorney, parent, etc):		
Name and Address of Agency, Institution, or Department Whom You Allege Discriminated Against You:		
Names of the Individual(s) Whom You Allege Discriminated Against You (If Known):		
Discrimination based upon:	<input type="checkbox"/> Race <input type="checkbox"/> National Origin <input type="checkbox"/> Color <input type="checkbox"/> Other	Date of Alleged Discrimination:
Please list the name(s) and phone number(s) of any person, if known, that the Department of Transportation could contact for additional information to support or clarify your allegation(s).		
Please explain as clearly as possible <b>how, why, when</b> and <b>where</b> you believe you were discriminated against. Include as much background information as possible about the alleged acts of discrimination. Additional pages may be attached if needed.		
Complainant(s) or Complainant(s) Representatives Signature:		Date of Signature:

## **ATTACHMENT D – DATA COLLECTION <sup>27</sup>**

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

### **Why collect data:**

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

### **Objective data is necessary to identify:**

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

### **Based on Title VI implementing regulations, each division/office is required to:**

1. Provide for the collection of data and information to permit effective enforcement of Title VI.
2. Collect data about beneficiaries.
3. Analyze the data and information collected.

4. Eliminate discrimination when it is found.
5. Take affirmative measures to ensure nondiscrimination.

**The Types of Data and Analysis:**

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

Data	Analysis Of
Population	Regional Population and Growth Rates
	Regional Ethnic Composition
	Age Distribution by Race
	Number of Households by Income Group
	Median Household by Income
	Percent of Persons Below Poverty Line
	Percent of persons by Age Group With Mobility Limitations
	Percent of Elderly Persons
	Language(s) Spoken
	Percent of Disabled by Types of Disability
Mode Choice	Number of Trips Per Capita
	Percent of Households Without Automobiles
	Percent of Households by Income Groups Using Various Modes of Transportation (I.e., Bus, Carpool, Automobile, etc.)
	Percent of Persons by Ethnic, Gender and Disability Group Using Various Modes of Transportation (I.e., Bus, Carpool, Automobile, etc.)
Transportation System	Transportation System Congested
	Delay as Percentage of Travel Time
	Travel Time
	Exposure to Transportation Hazards (Environmental, Safety, Crime)
	Access to Jobs, Churches, Synagogues, Mosques, Medical Care, Schools, Emergency Services, Grocery Stores, Family
Employment	Present and Future Location of Jobs
	Present and Future Location of Housing
	Present and Future Location of Low-Income Communities
Other	Public Investing per Capita (Federal, State, and Local)

**Analysis:**

Type of analysis to address compliance with Title VI:

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

**Types of Performance Indicators:**

1. Mobility – Ease of movement of people and goods.
2. Accessibility – Access to opportunities (jobs, medical care, emergency services, family, shopping, entertainment).
3. Environment – Sustainable development and preservation of the existing system and the environment.
4. Cost-effectiveness – Maximized return on investment, direct as well as indirect costs associated with air pollution, congestion delays for individuals/businesses.
5. Reliability – System reliability. (Probability of arriving at destination or even making the trip).
6. Safety – Physical design and operation of system (measured in accidents per person mile) also includes security related to criminal activities on highways as well as on transit systems.
7. Equity – Transportation investments and benefits are invested in a manner that meets the needs of all persons.
8. Customer Satisfaction – Increased ability to make trips, improved travel time, safety and security, improved access to system.
9. Livable Communities – Enhancement of living conditions for communities through transportation policies that provide multi-modal options including non-motorized modes.

**Where to collect data:**

Potential sources of data and analysis tools:

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

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

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

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

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

## ATTACHMENT E – LANGUAGE ACCESS

Most individuals living in the United States read, write, speak, and understand English. There are many individuals, however, that have a limited ability to read, write, speak, or understand English, and therefore are LEP<sup>26</sup>.

Hawaii’s population reflects a rich blend of peoples and cultures. According to the Hawaii State Data Center, Research and Economic Analysis Division of the Department of Business, Economic Development and Tourism, there were 356,079 people comprising 26.2% of Hawaii’s population who spoke a language other than English at home. The top three prevalent languages include Ilocano with 61,324 speakers, Tagalog (including Filipino) with 58,223 speakers and Japanese with 38,665 speakers. In the State of Hawaii, 42.8% of those who spoke another language at home spoke the English language less than “very well”<sup>27</sup>.

On August 11, 2000, President Clinton issued Executive Order 13166, entitled, “Improving Access to Services by Persons with Limited English Proficiency,” to help ensure against national origin discrimination under Title VI<sup>28</sup>.

Executive Order 13166 requires HDOT (as a recipient of Federal funds) to assess and address the needs of individuals seeking access to HDOT programs and activities who, due to LEP, cannot fully and equally participate in or benefit from those programs and activities. Therefore, HDOT must take reasonable steps to ensure meaningful access to LEP individuals to the information and services the Department provides<sup>29</sup>.

What constitutes reasonable steps to ensure meaningful access will be contingent on a number of factors<sup>30</sup>. Among the factors to be considered are:

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

---

<sup>26</sup> 67 Fed. Reg. 44145 (June 18, 2002)

<sup>27</sup> See Table 1.41 – Language Spoken At Home By Ability To Speak English, By Age: 2021 (<https://files.hawaii.gov/dbedt/economic/databook/2022-individual/01/014122.pdf>) and Table 1.44 – Top 20 Detailed Languages Other Than English Spoken At Home And Ability To Speak English: 2017-2021 (<https://files.hawaii.gov/dbedt/economic/databook/2022-individual/01/014422.pdf>).

<sup>28</sup> 65 Fed. Reg. 50121 (August 16, 2000).

State LEP law found at H.R.S. § 321C mirrors EO 13166 and requires every state agency, or any organization receiving state funding that provides services to the public on behalf of the state, to provide equal access of their agency’s essential government services to all of Hawaii’s diverse population, regardless of what language they speak. See also: <http://health.hawaii.gov/ola/>.

