

# **SB1180**

RELATING TO METROPOLITAN PLANNING ORGANIZATIONS.

Creates a new chapter relating to metropolitan planning organization. Repeals chapter 279E, HRS. Exempts Oahu metropolitan planning organization special fund from pro rata share of administrative expenses.

TESTIMONY BY WESLEY K. MACHIDA  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE SENATE COMMITTEES ON TRANSPORTATION AND  
PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS  
ON  
SENATE BILL NO. 1180

February 12, 2015

RELATING TO METROPOLITAN PLANNING ORGANIZATIONS

Senate Bill No. 1180 proposes to create a new chapter relating to metropolitan planning organization in lieu of the existing Chapter 279E, HRS, which is being repealed. The bill also establishes within the State treasury the "Oahu Metropolitan Planning Organization Special Fund" into which shall be deposited: 1) "seed funding" of \$500,000; 2) all revenues from the operations of the Oahu Metropolitan Planning; 3) appropriations by the Legislature to the fund; and 4) gifts grants and any other moneys available to the fund. It is noted that no appropriation language for the \$500,000 "seed money" is provided in this bill; further, no source for this funding is identified. Moneys in the special fund are to be used to pay for the operations of the Oahu Metropolitan Planning Organization.

While the Department of Budget and Finance (B&F) does not take any position on the policy of the metropolitan planning organization operations, as a matter of general policy, the department does not support the creation of special funds which do not meet the requirements of Section 37-52.3, HRS. Special funds should:

- 1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program;
- 2) provide an appropriate means of financing

for the program or activity; and 3) demonstrate the capacity to be financially self-sustaining. In regards to Senate Bill No. 1180, it is difficult to determine whether the special fund will be self-sustaining. In addition, the bill does not make an appropriation to allow the Oahu Metropolitan Planning Organization to expend the funds within the proposed "Oahu Metropolitan Planning Organization Special Fund."

Senate Bill No. 1180 also proposes to exempt the Oahu Metropolitan Planning Organization Special Fund from the pro rata share of administrative expenses of State government as currently required of all special funds except those exempted via Chapter 36-30, HRS.

B&F does not generally support the selective exemption of special funds from their fair contribution to the administrative expenses. The funds collected for administrative services from special funds are meant to account for the general expenses that are provided by a number of administrative-support functions which are exclusively funded from general funds.

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KIRK CALDWELL  
MAYOR



MICHAEL D. FORMBY  
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MARK N. GARRITY, AICP  
DEPUTY DIRECTOR

February 6, 2015

The Honorable Clarence K. Nishihara, Chair  
and Members of the Committee on Transportation  
State Senate  
State Capitol, Room 204  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Senator Nishihara and Members of the Committee:

SUBJECT: Testimony on Senate Bill No. 1180 Relating to Metropolitan  
Planning Organizations

The Department of Transportation Services strongly supports the passage of Senate Bill No. 1180 Relating to Metropolitan Planning Organizations.

As a key participating agency in the OahuMPO, our department recently participated in the federal certification review of the OahuMPO. A key finding of the review (Oahu Metropolitan Planning Organization: TMA Certification Review, September 25, 2014 Final Report) was that the existing Hawaii Revised Statute (HRS) Chapter 279E related to Metropolitan Planning Organization conflicts with current federal transportation regulations 23 U.S.C 134 and 135 and 23 CFR 450. This conflict needs to be rectified in order for the OahuMPO to maintain its federal TMA (Transportation Management Area) certification.

The stated consequences of a de-certification of the OahuMPO would be a withholding of up to 20% of federal surface transportation funds normally attributable to Oahu. This has been calculated by FHWA (Federal Highway Administration) and FTA (Federal Transit Administration) to be about \$12 million annually.

The withholding of such federal funds would be detrimental to our department's funding of transportation studies, programs and projects. Both our roadway and transit funding would be significantly impacted.

I am therefore strongly encouraging that the subject bill be passed by this committee. Thank you for the opportunity to submit this written testimony on Senate Bill No. 1180.

Very truly yours,

  
Michael D. Formby  
Director

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

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KIRK CALDWELL  
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GEORGE I. ATTA, FAICP  
DIRECTOR

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DEPUTY DIRECTOR

February 12, 2015

The Honorable Clarence K. Nishihara, Chair  
and Members of the Committee on Transportation  
Hawaii State Senate  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Nishihara and Committee Members:

SUBJECT: Senate Bill No. 1180  
Relating to Metropolitan Planning Organizations

The Department of Planning and Permitting (DPP) **supports** Senate Bill No. 1180, which repeals Chapter 279E, Hawaii Revised Statutes (HRS), and creates a new chapter with revised requirements for metropolitan planning organizations.

A 2014 joint certification review of the Oahu Metropolitan Planning Organization (OahuMPO), the Federal Highway Administration, and the Federal Transit Administration found that portions of HRS 279E conflict with Federal regulations. The new chapter of the HRS provides the OahuMPO with the authority to comply with Federal laws applicable to metropolitan planning organizations. If the OahuMPO is not in compliance by the established deadlines and is not certified, 20 percent of the apportionment attributed to the metropolitan planning area (approximately \$12 million in highway and transit funding) may be withheld.

Please move Senate Bill No. 1180 forward.

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in blue ink that reads "George I. Atta".

George I. Atta, FAICP  
Director

GIA:cl  
SB1180-k



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February 11, 2015

Senator Clarence K. Nishihara, Chair  
Senator Breene Harimoto, Vice Chair  
Senate Committee on Transportation

Senator Will Espero, Chair  
Senator Rosalyn H. Baker, Vice Chair  
Senate Committee on Public Safety, Intergovernmental and Military Affairs

Support for S.B. No. 1180, Relating to Metropolitan Planning Organizations

Dear Chair Nishihara, Chair Espero, Vice Chair Harimoto, Vice Chair Baker and members,

As an Oahu Metropolitan Planning Organization (OMPO) member representing the City & County of Honolulu, I am testifying in **support** of S.B. No. 1180, Relating to Metropolitan Planning Organizations.

S.B. No. 1180 allows OMPO to address the Federal corrective action plan and will allow OMPO to take the necessary steps to avoid the potential for Federal decertification. Decertification will ultimately result in no federally-funded projects being approved for the Overall Work Program, Oahu Regional Transportation Plan and Transportation Improvement Program.

As such, I humbly request the committees pass S.B. No. 1180. Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brandon Elefante", is written over a blue horizontal line.

Brandon Elefante  
Councilmember, District 8  
City and County of Honolulu



Honorable Senator Clarence Nishihara  
Hawaii State Capitol, Room 204  
415 South Beretania Street  
Honolulu, Hawaii 96813

Honorable Senator Will Espero  
Hawaii State Capitol, Room 204  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Senator Nishihara, Senator Harimoto, Senator Espero, Senator Baker and Members of the Committee on Transportation and Committee on Public Safety, Intergovernmental and Military Affairs:

**Testimony Regarding Senate Bill 1180 Relating to Metropolitan Planning Organizations (MPOs)**

Senate Bill 1180 is necessary for the OahuMPO to maintain its federal certification as the metropolitan planning organization for Oahu, and I respectfully request your support of its passage.