<sup>29</sup> Department of Justice Limited English Proficiency Guidance, 67 Fed. Reg. 41455 (June 18, 2002).

<sup>30</sup> Id.

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

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

### **Modal Program Responsibility**

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

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

An important part in providing meaningful access for individuals whom are LEP is to ensure effective communication. To accomplish effective communication the following actions and discussions are considered appropriate at a divisional level<sup>31</sup>:

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

---

<sup>31</sup> Caltrans Title VI Program Plan, *Simple Justice*.

7. Monitor and evaluate access to language assistance.

## 1. Needs Assessment

- a. Each Modal Program is to continuously assess language assistance needs of the population to be served by identifying the following:
  - i. Languages likely to be encountered and the number of LEP persons in the eligible population likely to be directly affected by its program.
  - ii. Public contact where language assistance is needed.
  - iii. Resources needed to provide effective language assistance, including location, availability and arrangements necessary for timely use.

## 2. Language Interpretation

- a. Providing LEP persons with oral language assistance at public service counters, when there is telephone contact, or at public meetings as appropriate. Such assistance may take the form of bilingual staff, contracting with an outside interpreter service, or hiring an interpreter.
- b. HDOT has advised staff to utilize the vendors recommended by the State Procurement Office for **telephone interpretation services**.
- c. The following paragraph addresses ADA and Title VI program requirements and should be included in all HDOT public notices:
  - i. To request language interpretation, an auxiliary aid or service (i.e., sign language interpreter, accessible parking, or materials in alternative format), contact (indicate name and telephone (voice only)) fourteen (14) days prior to the meeting date. TTY users may use TRS to contact our office.

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

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

## 4. Translation of Written Materials

- a. It is appropriate to have written materials that are routinely provided in English to applicants, customers, and the general public translated into languages that are regularly encountered. The translation of **vital documents** into languages other than English is particularly important where a significant number or percentage of the customers served or eligible to be served have limited English proficiency. Written materials include electronic documents and websites.
- b. “Vital Documents” are documents that convey information that critically affects the ability of the recipient/customer to make decisions about their participation in the program. Examples of vital documents include but are not limited to: applications,

public notices, consent forms, letters containing important information regarding participation in a program, services or benefits, right to appeal, notices advising of the availability of language assistance, and outreach and community education materials. **It is recommended that divisions and programs develop criteria for deciding which documents are vital thereby subject to translation.**

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

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

## **6. Development of Written Procedures**

- a. To implement a successful language assistance program, the Title VI Program Specialist may provide guidance to employees through written procedures that address the following:
  - i. Identifying and assessing language needs.
  - ii. Interpretation assistance (See Language Interpretation above to access the department telephone interpreter service).
  - iii. Written translation of materials and publications.
  - iv. Oral and written notification of the availability of language assistance.
  - v. Public contact positions staff training.
  - vi. Monitoring access to language assistance.

## **7. Monitoring and Evaluation**

- a. Monitoring and evaluating accessibility and quality of language assistance needs of LEP persons ensures that LEP persons may meaningfully access programs and activities and is the responsibility of the divisions. At a minimum, divisions, and programs should conduct an annual assessment to determine: the current LEP composition of its service area; the current communication needs of LEP persons; whether existing assistance meets LEP needs; whether staff is knowledgeable about policies and procedures and how to implement them; and whether sources of and arrangements for assistance are still current and viable. When coordinating these assessments, HDOT Office of Civil Rights will provide managerial oversight and quality assurance to ensure that the standards of language assistance needs for LEP persons are adequately met.
- b. HDOT Office of Civil Rights will engage in continuing communication with divisions, subrecipients, and stakeholders.

## **ATTACHMENT F – TITLE VI PROGRAM RESPONSIBILITIES**

1. Develop procedures for prompt processing and disposition of Title VI complaints, maintaining a log of such complaints and forwarding a copy of the complaint and the report of investigation to the FHWA Division Office within sixty (60) days of the date the complaint was received.
2. Develop procedures for the collection of statistical data relating to participants in, and beneficiaries of HDOT programs, i.e., relocatees, impacted citizens and affected communities.
3. Develop a program to conduct Title VI review of program areas. (See Attachment C)
4. Conduct Title VI review of counties, consultant contractors, suppliers, universities, colleges, planning agencies, and other recipients of HDOT funds.
5. Review HDOT program directives and, where applicable, include Title VI and related requirements.
6. Conduct training on Title VI and related statutes for State program and civil rights officials.
7. Prepare HDOT's yearly report of Title VI accomplishments for the past year and goals for the next year.
8. Prepare and submit an updated Title VI implementing plan to the FHWA Division Office for approval.
9. Develop Title VI information for dissemination to the general public, and where appropriate, in languages other than English.
10. Establish procedures and conduct pre-grant and post-grant approval reviews of HDOT programs and applicants for compliance with Title VI requirements, i.e., highway location, design and relocation, and persons obtaining contracts with the State.
11. Establish procedures and work with program officials to correct identified Title VI or discriminatory practices or policies.
12. Establish procedures to resolve deficiency status and reduce to writing the remedial action, within ninety (90) days.
13. Coordinate Title VI Program Development with program area officials.
14. Provide technical assistance and advice on Title VI matters to HDOT and County program area officials.
15. Conduct Title VI reviews of program area activities when necessary to cover aspects not

covered through the day-to-day approach. Only those parts of programs where Title VI issues are involved will be reviewed.