For urban areas larger than 200,000 residents, the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) jointly review and certify MPO operations at least every four years. In 2014, the OahuMPO certification review contained eleven corrective actions. The first of the corrective actions was:

*"Revise HRS 279E to ensure appropriate authority for the MPO to comply with Federal laws applicable to the MPO...."*

If the Legislature fails to pass a bill revising HRS 279E this session, OahuMPO will be jointly decertified by FHWA and FTA. That decertification would result in the immediate withholding of up to 20% of the federal surface transportation funds normally attributable to Oahu – an amount calculated by FHWA and FTA to be around \$12 million annually. Both roadway and transit funding would be impacted. In addition to this immediate loss of funding, there would also be a cascade of impacts over time. For example, the Transportation Improvement Program (TIP), which is an MPO product that approves projects for federal surface transportation funds, could not be amended. Any new project requested by a participating agency could not be added.

Since 1975 federal laws and regulations applicable to the MPO have changed significantly while HRS 279E has changed very little. Following the 2014 certification review, OahuMPO staff initiated a process of working with the members of the OahuMPO Policy Committee, their Technical Advisory Committee, and the Citizen Advisory Committee to develop a new, draft statute that would address the mandates of the certification review and any other relevant concerns or issues. The result of that process was a draft bill recommended by the OahuMPO Policy Committee on January 12, 2015. Senate Bill 1180 reflects almost all of the Policy Committee's recommendation, and I am confident it addresses the expectations of FHWA and FTA.

For all of these reasons, I urge your support for SB 1180 and approval of the bill as expeditiously as possible.

Sincerely,

Brian Gibson  
Executive Director

**Oahu Metropolitan Planning Organization**

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U.S. Department  
of Transportation

**Federal Highway  
Administration**

**Federal Highway  
Administration:**

Planning Technical  
Services Team

Office of Planning

Hawaii Division  
Office

**Federal Transit  
Administration:**

Office of Planning  
and Environment

Region IX

# Program Review

## Oahu Metropolitan Planning Organization

### TMA Certification Review

**September 26, 2014**

**Final REPORT**

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## Executive Summary

Federal law requires the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) to jointly certify the transportation planning processes of the Transportation Management Areas (TMAs) at least every four years (a TMA is an urbanized area, as defined by the U.S. Census, with a population over 200,000). A certification review generally consists of four primary activities: a review of planning documents, a site visit, a FHWA/FTA certification report and a certification review closeout presentation.

The Oahu Metropolitan Planning Organization (OahuMPO) and its member agencies are eligible to accept planning and project funding through Federal-aid programs that are allocated directly to the Metropolitan Planning Organization (MPO) for the purpose of meeting planning requirements under 23 U.S.C. 135 and 23 CFR 450. The use of Federal-aid funds must comply with applicable Federal statutes and regulations. Additionally, the Federal-aid program is unique in that, as a matter of law, aid recipients voluntarily agree to abide by the conditions of the grant, including, complying with all federal regulations. At issue with this TMA certification review is whether the MPO is meeting those Federal laws and regulations as a recipient of Federal-aid.

A joint FHWA/FTA Federal Review Team conducted a review of the Oahu Metropolitan Planning Organization (OahuMPO), the TMA for the Island of Oahu, Hawaii on June 2- 5, 2014. The previous TMA certification review occurred in 2011, and resulted in corrective actions and a series of recommendations designed to motivate the MPO into compliance with federal planning requirements.

Since the 2011 TMA Certification, the FHWA Hawaii Division Office and FTA Region IX, have become increasingly aware of continued and escalating challenges that appear to be limiting the TMA's ability to meet the intent of federal planning rules. Therefore, the Hawaii Division in coordination with FTA Region IX initiated a TMA certification review lead by independent FHWA and FTA staff with the assistance of FTA Region IX and FHWA Hawaii Division staff. This TMA certification review is designed to identify specific actions, deadlines and consequences for non-compliance of federal planning rules.

Based on the overall findings of the independent review team, the FHWA and FTA jointly certify the federal planning processes of the OahuMPO as carried out by its staff and member agencies for the Island of Oahu, contingent upon the resolution of specified Corrective Actions within the timeframes outlined in this report.

**This certification will remain in effect until July 26, 2015, the first date on which several Tier 1 corrective action deadlines are identified. This certification remains in effect unless otherwise voided by FTA and FHWA due to failure to appropriately address the corrective actions.**

### ***Summary of Key Observations***

- Hawaii Revised Statute Chapter 279E-Metropolitan Planning Organization provides the legal designation for the TMA, and legislates the structure of its membership and function of the MPO. This legislation conflicts with 23 U.S.C 134 and 135 and 23 CFR 450.
- The 2008 Comprehensive Agreement, which is the only operating agreement for OahuMPO, does not meet federal requirements.
- The MPO Policy, Executive and Technical Advisory Committees do not have defined or documented governance.
- The MPO lacks adequate documentation of the procedures used to develop, amend or modify key metropolitan planning products.
- Member agencies and MPO staff expressed confusion and conflict over the roles and responsibilities to develop and administer the Overall Work Program and the roles and responsibilities of the administrative host agency.
- The MPO lacks documentation for the coordination and procedures for data collection, maintenance and sharing.
- MPO membership funding for the administration of the MPO and Overall Work Program (OWP) work tasks are not defined or documented.

- MPO staff does not have the technical capacity necessary to fully implement federal requirements.
- The MPO lacks Committee member training and education resources on MPO planning processes and Committee member roles and responsibilities.
- MPO staff does not follow documented procurement and administration practices.
- Several required MPO planning products do not fully meet federal requirements.

**Summary of Corrective Actions and Recommendations**

<b>Corrective Actions</b>	<b>Reference</b>	<b>Responsible Parties</b>	<b>Compliance Deadline</b>
<p><b>Tier 1 – Corrective Actions</b></p> <p><i>Consequence if not resolved by the Compliance Deadline:</i>  <b>Not certify the MPO</b></p>			
<p>Revise HRS 279E to ensure appropriate authority for the MPO to comply with Federal laws applicable to the MPO as outlined in the December 16, 2013 letter from FHWA (Appendix C).</p> <p><i>Note: This corrective action was added in response to the OahuMPO’s comments on the draft report, which indicated a need to change the state law as a prerequisite to completing the following tier 1 corrective actions.</i></p>	<p>23 U.S.C 134 and 135</p> <p>23 CFR 450</p>	<p>Policy Committee led by Co-chairs</p>	<p>Within 60-days of the conclusion of the 2015 State Legislative Session</p>
<p>Approve and sign a revision to the 2008 Comprehensive Agreement to reflect a continuing, cooperative, and comprehensive, multimodal transportation planning process, including the following changes:</p> <ul style="list-style-type: none"> <li>• Define the body as the Policy Board;</li> <li>• Define the decisionmaking structure of the MPO and the role and responsibility of each body, e.g. the Executive Committee, Technical Advisory Committee and Policy Board;</li> <li>• Define Policy Board membership and define the eligibility of ex-officio membership;</li> <li>• Define the eligibility of designated alternates within the MPO decisionmaking structure to ensure the opportunity for meeting quorum;</li> <li>• Define the use of sub-agreements; and,</li> <li>• Define the funding structure of the MPO including member contributions.</li> </ul>	<p>23 CFR 450.310</p>	<p>Policy Committee  MPO staff  HDOT  DTS  HART</p>	<p>Within 10 months of issuance of final certification report</p> <p><b>July 26, 2015</b></p>
<p>Develop and sign supplemental agreements with individual MPO member agencies or groups of member agencies to specify roles and</p>	<p>23 CFR 450.314</p>	<p>Policy Committee  TAC  MPO staff</p>	<p>Within 10 months of issuance of final certification report</p>

<b>Corrective Actions</b>	<b>Reference</b>	<b>Responsible Parties</b>	<b>Compliance Deadline</b>
responsibilities for the following: <ul style="list-style-type: none"> <li>• Between the OahuMPO and the host agency (currently HDOT) outlining roles, responsibilities and required administrative procedures including, staffing and procurement.</li> <li>• Between the OahuMPO, and member agencies for consistent and dependable financial support for the MPO operation and formalizing funding for OWP planning activities.</li> <li>• Between the OahuMPO, and member agencies for the collection, maintenance and sharing of data necessary to develop and maintain the ORTP, TIP and CMP. This may include data associated with land use, travel, transportation funding/revenues and costs.</li> </ul>		HDOT DTS DPP	<b>July 26, 2015</b>
Develop and approve bylaws for the Policy, Executive and Technical Advisory Committees. Bylaws should include and address: <ul style="list-style-type: none"> <li>• The function and role of the body within the MPO structure;</li> <li>• Role and responsibility of member agencies;</li> <li>• Define the use of proxies or designated alternates and their relationship to voting and quorum;</li> <li>• Define a regular meeting schedule and time;</li> <li>• Define the process for the delivery of meeting materials; and,</li> <li>• Define new member orientation and education processes.</li> </ul>	23 CFR 450.314	Executive Committee Policy Committee TAC MPO staff	Within 10 months of issuance of final certification report  <b>July 26, 2015</b>

<b>Tier 2 – Corrective Actions</b>			
<i>Consequence if not resolved by the Compliance Deadline:</i> <b>Non-approval of the FY16 OWP and/or OahuMPO portion of FY16 STIP</b>			
Identify and document procedures for the development and approval of key planning products, e.g. ORTP, OWP, and TIP.	23 CFR 450.306	MPO staff w/planning partners Committees	Within 12 months from issuance of final certification report  <b>September 26,</b>

<b>Corrective Actions</b>	<b>Reference</b>	<b>Responsible Parties</b>	<b>Compliance Deadline</b>
			<b>2015</b>
Develop and document a list of available planning data among partner agencies, and the protocols for interagency transportation planning data collection, maintenance and sharing	23 CFR 450.320	MPO staff and TAC	Within 12 months from issuance of final certification report  <b>September 26, 2015</b>
Update and approve the Congestion Management Process. The revised CMP must include procedures to implement CMP outcomes and influence project selection for the ORTP and TIP. The CMP must also include performance measures that demonstrate the effectiveness of congestion reduction strategies.	23 CFR 450.320	MPO staff and TAC	Within 12 months from issuance of final certification report  <b>September 26, 2015</b>

<b>Tier 3 – Corrective Actions</b>			
<b>Consequence if not resolved by the Compliance Deadline: Non-approval of the OWP and/or OahuMPO portion of the STIP</b>			
The OWP must document all planning studies, processes, and programs funded through the MPO with federal funds regardless if they are current or on-going projects. The same level of information should be provided to ensure funding is available and to provide a full outline of the MPO's planning program.	23 CFR 450.308 (c)	Policy Committee TAC MPO Staff	With the Policy Committee approval of the FY2016 OWP  <b>July 2015</b>
Required ORTP Preparation and Content Improvements: <ul style="list-style-type: none"> <li>Consult with State and local agencies responsible for land management, natural resources, environmental protection, conservation, and historic preservation concerning the development of the transportation plan.</li> <li>The ORTP must include a discussion of the types of potential environmental mitigation activities and potential areas to carry out these activities.</li> <li>The ORTP must demonstrate and document implementation of the approved CMP.</li> <li>The Final ORTP must include a documented disposition of public</li> </ul>	23 CFR 450.322	Policy Committee TAC MPO staff	The Policy Committee approval of the next ORTP Update  <b>April 2016</b>

<b>Corrective Actions</b>	<b>Reference</b>	<b>Responsible Parties</b>	<b>Compliance Deadline</b>
<p>comments received.</p> <ul style="list-style-type: none"> <li>The ORTP must include documentation of the analysis completed for Title VI/ EJ.</li> </ul>			
<p>Required TIP Preparation and Content Improvements:</p> <ul style="list-style-type: none"> <li>The Final TIP must include a documented disposition of public comments received.</li> <li>The TIP must demonstrate and document implementation of the approved CMP.</li> <li>The TIP must include documentation of the analysis completed for Title VI/ EJ.</li> </ul>	23 CFR 450.324	Policy Committee TAC MPO staff	With Policy Committee approval of the next TIP - following the issuance of this report.
<p>Required Public Participation Plan improvements:</p> <ul style="list-style-type: none"> <li>The documentation of the disposition of public comments in the final ORTP and TIP.</li> <li>Document explicit outreach techniques to engage traditionally underserved populations (Title VI/ EJ).</li> </ul>	23 CFR 450.316	Policy Committee TAC MPO staff	<p>The Policy Committee approval of the next ORTP Update</p> <p><b>April 2016</b></p>

<b>Recommendations</b>	<b>Responsible Parties</b>
<b>Recommendations</b>	
<p>OahuMPO staff technical capacity enhancements:</p> <ul style="list-style-type: none"> <li>Prepare 5-year Strategic Plan - outlining upcoming product deadlines; training interests and needs; technical capacity and professional service needs; administrative procedures, processes and deadlines; and new product and planning opportunities and timelines.</li> </ul>	Policy Committees MPO staff
<p>OahuMPO administrative improvements:</p> <ul style="list-style-type: none"> <li>Establish formal performance reviews and appraisals for the MPO Director and MPO staff to monitor and recognize technical capacity and administrative improvements, needs and successes.</li> <li>The MPO Director should engage in focused training in leadership, management, public relations and working with the media in a public position.</li> <li>A mentorship program for the MPO Director and MPO staff could help support and improve technical capacities and job satisfaction.</li> </ul>	Policy Committees MPO staff
<p>Develop Training Curriculum:</p> <ul style="list-style-type: none"> <li>Outlining role and responsibility of the MPO for regional transportation planning and programming and the steps necessary to meet requirements; the MPO decisionmaking structure and roles and responsibilities for decisionmaking; how components of the MPO and MPO products relate to</li> </ul>	Policy Committees MPO staff