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

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

## **ATTACHMENT G – ADDENDUM #1: PUBLIC INVOLVEMENT POLICY**

This addendum to the Hawaii Department of Transportation, Highways (HDOT) Guide for Public Involvement (2012) including the subsequent Addendum #2 (July 2019)<sup>32</sup> covers the public involvement processes for the development of the statewide and regional long range land transportation plans, Statewide Transportation Improvement Program (STIP), and other planning studies related to the Statewide Transportation Planning Process. The Guide for Public Involvement is anticipated to be updated for Federal Fiscal Year 2024.

Public involvement is critical to ensuring that the plans and programs embrace the values and meet the needs of Hawaii's communities. The public involvement processes are designed to provide open and transparent information flow between the HDOT and stakeholders, and to encourage participation of all stakeholders regardless of race, ethnicity, age, disability, income, or primary language, in accordance with the FHWA Title VI and associated covered guidance. This process also strives to increase public awareness and understanding of the transportation planning process by providing early and ongoing opportunities for stakeholder involvement.

### **Title 23, Code of Federal Regulations (CFR), Part 450, Subpart B: §450.210 Interested parties, public involvement, and consultation.**

(a) In carrying out the statewide transportation planning process, including development of the long-range statewide transportation plan and the STIP, the State shall develop and use a documented public involvement process that provides opportunities for public review and comment at key decision points.

(1) The State's public involvement process at a minimum shall:

(i) Establish early and continuous public involvement opportunities that provide timely information about transportation issues and decision making processes to citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, providers of freight transportation services, and other interested parties;

(ii) Provide reasonable public access to technical and policy information used in the development of the long-range statewide transportation plan and the STIP;

(iii) Provide adequate public notice of public involvement activities and time for public review and comment at key decision points, including but not limited to a reasonable opportunity to comment on the proposed long-range statewide transportation plan and STIP;

---

<sup>32</sup> This Addendum addresses NEPA Public & Agency Involvement. All public involvement procedures that detail the requirements for HDOT to meet baseline public involvement standards in furtherance of Classes I, II, and III of the NEPA when performing environmental impact analysis, Executive Order 12372, and all related authorities are addressed in the Addendum. Guidelines from the Addendum are also subject to the requirements written here.

(iv) To the maximum extent practicable, ensure that public meetings are held at convenient and accessible locations and times;

(v) To the maximum extent practicable, use visualization techniques to describe the proposed long-range statewide transportation plan and supporting studies;

(vi) To the maximum extent practicable, make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information;

(vii) Demonstrate explicit consideration and response to public input during the development of the long-range statewide transportation plan and STIP;

(viii) Include a process for seeking out and considering the needs of those traditionally underserved by existing transportation systems, such as low-income and minority households, who may face challenges accessing employment and other services; and

(ix) Provide for the periodic review of the effectiveness of the public involvement process to ensure that the process provides full and open access to all interested parties and revise the process, as appropriate.

(2) The State shall provide for public comment on existing and proposed processes for public involvement in the development of the long-range statewide transportation plan and the STIP. At a minimum, the State shall allow 45 calendar days for public review and written comment before the procedures and any major revisions to existing procedures are adopted. The State shall provide copies of the approved public involvement process document(s) to the FHWA and the FTA for informational purposes.

(b) The State shall provide for non-metropolitan local official participation in the development of the long-range statewide transportation plan and the STIP. The State shall have a documented process(es) for consulting with non-metropolitan local officials representing units of general-purpose local government and/or local officials with responsibility for transportation that is separate and discrete from the public involvement process and provides an opportunity for their participation in the development of the long-range statewide transportation plan and the STIP. Although the FHWA and the FTA shall not review or approve this consultation process(es), copies of the process document(s) shall be provided to the FHWA and the FTA for informational purposes.

(1) At least once every five years (as of February 24, 2006), the State shall review and solicit comments from non-metropolitan local officials and other interested parties for a period of not less than sixty (60) calendar days regarding the effectiveness of the consultation process and any proposed changes. A specific request for comments shall be directed to the State association of counties, State municipal league, regional planning agencies, or directly to non-metropolitan local officials.

(2) The State, at its discretion, shall be responsible for determining whether to adopt any

proposed changes. If a proposed change is not adopted, the State shall make publicly available its reasons for not accepting the proposed change, including notification to non-metropolitan local officials or their associations.

(c) For each area of the State under the jurisdiction of an Indian Tribal government, the State shall develop the long-range statewide transportation plan and STIP in consultation with the Tribal government and the Secretary of Interior. States shall, to the extent practicable, develop a documented process(es) that outlines roles, responsibilities, and key decision points for consulting with Indian Tribal governments and Federal land management agencies in the development of the long-range statewide transportation plan and the STIP.

### **Statewide and Regional Long Range Land Transportation Plans**

This section documents the public involvement process for the development of the Statewide and Regional Long Range Land Transportation Plans (LRLTPs). The HDOT in coordination with the each of the Counties oversees development of the following plans:

- Statewide Long Range Land Transportation Plan
- Regional Long Range Land Transportation Plan for the District of Kauai
- Regional Long Range Land Transportation Plan for the District of Maui, Molokai, and Lanai
- Regional Long Range Land Transportation Plan for the District of Hawaii

### **Emerging and High Priority Issues**

Prior to initiating and throughout plan development, the public involvement process is reviewed and adjusted to ensure emerging and high priority issues of the current update and stakeholder comments are addressed. For example, social media is a relatively new method for gathering and disseminating information. To address this emerging issue, the HDOT established a project Facebook page for the updates of the Statewide and Regional LRLTPs completed in 2014.

### **Stakeholder Committees**

Stakeholder committees provide the HDOT with the diverse viewpoints of both technical and non-technical stakeholders. Each of the LRLTPs uses a Policy Committee (PC), Technical Advisory Committee (TAC), and Citizen Advisory Committee (CAC). Committee members are responsible for representing the interests of and communicating progress back to their agencies/jurisdictions or constituents. The committees are described in more detail below:

Policy Committee - Consisting of directors of state and county departments and appointed officials, the PC represents the policy and administrative interests of their agencies/jurisdictions and provide high-level insight to the plan development process in relation to overall state and county goals.