<b>Recommendations</b>	<b>Responsible Parties</b>
<p>the overall multi-modal transportation planning process; how the MPO planning and programming decisions are carried out through and related to member agency decisionmaking processes and programs.</p>	
<p>ORTP Cost Estimation Process:</p> <ul style="list-style-type: none"> <li>• The MPO should research how member agencies estimate project costs to better understand consistencies and inconsistencies between agencies and to improve cost estimation for the ORTP.</li> <li>• The MPO should establish procedures to ensure cost estimates meet specific currency standards to improve support for fiscal constraint of the ORTP.</li> <li>• The MPO should establish cost estimate update procedures as projects move from the ORTP to the TIP.</li> </ul>	<p>TAC MPO Staff</p>
<p>Manage CAC Expectations in the decisionmaking process:</p> <ul style="list-style-type: none"> <li>• The MPO should clarify in the CAC bylaws and in the PPP when in the decisionmaking process the CAC will be invited to provide comments, any parameters by which the CAC should focus its comments, and how CAC comments will be considered by the TAC and through the Policy Committee decisionmaking processes.</li> <li>• All OahuMPO documented planning processes (OWP, ORTP, TIP) should clearly define how the CAC will be involved, the parameters of its involvement, and how any comments received will be considered by the TAC and Policy Committee.</li> </ul>	<p>Policy Committee TAC CAC MPO Staff</p>

## Background

The Metropolitan Transportation Planning Process is conducted according to the requirements of the *Moving Ahead for Progress in the 21st Century Act* (MAP-21), signed into law on July 6, 2012. The United States Department of Transportation (U.S. DOT) is currently in the process of finalizing the Statewide and Metropolitan Planning Final Rule, which will set federal requirements for the transportation planning process. These requirements will update those currently found in 23 CFR Part 450 and 49 CFR Part 613, the Metropolitan Planning Regulations, and will continue to be closely tied with the Clean Air Act Amendments of 1990 through the U.S. Environmental Protection Agency's (EPA) Air Quality Conformity Regulations.

The metropolitan planning regulations require that the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) jointly review and evaluate the transportation planning process conducted in each urbanized area or Transportation Management Area (TMA) with a population over 200,000 no less than once every four years. This review assesses the extent to which each Metropolitan Planning Organization (MPO) meets the requirements of the metropolitan planning regulations and, in air quality non-attainment or maintenance areas, evaluates the process to ensure compliance with the plans and programs of the EPA's Air Quality Conformity regulations. Upon completion of this review, FHWA and FTA may jointly certify with recommendations, certify with corrective actions, or decertify the metropolitan planning process.

The Oahu Urbanized Area was designated an MPO by the Hawaii State Legislature on December 3, 1975 with the passage of Chapter 279E, of the Hawaii Revised Statutes (HRS 279E). The OahuMPO was designated a TMA on October 29, 1992. The Hawaii Department of Transportation (HDOT) is the administrative host for the MPO, meaning that MPO staff are paid through and follow the administrative requirements and procedures of HDOT.

As the designated MPO, OahuMPO is offered the opportunity to accept Federal-aid for planning purposes and member agencies are eligible to accept project funding under the Surface Transportation Program, both of which are allocated directly to the MPO for purposes of meeting planning requirements under 23 U.S.C 135 and 23 CFR 450. The use of Federal-aid funds must comply with applicable Federal statutes and regulations. Additionally, the Federal-aid program is unique in that, as a matter of law, aid recipients voluntarily agree to abide by the conditions of the grant, including, complying with all federal regulations. At issue with this TMA certification review is whether the MPO is meeting those Federal laws and regulations as a recipient of Federal-aid.

Previous TMA Certification Reviews for OahuMPO indicated concern with respect to the region's ability to support a continuing, cooperative, and comprehensive multi-modal transportation planning process as required by federal law. The 2011 TMA certification review report resulted in a corrective action and a series of recommendations designed to bring the MPO into compliance with federal planning requirements.

Since the 2011 TMA Certification, the FHWA Hawaii Division Office and FTA Region IX, despite close technical guidance and stewardship activities, became increasingly aware of continued and escalating challenges that appear to limit the TMA's ability to meet the intent of federal planning rules. Therefore, the Hawaii Division in coordination with FTA Region IX initiated a TMA certification review lead by independent FHWA and FTA staff with the assistance of FTA Region IX and FHWA Hawaii Division staff.

The current review of the MPO was conducted June 2-5, 2014. This TMA certification review is designed to identify specific actions, deadlines and consequences for continued non-compliance with federal planning rules.

## Purpose and Objective

The purpose of this TMA certification review for the OahuMPO is to identify strengths, weaknesses, and opportunities for improvement in OahuMPO operations and practices to support and strengthen a continuing, cooperative, and comprehensive multi-modal transportation planning process.

The objective is to build upon prior federal Certification Reviews and a self-assessment currently underway at OahuMPO to develop a specific set of actions and recommendations that will support improvements to the OahuMPO planning processes, and move the organization into compliance with federal planning requirements.

## Scope and Methodology

The FHWA Hawaii Division Office and FTA Region IX identified a series of issues limiting the MPO's ability to operate in a continuing, cooperative, comprehensive manner in order to meet federal planning requirements. These issues helped focus the scope of the review. These issues included:

- Difficulty of the Policy Committee to schedule meetings and make quorum when meetings are scheduled;
- Confusion about administrative procedures, roles, and responsibilities between MPO staff and HDOT as the host for the MPO;
- Conflicts among MPO member agencies regarding the funding of projects in the OWP and TIP;
- Confusion about member agency roles and responsibilities for the MPO
- Confusion about procedural steps to develop, approve, and implement MPO products, the federal requirements for these products, and MPO planning processes; and,
- Negative perceptions by MPO member agencies of FHWA Hawaii Division for actions taken to assist in the resolution of conflicts

The FHWA Division and FTA Region agreed to assemble an independent team of FHWA and FTA staff from the FHWA Planning Technical Services team and the Office of Planning and the FTA Office of Planning and Environment to lead a TMA Certification Review. The scope of the review included the MPO planning program and process issues in Oahu based on current federal planning rules. The ultimate goal for the team was to establish specific actions, deadlines and consequences for non-compliance of federal planning rules if action deadlines are not met. The independent team was assisted by FTA Region IX staff and FHWA Hawaii Division throughout the review processes.

The team developed a week-long agenda that included meetings with the MPO (staff, TAC, and member agencies); individual meetings with each of the MPO staff; individual meetings with HDOT, City and County of Honolulu Department of Transportation Services (DTS), Honolulu Authority for Rapid Transit (HART), and the current and immediate past Chairs of the Policy Committee. Appendix A provides the agenda for the week and agendas for both the meetings with the MPO and individual meetings. All individual meetings were designed to be similar in scope and questions asked.

The objectives of the review suggested by FHWA Hawaii Division and FTA Region IX included the following:

1. Identify how the OahuMPO (staff and Policy Committee), HDOT, HART, and DTS view the role and responsibility of the OahuMPO Policy Committee in transportation planning on and for Oahu.
2. Identify the roles and responsibilities of the Policy Committee. Document how they are practiced (implemented). Identify the Policy Committee's goals, objectives, and accomplishments and how they are tracked and met.
3. Determine the roles and benefits of the MPO committees in supporting the Policy Committee. These included the Technical Advisory Committee (TAC), Citizen's Advisory Committee (CAC), and the Executive Committee. Identify and document how these committees practice and how their work moves forward to the Policy Committee.
4. Identify and document the tools, resources, and education needed by the Policy Committee to fulfil its duties. Determine what is used and what is missing that would allow it to do its job better. Identify how, if at all, the Hawaii State Sunshine Law affects training opportunities for the Policy Committee.
5. Ascertain how the MPO staff and the Policy Committee interact. Document the MPO staff roll as perceived by the Policy Committee, MPO Staff, and the participating agencies.

6. Identify and document the adequacy of the Policy Committee meeting schedule, meeting support materials, and other briefing materials for the committee’s decisionmaking. Determine and document if the meetings are set up to ensure that the Policy Committee is meeting federal requirements.
7. Assess state legislation pertaining to the OahuMPO.
8. Review and consider findings by OahuMPO’s planning consultant.

The TMA certification review report includes observations, corrective actions and recommendations. These are defined as follows:

- **Observations:** Observations reflect statements of fact as noted from the perspective of the review team. Observations are derived from the team’s review of MPO documents and/or statements made to the review team from various participants throughout the review process. These statements define the current state of the MPO and are in part the basis for determining compliance with federal law and regulation.
- **Corrective Actions:** Corrective actions define the action the MPO must take to come into compliance with federal planning regulations under 23 CFR 450. Corrective actions carry with them compliance deadlines, defining when the corrective action must be resolved, consequences if the corrective action is not resolved by the defined compliance deadline and responsible parties, identifying which person, MPO Committee, or participating agency is responsible for taking action to resolve the corrective action.
- **Recommendations:** Recommendations reflect improvements to the MPO based on proven national practices that the MPO may benefit from implementing. Recommendations are not tied to federal law or requirements and are not mandatory for compliance. No consequences are identified or timeline given for resolution of recommendations since they are at the discretion of the MPO.

For this review, the report is divided into 3-Tiers. Each tier reflects a level of immediacy and a specific consequence applied to each corrective action within that Tier. Tiers and their respective consequences are defined below:

	<i><b>Tier Definition</b></i>	<i><b>Consequence Definition</b></i>
<b>Tier 1</b>	Tier 1 reflects activities necessary to support a fully functioning, continuing, cooperative, and comprehensive MPO planning process as described in 23 CFR 450. These activities are fundamental to the success of the MPO overall in order to meet all other planning requirements. Therefore, Tier 1 carries with it the highest priority and the most significant consequence	<b>Not certify the MPO Planning Process.</b>  Not certifying means that 20 percent of the apportionment attributed to the metropolitan planning area (approximately \$12 million highway and transit) may be withheld,(23 CFR 450.334(b)(2)) Non-certification will remain in place until the MPO can demonstrate compliance through the resolution of corrective actions outlined under Tier 1.
<b>Tier 2</b>	Tier 2 reflects activities necessary to facilitate the development and execution of key MPO planning requirements under 23 CFR 450. The MPO is responsible for administering the regional planning process and program through the development of key documents and processes. Corrective actions under Tier 2 support the development and administration of key planning documents and processes for which the MPO is responsible.	<b>FHWA/FTA non-approval of the FY16 OWP and/or OahuMPO portion of FY16 STIP.</b>  FHWA and FTA non-approval means that projects identified in the FY 16 OWP and/or OahuMPO portion of the STIP will not be eligible for federal funding. Federal funding will remain unavailable until such time that OahuMPO demonstrates compliance through the resolution of corrective actions outlined under Tier 2,

	<i>Tier Definition</i>	<i>Consequence Definition</i>
		and Federal approval is given for the OWP and/or the OahuMPO portion of the STIP
<b>Tier 3</b>	Tier 3 reflects activities necessary to meet key MPO planning document requirements under 23 CFR 450. The MPO is responsible for developing key documents to support and reflect their continuing, cooperative, and comprehensive MPO planning process. Corrective actions under Tier 3 support the documentation of specific elements of the MPO's continuing, cooperative, and comprehensive MPO planning process required for those documents noted in the corrective actions.	<b>FHWA/FTA non-approval of the FY16 OWP and/or OahuMPO portion of FY16 STIP.</b>  FHWA and FTA non-approval means that projects identified in the FY 16 OWP and/or OahuMPO portion of the STIP will not be eligible for federal funding. Federal funding will remain unavailable until such time that OahuMPO demonstrates compliance through the resolution of corrective actions outlined under Tier 2, and Federal approval is given for the OWP and/or the OahuMPO portion of the STIP

## Team Members

### *Independent Team Members:*

Team Lead: Brian Betlyon – FHWA Resource Center Planning Team  
Theresa Hutchins – FHWA Office of Planning  
Dwayne Weeks – FTA Office of Planning and Environment

### *FTA Region IX*

Ray Sukys  
Ted Matley

### Liaison, Point of Contact and Resource:

*FHWA Hawaii Division Office*  
Elizabeth Fischer

## Observations and Recommendations

### Tier 1

Activities necessary to support a fully functioning, continuing, cooperative and comprehensive MPO planning process as described in 23 U.S.C 134 and 135 and 23 CFR 450.

#### Tier 1 - Observation #1: Legal Designation of the MPO

- MPO Members identified on-going concerns about conflicts between Hawaii Revised Statute (HRS) Chapter 279E – Metropolitan Planning Organization and Federal requirements for the MPO. In addition, members raised concerns that the MPO would not be able to enter into any additional agreements to enable them to come into compliance with Federal law beyond the Comprehensive Agreement signed as a result of HRS 279E.
- Hawaii Revised Statute (HRS) Chapter 279E-Metropolitan Planning Organization provides the legal designation for the TMA, and legislates the structure of its membership and function of the MPO. However, as documented in the December 16, 2013 letter from the Federal Highway Administration to the OahuMPO, (Attachment C),HRS 279E does not reflect or support the requirements of 23 U.S.C. 134 and 135 or 23 CFR 450. As a result, the MPO does not appear to have the legal authority necessary to function or make decisions as prescribed by Federal law.
- MPO members and staff have expressed interest in revising the State law to support Federal requirements. Based on August 27th correspondence from the MPO Director, it appears efforts have been initiated to support changes to the State law based on the information provided by FHWA in the December 16, 2013 letter.

#### Tier 1 – Legal Designation of the MPO

*Consequence if not resolved by the Compliance Deadline:* Not certify the MPO

<i>Legal Designation of the MPO Corrective Actions</i>	<i>Reference</i>	<i>Responsible Parties</i>	<i>Compliance Deadline</i>
Revise HRS 279E to ensure appropriate authority for the MPO to comply with Federal laws applicable to the MPO as outlined in the December 16, 2013 letter from FHWA (Appendix C).	23 U.S.C 134 and 135  23 CFR 450	Policy Committee led by Co-chairs	Within 60-days of the conclusion of the 2015 State Legislative Session

#### Tier 1 – Observation #2: Agreements and Contracts

- The OahuMPO is recognized by the State of Hawaii in Chapter 279E of the Hawaii Revised Statutes. This statute establishes the OahuMPO as an advisory body to the legislature and does not support OahuMPO as the decisionmaking body as specified by federal law. The state statute does not change or alter the MPO’s role and responsibility for regional decisionmaking based on federal law, and as a recipient of federal funds. However, from the MPO member agency perspective, this fundamental contradiction in state statute has seemingly hindered the members from working in a continuing, cooperative, and comprehensive manner. As a result, the OahuMPO is challenged in its efforts to develop an effective metropolitan planning process for the island of Oahu.