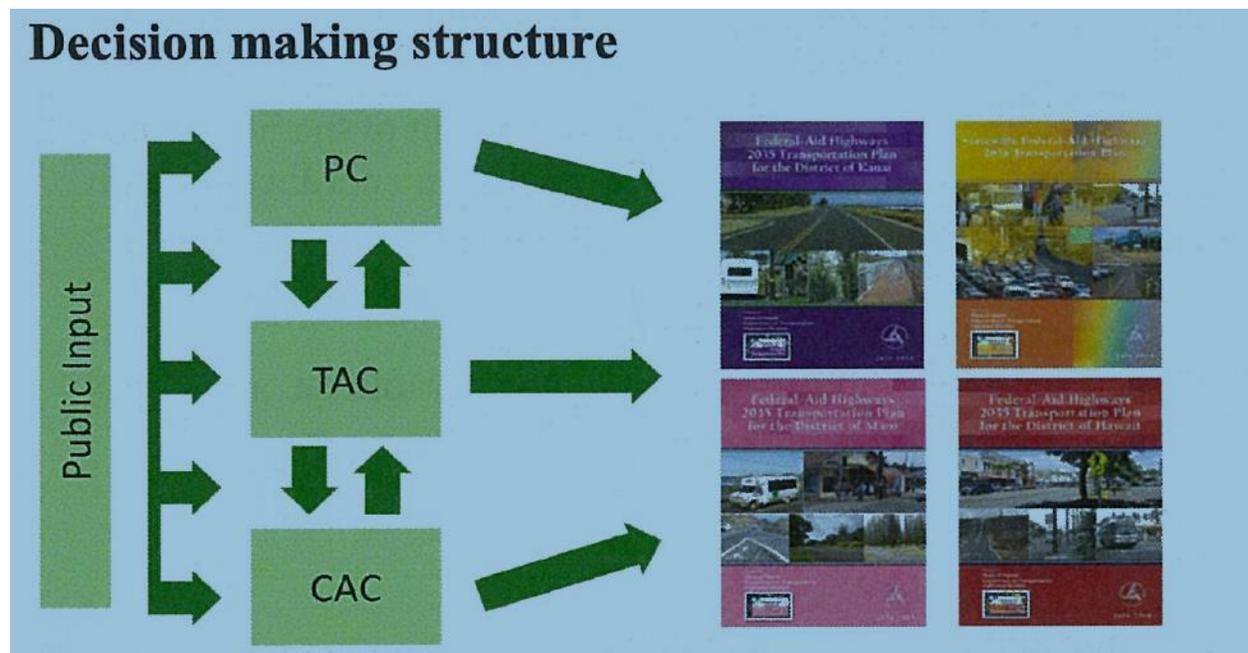
Technical Advisory Committee - Consisting of senior transportation managers of state and county departments, this group provides significant technical input throughout plan development. Attached to this group are technical resources. These staff members from the

HDOT Highways provide technical support for traffic, right-of-way, and other aspects throughout the development of the transportation plan.

Citizen Advisory Committee - Composed of a wide range of transportation users and interest groups, the CAC provides a broad overall outlook as well as input specific to their communities

### Public Meetings

At least two rounds of public meetings should be held-one towards the beginning of the process to gather information on needs and values and the second towards the end of the process to share the draft plan. The meetings should be structured in an interactive format so attendees can share their values, concerns, opportunities, priorities, and needs, as well validate information already gathered. The meetings shall be held at accessible locations.



### Other Outreach as Needed

The project team should include focused outreach, such as small group meetings to address specific issues or concerns, as needed. The project team should also be available to respond to questions or to receive comments as needed via telephone, email, and letters.

### Stakeholder and Comment Tracking Spreadsheets

The project team should document stakeholder participation and input. A spreadsheet should log stakeholders who attend meetings or provide input. These stakeholders should be added to a project email list that disseminates information and involvement opportunities at key milestones in the plan development process. A spreadsheet should also be used to log

all comments, how they were addressed, and the responses to the stakeholders (if applicable).

### **Information Dissemination Strategies**

The project team should utilize a variety of information dissemination techniques to distribute plan information and participation opportunities. Example tools include:  
Flyers: Distribute flyers to relevant HDOT mailing lists, the project stakeholder list, Title VI and associated civil rights covered populations, and key locations in the community such as libraries, colleges, senior centers, community associations/neighborhood boards, etc. request that these stakeholders post or share the flyers with their constituents.

Web-based outreach tools: Utilize social media, a project website, and email to provide project information and announce participation opportunities.

Media protocols: Work with the HDOT's Public Affairs Office to conduct media outreach-including press releases, newspaper notices, and if possible, airtime on morning news broadcasts.

Coordination with other projects: In addition, the project team should coordinate with other ongoing projects. For example, the project team should provide their project flyers at public meetings for other HDOT efforts.

### **Statewide Transportation Improvement Program**

This section documents the public involvement process for the Statewide Transportation Improvement Program (STIP).

#### **Emerging and High Priority Issues**

Should an existing STIP need to be revised due to a change in priorities, requirements/mandates, or for project development reasons, there is a STIP revision process. It is a simplified process than that described below. It's been streamlined in order to quickly reflect needed changes while minimally delaying project development. On site meetings and surveys are not conducted. Information regarding additions, deletions or other changes is provided.

#### **Metropolitan Planning Public Involvement Oahu Metropolitan Coordination**

The portion of the STIP covering the metropolitan planning area of Oahu is developed in cooperation with the Oahu Metropolitan Planning Organization (Oahu MPO) and its metropolitan transportation planning process. While Oahu MPO is responsible for the development of the Oahu Transportation Improvement Program (TIP), close coordination with HDOT and the City and County of Honolulu is required through the metropolitan transportation planning process.