- Some OahuMPO planning partners appear to regard HRS 279E as pre-emptive of OahuMPO from complying with federal regulations.
- There have been limited efforts to amend or rescind the clause(s) that place OahuMPO as an “advisory” body to the legislature, which appears to have perpetuated the confusion regarding the federal planning requirements and seemingly limited partner agencies from fully engaging in a continuing, cooperative, and comprehensive (3C) transportation planning process. The result is that some agencies use the decisions made through OahuMPO as advisory, meaning there is evidence that decisions made by the MPO Policy Committee were ignored, either through lack of action, or by withholding previously approved and agreed to funding.
- OahuMPO currently operates in accordance with a 2008 Comprehensive Agreement between the MPO, the State of Hawaii and the City and County of Honolulu. This agreement is outdated and is not comprehensive in its definition of agency roles and responsibilities to conduct an effective metropolitan planning process on Oahu as prescribed by federal law.
- Beyond the Comprehensive Agreement, there is no evidence of any other documentation to formalize many of the processes and components necessary to support a functioning MPO. The lack of supplemental agreements under the “umbrella” of the Comprehensive Agreement has contributed to many of the problems the MPO is experiencing that inhibit the 3C process, including specificity on data collection/sharing, necessary to develop and maintain the Oahu Regional Transportation Plan (ORTP), Transportation Improvement Program (TIP) and Congestion Management Plan (CMP). Additionally, MPO member funding arrangements to support the administration and OWP activities is not formally assigned, leaving those activities vulnerable to changing agency interests.
- OahuMPO members indicated confusion and the presence of conflict over the roles and responsibilities to develop and administer the Overall Work Program (OWP), and the role of the host agency to support the administrative processes and funding for the MPO.

**Tier 1 – Agreements and Contracts: Corrective Actions**

*Consequence if not resolved by the Compliance Deadline:* Not certify the MPO

<b>Agreements and Contracts Corrective Actions</b>	<b>Reference</b>	<b>Responsible Parties</b>	<b>Compliance Deadline</b>
<p>Approve and sign a revision to the 2008 Comprehensive Agreement to reflect a continuing, cooperative, and comprehensive, multi-modal transportation planning process, to include the following:</p> <ul style="list-style-type: none"> <li>• Define the decisionmaking body as the Policy Board;</li> <li>• Define the decisionmaking structure of the MPO and the role and responsibility of each body, e.g. the Executive Committee; Technical Advisory Committee and Policy Board;</li> <li>• Define Policy Board membership and define the eligibility of ex officio membership;</li> <li>• Define the eligibility of alternates within the MPO decisionmaking structure to ensure the opportunity for meeting quorum;</li> <li>• Define the use of sub-agreements;</li> </ul>	23 CFR 450.310	Policy Committee MPO staff HDOT DTS HART	Within 60-days of the conclusion of the 2015 State Legislative Session

<b>Agreements and Contracts Corrective Actions</b>	<b>Reference</b>	<b>Responsible Parties</b>	<b>Compliance Deadline</b>
<ul style="list-style-type: none"> <li>and,</li> <li>Define the funding structure of the MPO, including member contributions.</li> </ul>			
Develop and sign supplemental agreements with individual MPO member agencies or groups of member agencies to specify roles and responsibilities for the following: <ul style="list-style-type: none"> <li>Between the OahuMPO and the host agency (currently HDOT) outlining roles, responsibilities and required administrative procedures including staffing and procurement.</li> <li>Between the OahuMPO, and member agencies for consistent and dependable financial support for the MPO operation and formalizing funding for OWP planning activities.</li> <li>Between the OahuMPO, and member agencies for the collection, maintenance and sharing of data necessary to develop and maintain the ORTP, TIP and CMP. This may include data associated with land use, travel, transportation funding/revenues and costs.</li> </ul>	23 CFR 450.314	Policy Committee TAC HDOT DTS DPP MPO staff	Within 10 months of issuance of final certification report  <b>July 26, 2015</b>

**Tier 1 – Agreements and Contracts: Recommendations**

- None

**Tier 1 - Observation # 3: Organizational Structure**

- As mentioned previously, the OahuMPO (OahuMPO) is recognized by the State of Hawaii in Chapter 279E of the Hawaii Revised Statutes. However, this statute establishes the OahuMPO as an advisory body and not the decisionmaking body as required by federal Law. This fundamental contradiction with federal law has led to confusion about the role and responsibility of a Metropolitan Planning Organization and has hindered OahuMPO in developing an effective metropolitan planning process for the island of Oahu.
- The OahuMPO structure is comprised of a Policy Committee, Executive Committee, Technical Advisory Committee (TAC), Citizen Advisory Committee (CAC), and staff to these committees.
- The State of Hawaii implemented a “Sunshine Law” requiring all meetings of public and elected officials be publicized, held in public spaces, and that meetings take place when there is a quorum. All MPO committees (Policy, Executive, TAC, and CAC) are subject to the Sunshine Law. This law is not exceptional to the OahuMPO, or unique to most MPOs across the nation. However, in response to the Sunshine Law, the OahuMPO has limited both the role of some committees, and only schedules meetings of its’ Committees, including the Policy Committee, only on those days and times when a quorum is assured. This practice has resulted in few meetings being scheduled due to member availability and the

priority given by members to support MPO meeting participation. It has also resulted in meetings that do not start at the advertised time due to members who arrive late or meeting cancellations after the advertised meeting start time because of a lack of quorum.

## **POLICY COMMITTEE**

- In compliance with federal regulations and notwithstanding HRS 279E, the Policy Committee is the decisionmaking body for OahuMPO. It is comprised of the following members as outlined in HRS 279E:
  - Five members of the City Council, at least three must have primary responsibilities for transportation issues,
  - Three members of the State Senate, one of whom shall be the chairperson of the Senate Committee with primary responsibility for transportation issues and two of whom shall be residents of the City and County of Honolulu and appointed by the Speaker of the House,
  - Three members of the State House of Representatives, one of whom shall be the chairperson of the House Committee with primary responsibility for transportation issues and two whom shall be residents of the City and County of Honolulu and appointed by the Senate President,
  - State Director of Transportation,
  - Director of the City Department assigned primary responsibility for transportation planning, and;
  - Executive Director of the Honolulu Authority for Rapid Transportation.
- Quorum consists of at least six members of the MPO policy committee present, of whom at least three must be state members and at least three must be county members. Reaching quorum for scheduled meetings has been a persistent problem, such that meetings are only scheduled based on the confirmed availability of members in the hopes of meeting quorum requirements. However, even with that precaution, on the day of the meeting there is often a delay to the start time until members arrive and quorum can be reached or, if quorum cannot be reached, the meeting is canceled due to a lack of quorum.
- Currently, the Policy Committee member appointed to OahuMPO by virtue of his seat on the Senate Transportation Committee resides on the island of Maui. The appointment to the OahuMPO does not consider residency or the individual's affiliation with Honolulu or the Island of Oahu.
- The MPO planning partners recognize that the Policy Committee should change its name to "Policy Board" to be consistent with the language in the federal regulations, and to enhance its standing in the eyes of the stakeholders as the regional decisionmaking body.
- The Policy Committee does not have designated alternates for the appointed members. As a result, quorum is dependent upon the presence of all represented sectors of the Policy Committee. Recently, quorum for meetings has been a key factor in the frequency of Policy Committee meetings and timeliness of decisions due to the cancellation of meetings for lack of quorum.
- The Policy Committee:
  - does not have formal bylaws,
  - does not have scheduled meeting dates, and,
  - has recently had difficulty getting a quorum present to conduct business
- The Policy Committee members in general do not appear to understand their roles and responsibilities and the importance of their participation as members of a regional decisionmaking body. This confusion has seemingly led some members to assign a low priority to MPO meetings and activities in lieu of other activities within their busy schedules.

## **EXECUTIVE COMMITTEE**

- The Executive Committee is designated through the Comprehensive Agreement with membership from the following:
  - OahuMPO Policy Committee Chair
  - OahuMPO Policy Committee Vice Chair
  - Director of HDOT
  - Director of DTS

- Quorum consists of at least one City and one State Executive Committee member or at least one of which must be from either the State Legislator or the City Council.
- The Executive Committee meetings are prescribed within the Comprehensive Agreement and they meet on an ad hoc basis. Their primary function is to set the agenda for the Policy Committee meetings and to make recommendations to the Policy Committee regarding policy direction and personnel actions.
- The Executive Committee does not appear to function to its full potential given the member’s standing within the community and their role within the MPO. Members of the Executive Committee are in a unique position to act as a catalyst and champion for raising the profile of OahuMPO activities and to ensure priorities and processes of the MPO meet federal requirements through their role in setting the agency agendas, and their leadership on the Policy Committee.

**TECHNICAL ADVISORY COMMITTEE**

- The Technical Advisory Committee (TAC) advises the Policy Committee on technical planning matters and makes recommendations on specific topics as outlined in the Comprehensive Agreement.
- The current co-chairs of the TAC represent the HDOT and DTS, respectively with members specified by the Comprehensive Agreement to include:
  - Two from HDOT
  - Two from State Department of Business, Economic Development and Tourism
  - Two from DTS
  - Two from City Department of Planning and Permitting
  - The Managing Director of the Hawaii Transportation Association (non-voting)
  - One faculty Member from the University of Hawaii (Non-voting)
  - One each from FHWA, FTA, and Federal Aviation Administration (FAA) (Non-voting)
- The TAC has a regular meeting schedule.
- The TAC operates under documented procedures most recently amended in 2010.
- The TAC does have designated alternates for its members.
- The TAC discussions could benefit from having more time to review information provided for specific agenda items.

**CITIZEN ADVISORY COMMITTEE**

- The Citizen Advisory Committee (CAC) solicits and presents public input to advise the Policy Committee and MPO Executive Director in accordance with the OahuMPO Public Participation Plan.
- The CAC membership is broad-based and includes representatives from non-governmental organizations and City Neighborhood Boards.
- The CAC meets regularly and does have bylaws originally created in 1997 and last amended in 2011.

**Tier 1 – Organizational Structure: Corrective Actions**

*Consequence if not resolved by the Compliance Deadline:* Not certify the MPO

<b>Organization Structure Corrective Actions</b>	<b>Reference</b>	<b>Responsible Parties</b>	<b>Compliance Deadline</b>
Develop and approve bylaws for the Policy, Executive and Technical Advisory Committees. Bylaws should include and address: <ul style="list-style-type: none"> <li>• The function and role of the body within the MPO structure;</li> <li>• Role and responsibility of member</li> </ul>	23 CFR 450.314	Executive Committee Policy Committee TAC MPO staff	Within 10 months of issuance of final certification report  <b>July 26, 2015</b>

agencies; <ul style="list-style-type: none"> <li>Define the use of proxies or designated alternates and their relationship to voting and quorum;</li> <li>Define a regular meeting schedule and time;</li> <li>Define the process for the delivery of meeting materials;</li> <li>Define new member orientation and education processes.</li> </ul>			
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**Tier 1 – Agreements and Contracts: Recommendations**

- None

**Tier 2**

Activities necessary to facilitate the development and execution of key MPO planning requirements under 23 CFR 450.

**Tier 2 - Observation #4: MPO Procedures**

- Similar to many MPOs, the OahuMPO operates using procedures practiced over many years. However, few procedures are documented outside of Committee meeting minutes. This has contributed to member confusion and general conflict when procedures change, or when anticipated next steps are not followed.
- The MPO hires consultants to complete many of the required key documents including the ORTP, CMP, travel models, etc. Recent documents have been completed without consideration for Policy Committee approved supporting documents. For example, the most recent ORTP did not include the use of the Policy Committee approved CMP. This has contributed to the confusion among MPO members regarding how these supporting documents are used in the planning process, and has resulted in a duplication of effort by consultants who are hired to develop documents that meet federal requirements, unaware that supporting documents exist that could be used.
- Data necessary to develop and manage the documents and processes required for the MPO is made available through various agencies within the state, through MPO member agencies. TAC members expressed frustration over the collection and availability of data. This has resulted in confusion over what is specifically needed to support MPO processes and who is responsible for collecting and receiving data and ultimately a delay in getting data when needed to maintain MPO planning schedules.

**Tier 2 – MPO Procedures: Corrective Actions**

*Consequence if not resolved by the Compliance Deadline:* Non-approval of the FY16 OWP and/or OahuMPO portion of FY16 STIP

<b>MPO Procedures Corrective Actions</b>	<b>Reference</b>	<b>Responsible Parties</b>	<b>Compliance Deadline</b>
Develop and document procedures for the development and approval of the OWP, ORTP, TIP, and other planning documents,	23 CFR 450.306	MPO staff w/planning partners	Within 12 months from issuance of final certification

including agency and committee roles, responsibilities, review/approval timelines and amendment and modification procedures..		Approval by MPO Committees	report <b>September 26, 2015</b>
Develop and document a listing of available planning data among partner agencies, and the protocols for interagency transportation planning data collection, maintenance and sharing	23 CFR 450.320	MPO staff and TAC	Within 12 months from issuance of final certification report <b>September 26, 2015</b>

**Tier 2 – MPO Procedures: Recommendations**

- None

**Tier 2 - Observation #5: Congestion Management Process (CMP)**

- The current CMP was adopted in 2001 and updated in 2005 with only minor changes.
- The CMP includes a project selection process that uses a scoring methodology to provide a greater selection and indication of projects that improve or support improved congestion. This process was not used in the selection projects for the ORTP or the TIP.
- Staff acknowledged that the consultant hired to develop the ORTP did not implement the adopted CMP in the development of the ORTP.
- In 2011, a “State of Congestion” report was issued and identified as a component of the CMP. However, the adopted CMP does not include the development of this kind of report. This report did however provide a useful tool to measure congestion, and the impact congestion is having in the region.