The Oahu MPO TIP development process utilizes the Citizens Advisory Committee (CAC), the Technical Advisory Committee (TAC) and the Policy Committee (PC) to validate and approve the new Oahu TIP. Ultimately, the Director of Transportation, as the Governor's designee, approves the Oahu TIP for inclusion in the STIP.

Coordination meetings between the HDOT, Oahu MPO and the City and County of Honolulu are held throughout the planning process. This includes meetings that identify priorities and project readiness of Oahu highway and transit projects.

The Oahu MPO process runs a track parallel to the Statewide and Countywide STIP development processes.

### **Maui Metropolitan Coordination**

The 2010 US Census identifies Kahului, Maui as an urban area with more than 50,000 individuals. While previous writing detailed the lack of establishment of the Maui Metropolitan Planning Organization (MMPO), currently, a nascent MMPO was created to address the Kahului, Maui, small urban area. This MMPO is subject to a policy board, with coordination and approval of the Maui TIP working through said board, the Maui Countywide Transportation Planning Process (CTPP), and the STIP project selection process.

As MMPO has begun to research and procure services to assist in the development of a Maui TIP, the subsequent developments towards Maui transportation planning will allow for a fuller understanding of what impacts the Maui planning process and will thus be incorporated in the STIP and Statewide Transportation Planning Process (STPP) and organizational structure.

### **Non-Metropolitan (Rural) Public Involvement**

#### **Non-Metropolitan (Rural) Local Official Coordination**

The development of the rest of the non-metropolitan STIP is processed through the STPP and CTPP processes. These processes to develop the non-metropolitan STIP have similar goals and schedules and run in parallel to the metropolitan process.

HDOT coordinates with the Statewide Transportation Advisory Committee (STAC) and its technical arm, the Sub-STAC to develop the non-metropolitan portions of the STIP as part of the STPP. The committees are described in more detail below:

Statewide Transportation Advisory Committee (STAC) - Consisting of directors of state and county departments, the STAC represents the policy and administrative interests of their agencies/jurisdictions and provide high-level insight to the program development process in relation to overall state and county goals.

Sub-Statewide Transportation Advisory Committee (Sub-STAC) - Consisting of senior transportation managers of state and county departments, this group provides significant

technical input throughout plan development. Attached to this group are technical resources.

The CTPP was also utilized through meetings with regional Policy Committees (PC) and regional Technical Advisory Committees (TAC). The committees are described in more detail below:

Policy Committee (PC) - Consisting of directors of state and county departments, the PC represents the policy and administrative interests of their agencies/jurisdictions and provide high-level insight to the program development process in relation to overall state and county goals.

Technical Advisory Committee (TAC) - Consisting of senior transportation managers of state and county departments, this group provides significant technical input throughout plan development. Attached to this group are technical resources.

As the majority of members who participate in the STPP and the CTPP are the same. The major milestones in the STPP and CTPP processes are often combined to cover both needs. Separately, the CTPP process is used to get regional views on priorities and project readiness. CTPP meetings on the capacity program and project readiness are conducted to refine project information on the eligible STIP projects and help in the financial constraint process.

The participating agencies involved in the planning processes for the development of the STIP are as follows:

State of Hawaii

- Hawaii Department of Transportation
- Department of Business, Economic Development and Tourism

Metropolitan Planning Organization

- Oahu Metropolitan Planning Organization
- Maui Metropolitan Planning Organization

City and County of Honolulu

- Department of Transportation Services
- Department of Planning and Permitting
- Honolulu Authority of Rail Transit

County of Hawaii

- Department of Public Works
- Department of Planning
- Mass Transit Agency

County of Maui

- Department of Public Works and Environmental Management
- Department of Transportation (Transit)

Department of Planning County of Kauai

- Department of Public Works
- Department of Planning
- Mass Transit Agency

The non-metropolitan public involvement process encompasses efforts on the neighbor islands managed by HDOT. It also includes agencies and groups with a statewide presence. The public involvement plan for the update of the STIP is designed to maximize public outreach and address Title VI and associated civil rights covered outreach populations as effectively as possible. Consistent with HDOT's Public Involvement Policy (April 2012) and the HDOT Highways Public Involvement Guide (June 2012), the STIP public participation program is composed of several elements which include public meetings and information dissemination strategies.

### **Public Meetings**

At least two rounds of public informational meetings are held. The first round of public meetings is held towards the beginning of the process to share the draft financially unconstrained STIP, educate and inform the public about the STIP, and gather community concerns and STIP priorities using a survey.

The second round of meetings is held towards the end of the process to share the results of the survey provided at the first round of public meetings, share the proposed financially constrained STIP, and gather feedback.

All meetings are held at accessible locations and accommodations for individuals with disabilities are offered. Hard copies of island-view project location maps and detailed project location maps for each individual project (if available and applicable) are available at each public informational meeting. The use of handouts, maps, and other presentation forms are considered. All meeting minutes are posted on the STIP website following the end of the round of public meetings. In light of COVID-19 and the above, strategies and planning for virtual public involvement (VPI) are currently underway within HDOT in order to ensure a unified approach to handling VPI while adhering to social distancing guidelines.

### **Information Dissemination Strategies**

Consistent with HDOT's Public Involvement Policy (April 2012) and the HDOT Highways Public Involvement Guide (June 2012), the STIP public participation program is designed to maximize public outreach, address Title VI and associated civil rights outreach populations as effectively as possible, and is composed of several elements:

Flyers: Distribute flyers using a dynamic mailing list composed of the addresses of private citizens, neighbor island citizen's advisory committees, community service non-profits, human services organizations (i.e., Maui Economic Opportunities, Inc., Catholic Charities), Native Hawaiian civic clubs, the Office of Hawaiian Affairs (OHA), The Department of Hawaiian Homelands (DHHL), Chambers of Commerce, community associations, rotary clubs and FTA grant recipients. People and groups on this list were mailed a copy of the meeting notices for their island/county. A special effort is undertaken to reach minorities and low-income persons. Flyers are mailed to public locations throughout the communities such as libraries, civic centers, supermarkets, laundromats, eateries, convenience stores and establishments with community bulletin boards.

This mailing list also includes email addresses of people who submitted comments through the mail or email, legislators and councilpersons that have participated in our development process and wished to be directly informed, attendees at past public meetings, and anyone who requests to be placed on it.

Web-based outreach tools: Copies of the draft financially unconstrained STIP, draft financially constrained STIP, individual project information and location maps, project priority survey, survey results, notices of public meetings to be held on the STIP, and public meeting minutes are posted on the HDOT STIP website. Contact information (Planning Branch phone number and fax number and the STIP comment email address) is also posted. Information regarding the development of the new STIP, including meeting information and status of the update, is posted on both Facebook and Twitter social media sites. These sites allow interested people to get first-hand up to the minute information about the new STIP development and operation and maintenance of the STIP.

Media protocols: Work with the HDOT's Public Affairs Office to conduct media outreach-including press releases, newspaper ads, and if possible, airtime on morning news broadcasts. Press releases are sent out to the local newspapers, radio stations, television stations, and current sitting legislators and councilpersons statewide for each round of public meetings. Newspaper public notices are placed in the Honolulu Star-Advertiser (three notices for Statewide coverage), Hawaii Tribune Herald (two notices for Big Island coverage), West Hawaii Today (two notices for Big Island coverage), The Maui News (two notices for Maui coverage), and The Garden Island (two notices for Kauai coverage) for each round of meetings.

In light of COVID-19 and continuing to perform outreach and information dissemination via virtual public involvement (VPI), HDOT is currently strategizing and planning to conduct a unified approach to VPI.

### **Other Planning Studies**

This section documents the public involvement process for the development of other planning studies related to the Statewide Transportation Planning Process. The HDOT conducts other planning studies, such as corridor studies and sub-area studies, and develops mode specific plans, such as its bicycle and pedestrian master plans. A public involvement process similar to that of the LRLTPs and STIP is used for such studies.

### **Emerging and High Priority Issues**

Prior to initiating and throughout plan development, the public involvement process is reviewed and adjusted to ensure emerging and high priority issues of the current update and stakeholder comments are addressed. For example, during the Kapaa Transportation Solutions, the project team adjusted the work plan to hold combined TAC and CAC meetings instead of the individual meetings originally planned for.

## **Stakeholder Committees**

Stakeholder committees provide the HDOT with the diverse viewpoints of both technical and non-technical stakeholders. It is recommended that the HDOT's planning efforts use a PC, TAC, and CAC, as appropriate to the specific planning document. As explained in the section on the Statewide and Regional LRLTPs, committee members are responsible for representing the interests of and communicating progress back to their agencies/jurisdictions or constituents. The committees are described in more detail below:

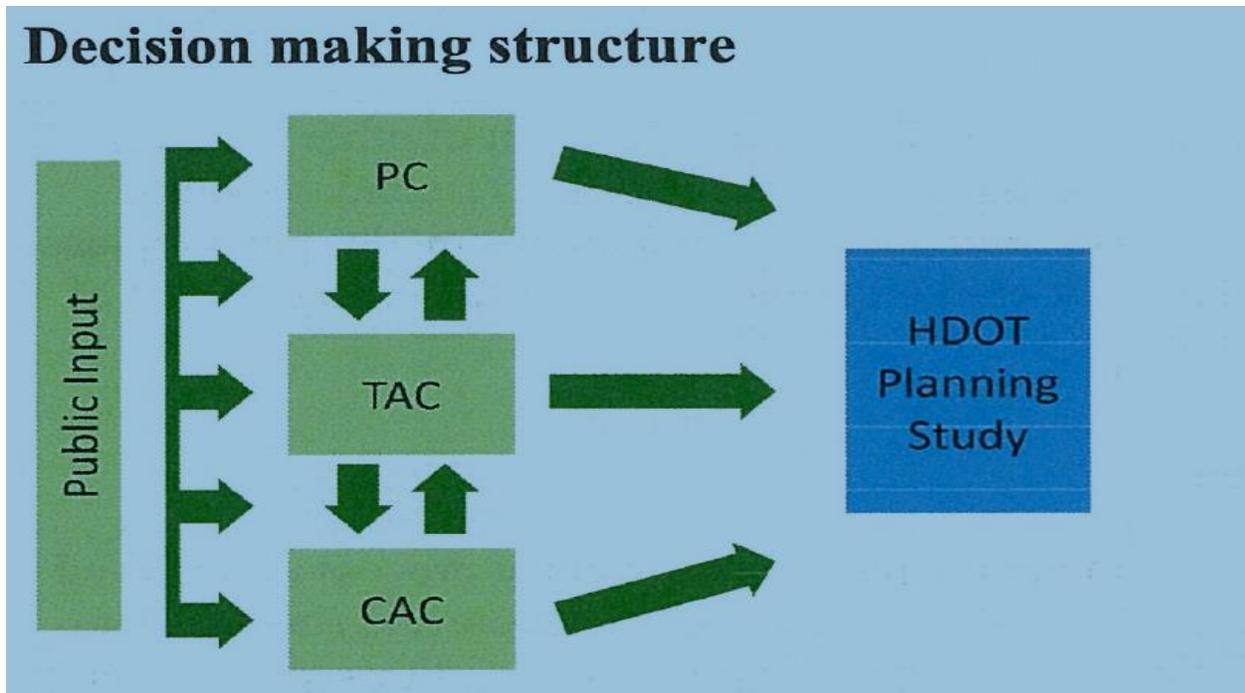
**Policy Committee** - Consisting of directors of state and county departments and appointed officials, the PC represents the policy and administrative interests of their agencies/jurisdictions and provide high-level insight to the plan development process in relation to overall state and county goals.

**Technical Advisory Committee** - Consisting of senior transportation managers of state and county departments, this group provides significant technical input throughout plan development. Attached to this group are technical resources. These staff members from the Highways Division provide technical support for traffic, right-of-way, and other aspects throughout the development of the transportation plan.

**Citizen Advisory Committee** - Composed of a wide range of transportation users and interest groups, the CAC provides a broad overall outlook as well as input specific to their communities.

## **Public Meetings**

At least two rounds of public meetings should be held-one towards the beginning of the process to gather information on needs and values and the second towards the end of the process to share the draft plan. The meetings should be structured in an interactive format so attendees can share their values, concerns, opportunities, priorities, and needs, as well validate information already gathered. The meetings shall be held at accessible locations. Accordingly, as noted previously, strategies and planning is currently underway to address virtual public involvement (VPI) in light of the impact of COVID-19 and the necessity for social distancing.



**Other Outreach as Needed**

The project team should include focused outreach, such as small group meetings to address specific issues or concerns, as needed. The project team should also be available to respond to questions or to receive comments as needed via telephone, email, and letters.

**Unite Stakeholder and Comment Tracking Spreadsheets**

The project team should document stakeholder participation and input. A spreadsheet should log stakeholders who attend meetings or provide input. These stakeholders should be added to a project email list that disseminates information and involvement opportunities at key milestones in the plan development process. A spreadsheet should also be used to log all comments, how they were addressed, and the responses to the stakeholders (if applicable).

**Information Dissemination Strategies**

The project team should utilize a variety of information dissemination techniques to distribute plan information and participation opportunities. Example tools include:

**Flyers:** Distribute flyers to relevant HDOT mailing lists, the project stakeholder list, Title VI and associated civil rights covered populations, and key locations in the community such as libraries, colleges, senior centers, community associations/neighborhood boards, etc. request that these stakeholders post or share the flyers with their constituents.

**Web-based outreach tools:** Utilize social media, a project website, and email to provide project information and announce participation opportunities.

Media protocols: Work with the HDOT's Public Affairs Office to conduct media outreach including press releases, newspaper notices, and if possible, airtime on morning news broadcasts.

# ATTACHMENT H: NONDISCRIMINATION POLICY STATEMENT

JOSH GREEN, M.D.  
GOVERNOR



STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

EDWIN H. SNIFFEN  
DIRECTOR

Deputy Directors  
FORD N. FUCHIGAMI  
DREANALEE K. KALILI  
TAMMY L. LEE  
ROBIN K. SHISHIDO

IN REPLY REFER TO:

OCR-T 1.9094

## NON-DISCRIMINATION POLICY STATEMENT

It is the policy of the Hawaii Department of Transportation (HDOT) that no person in the United States shall, on the basis of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination or retaliation under any federally or non-federally funded program or activity administered by the Department or its sub-recipients.

To comply with this policy, civil rights and all staff with civil rights responsibilities must work closely to oversee their shared Title VI nondiscrimination responsibilities. All HDOT employees, including the Director, Deputy Directors, Modal Administrators, Program Administrators, Engineering Program Managers, Section Heads of HDOT's major program areas (Planning, Construction and Maintenance, Design, Right-of-Way, and Materials Testing and Research Branch, and any and all other applicable sections), as well as the Department's sub-recipients will be responsible for making a good faith effort to ensure that this policy is carried out in their respective program areas.

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

Handwritten signature of Edwin H. Sniffen in blue ink.

EDWIN H. SNIFFEN  
Director of Transportation

Aug 21, 2023

DATE

# ATTACHMENT I: HDOT TITLE VI POINTS OF CONTACT



## HDOT TITLE VI POINTS OF CONTACT

Aliiaimoku Building  
869 Punchbowl Street  
Honolulu, Hawaii 96813

### **Director of Transportation**

(808) 587-2150

### **Civil Rights Coordinator**

(808) 831-7912

### **Civil Rights Coordinator - Secretary**

(808) 831-7901

### **Title VI Specialist**

(808) 831-7921

### **Civil Rights Specialist (ADA Specialist)**

(808) 831-7931

### **Civil Rights (DBE Specialist)**

(808) 831-7913

### **Civil Rights (EEO Specialist)**

(808) 831-7925

*Any email inquiries or complaints may be sent to:*

**HDOT-TITLEVI@hawaii.gov**

## **ATTACHMENT J: ADDENDUM #2 – ENVIRONMENTAL JUSTICE COMPLIANCE**

This document exists and is to be considered in tandem with the Hawaii Department of Transportation FY 2024 Title VI Program Plan, all Attachments and Appendices part of aforementioned Plan, This document addresses Executive Order 12898, Federal Actions to Address Environmental Justice (EJ) in Minority Populations and Low-Income Populations, and Executive Order 14096, Revitalizing Our Nation’s Commitment to Environmental Justice for All, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations. An important component of the HDOT Title VI Program is the commitment to developing and implementing environmental justice strategies. Environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies<sup>33</sup>.

### **DEFINITIONS:**

In addition to the definitions provided within the Fiscal Year 2024 Title VI Plan for the Hawaii Department of Transportation, the following definitions apply:

**Disproportionately High and Adverse Effect**<sup>34</sup> – An adverse effect that is:

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

**Environmental Justice**<sup>35</sup> – Environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

FHWA further affirms three fundamental environmental justice principles:

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

---

<sup>33</sup> U.S. Environmental Protection Agency (EPA) website at <http://www.epa.gov/environmentaljustice/index.html>

<sup>34</sup> U.S. DOT Order 5610.2C.

<sup>35</sup> U.S. Environmental Protection Agency (EPA) website at <http://www.epa.gov/environmentaljustice/index.html>

**Low Income**<sup>36</sup> – A person whose median household income is at or below the Department of Health and Human Services poverty guidelines.

**Low Income Population**<sup>37</sup> – Any readily identifiable group of low-income persons (a person whose median household income is at or below the Department of Health and Human Services poverty guidelines) who live in geographic proximity, and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed HDOT program, policy or activity.

#### **DATA COLLECTION AND ANALYSIS:**

Please refer to Attachment D – Data Collection of the HDOT FY 2024 Plan for standards and quality of data collection and analysis and procedures for data collection and analysis. As detailed, data and accomplishments performed pursuant to data collection and analysis and identification of problem areas will be noted in the Accomplishment Report to be created pursuant to the HDOT FY2023 Plan.

### **SECTION 1 – TECHNIQUES FOR INVOLVING ENVIRONMENTAL JUSTICE POPULATION IN PLANNING AND PROJECT DEVELOPMENT**

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

#### **Getting Volunteers to Serve on Project Committees**

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

#### **Encouraging People to Attend Meetings**

1. Offering a variety of meetings and techniques for disseminating information and

---

<sup>36</sup> U.S. DOT Order 5610.2C.

<sup>37</sup> U.S. DOT Order 5610.2C. The Department of Health and Human Services (HHS) poverty guidelines are used as eligibility criteria for the Community Services Block Grant Program and a number of other Federal programs. However, a State or locality may adopt a higher threshold for low-income as long as the higher threshold is not selectively implemented and is inclusive of all persons at or below the HHS poverty guidelines.  
<http://www.fhwa.dot.gov/environment/ejustice/facts/index.htm>.

obtaining responses, including neighborhood informational meetings, neighborhood “coffee,” speaking at churches and community organizations; and holding formal public hearings;

2. Publicizing such meetings might take the form of direct mailings to affected residents and property owners; notices in church bulletins and community organization newsletters; posting notices in stores, schools and other locations in the project area; and providing notices in languages other than English where appropriate;
3. Holding meetings in easily accessible locations (walking distance);
4. Offering transportation to those who may need it; and
5. Having translators available if needed.

## **SECTION 2 - COMPLIANCE WITH ENVIRONMENTAL JUSTICE**

Title VI (as set forth in the HDOT FY2024 Program Plan) and Environmental Justice (EJ) standards require that HDOT and its subrecipients take the following steps with respect to EJ populations<sup>38</sup>:

1. Determine if there is a protected population.
2. Determine if an adverse effect exists.
3. Determine if there is a disproportionate impact.
4. Identify the benefits and the burdens of the HDOT action.
5. Identify the changes that might avoid, minimize, or mitigate any negative impact.
6. Identify the overall effectiveness of public involvement.

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

1. On-Site evaluation.
2. Census Bureau data.
3. Planning reports.
4. Local housing authority.

---

<sup>38</sup> Presidential Executive Order 12898 requires agencies to identify and address disproportionately high and adverse effects of federal programs, policies and activities on minority and low-income populations.

5. Neighborhood associations.
6. Local schools and school district boundaries.
7. Community leaders/organizations/local contacts.
8. Public/social service agencies.

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

<u>2023 Poverty Guidelines for Hawaii<sup>39</sup></u>	
<u>Persons in Family</u>	<u>Poverty Guideline</u>
1	\$16,770
2	\$22,680
3	\$28,590
4	\$34,500
5	\$40,410
6	\$46,320
7	\$52,230
8	\$58,140

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

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

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

---

<sup>39</sup> 88 Fed. Reg. 3424 (January 19, 2023).

## Economic Impacts

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

## Social Impacts

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

## Environmental Impacts

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

## Human Health / Displacements

1. Number of household/businesses.
2. Family/business characteristics.
3. Available housing/available building sites.
4. Last resort housing.

5. Impacts of relocation on individuals/community.

Determine whether the project would have a disproportionately high and adverse effect on minority or low-income populations. Specify risks of these impacts. Identify and evaluate ways to avoid or reduce disproportionate impacts to minority or low-income communities. Specify mitigation and enhancement measures to be taken to avoid or offset potential impacts. These could include:

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

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

### **SECTION 3 - ADDRESSING ATTACHMENT G OF THE FY2019 HDOT TITLE VI PROGRAM PLAN (ADDENDUM #1: DECEMBER 2015)**

This section to the addendum to the Hawaii Department of Transportation, Highways Division's (HDOT) Fiscal Year 2024 Title VI Program Plan (FY2024 Plan) covers the public involvement processes for the development of the statewide and regional long range land transportation plans, Statewide Transportation Improvement Program, and other planning studies related to the Statewide Transportation Planning Process, in coordination to the guidelines established in Attachment J of the HDOT FY2024 Plan.

Public involvement is critical to ensuring that the plans and programs embrace the values and meet the needs of Hawaii's communities. The public involvement processes are designed to provide open and transparent information flow between the HDOT and

stakeholders, and to encourage participation of all stakeholders regardless of race, ethnicity, age, disability, income, or primary language, in accordance with the FHWA Environmental Justice guidance. This process also strives to increase public awareness and understanding of the transportation planning process by providing early and ongoing opportunities for stakeholder involvement.

### **Non-Metropolitan (Rural) Public Involvement and Local Official Coordination**

Pursuant to the procedures set forth in Attachment J of the HDOT FY2024 Plan, non-metropolitan public involvement processes encompass efforts on Oahu and neighbor islands managed by HDOT. It also includes agencies and groups with a statewide presence. The public involvement plan for the update of the STIP is designed to maximize public outreach and address Environmental Justice outreach populations as effectively as possible. Consistent with HDOT's Public Involvement Policy (April 2012) and the HDOT Highways Public Involvement Guide (June 2012) and expected consistency with any future public participation plans or policies, the STIP public participation program is composed of several elements, which include public meetings and information dissemination strategies.