**Tier 2 – CMP: Corrective Actions**

*Consequence if not resolved by the Compliance Deadline:* Non-approval of the FY16 OWP and/or OahuMPO portion of FY16 STIP

<b>CMP Corrective Actions</b>	<b>Reference</b>	<b>Responsible Parties</b>	<b>Compliance Deadline</b>
Update and approve the Congestion Management Process. The revised CMP must include procedures to implement CMP outcomes and influence project selection for the ORTP and TIP. The CMP must also include performance measures that demonstrate the effectiveness of congestion reduction strategies.	23 CFR 450.320	Policy Committee TAC MPO Staff	Within 12 months from issuance of final certification report <b>September 26, 2015</b>

**Tier 2 – CMP: Recommendations**

- None

### Tier 3

MPO planning document requirements under 23 CFR 450.

#### Tier 3 - Observation #6: Overall Work Program (OWP)

- The OWP is developed annually by staff, is based on the state fiscal year, and reviewed by the TAC prior to formal approval by the Policy Committee.
- The current OWP (2014-2015) was approved by the Policy Committee unanimously on July 9, 2013 and was approved by FHWA and FTA on September 6, 2013.
- The OWP outlines funding for OahuMPO administration, specific planning studies, work elements that support the update of the Metropolitan Transportation Plan, and other tasks necessary to meet federal planning requirements.
- The OWP also lists projects previously funded in past OWPs that are on-going, but does not give associated funding information. Additionally funding for these projects are not included in the OWP financial plan.
- Local match funding for the OWP is provided by HDOT and DTS by work element. Generally, most work elements are funded evenly between the two agencies with each agency contributing 10% of the local match in order to meet the 20% match requirement. Some studies identified in the OWP, indicate that the 20% local match is coming solely from one of the two agencies.
- In April 2013, HDOT formally submitted a letter to OahuMPO outlining concern regarding the availability of local match for specific previously funded projects. At least one of these projects was previously identified in the OWP as having local match coming from HDOT.
- On July 15, 2013, HDOT again formally submitted a letter to OahuMPO outlining concern that the procedures used to develop the OWP were not consistent with the approved OWP Process and Procedures. This letter initiated an extensive (July 2013 – May 2014) exchange between HDOT, OahuMPO and FHWA regarding OWP procedures, and the availability of federal funding for current projects in the OWP.
- OahuMPO members indicated confusion and the presence of conflict over the roles and responsibilities to develop and administer the OWP, and the role of the host agency to support the administrative processes and funding for the MPO.
- Much of the work outlined in the OWP is done through consultant contracts. However, OahuMPO staff noted there was confusion about procurement procedures and timelines, which has resulted in the delay of some critical programs and projects. In addition, MPO staff noted a willingness to do work in-house, but that the use of existing staff capacity has not been a consideration, nor has the improvement of staff's technical capacity been explored.

<b>OWP Corrective Actions</b>	<b>Reference</b>	<b>Responsible Parties</b>	<b>Compliance Deadline</b>
The OWP must document all planning studies, processes, and programs funded through the MPO with federal funds regardless if they are current or on-going projects. The same level of information should be provided to ensure funding is available and to provide a full outline of the MPO's planning program.	23 CFR 450.308 (c)	Policy Committee TAC MPO Staff	With the Policy Committee approval of the FY2016 OWP  <b>July 2015</b>

*Additional Corrective Actions relative to the OWP are outlined in Tier 1 and Tier 2.*

### **Tier 3 – OWP: Recommendations**

- OahuMPO Staff Technical Capacity Improvements:
  - Prepare a 5-year strategic plan outlining upcoming planning product deadlines; staff training needs and interests; technical capacity and professional service needs to accomplish planning requirements; administrative procedure/processes deadlines; and new product/planning opportunities and timelines.
- OahuMPO Administrative Improvements:
  - Establish formal performance reviews and appraisals for the MPO Director and MPO staff to monitor and recognize technical capacity and administrative improvements, needs and successes.
  - The MPO Director should engage in focused training in leadership, management, public relations and working with the media in a public position.
  - A mentorship program for the MPO Director and MPO staff could help support and improve technical capacities and job satisfaction.
- Develop and provide MPO Training Curriculum:

Outlining role and responsibility of the MPO for regional transportation planning and programming and the steps necessary to meet requirements; the MPO decisionmaking structure and roles and responsibilities for decisionmaking; how components of the MPO and MPO products relate to the overall multi-modal transportation planning process; how the MPO planning and programming decisions are carried out through and related to member agency decisionmaking processes and programs.

### **Tier 3 - Observation #7: Oahu Regional Transportation Plan (ORTP)**

- The current 2035 ORTP was adopted unanimously by the Policy Committee on April 11, 2011.
- At the time of adoption, the plan covered a 24-year period.
- The 2035 ORTP updated the previous ORTP. The review and update process resulted in confirmation of the previously adopted visioning and regional goals without significant change.
- The 2035 ORTP was developed by a consultant who was not fully aware of the approved CMP. Therefore, the approved MPO's CMP was not fully implemented through the 2035 ORTP.
- Public participation for the plan came largely through the CAC, which provided its own list of projects and comments to be considered by the Policy Committee. The CAC comments and other public comments were shared with Policy Committee prior to adoption of the ORTP.
- Projects included in the ORTP come directly from member agencies irrespective of input from the CAC, ORTP goals, regional needs analysis or the CMP. Many of the projects submitted were included in the previous ORTP. MPO staff worked with the TAC to develop a prioritization process that supported CMP concepts and that assessed each project against regional goals and anticipated needs.
- ORTP project cost estimates come from the agency who owns the project. Many of these projects are identified through individual agency engineering processes and often costs are not current. Project cost estimation and the updating of project costs to determine the most current cost estimate are not prerequisites for inclusion into the ORTP. Planned project cost estimates included in the ORTP are often significantly lower than programmed cost estimates submitted for the TIP, which has created funding challenges at the time of TIP development.
- The ORTP reflects a 4% inflation factor for all costs and revenues to represent the year of expenditure.
- The Financial plan outlines fiscal constraint, and provides an adequate summary of how projects are proposed to be funded throughout the years of the plan. Additionally, the ORTP uses illustrative projects to demonstrate how additional funding may be used to support the goals of the plan.
- A key project for the 2035 ORTP is the HART light rail project, which received a full funding grant agreement from FTA.
- Many of the near-term projects included in the ORTP reflect projects included in member agency planning, programming and budget processes. However, there is little coordination with the ORTP for longer-term planning and project identification completed by member agencies.

- The ORTP does not include a documented analysis of the impact on Environmental Justice (EJ) and Title VI communities. However, staff did map the ORTP funded list of projects onto an overlay of EJ populations to identify any issues, but did not include it in the final ORTP document.
- Staff confirmed that the ORTP did not include the following required elements:
  - Documented disposition of public comments
  - Consultation with land management agencies
  - Summary of possible environmental mitigation;
- A new ORTP is currently underway with an anticipated completion in April 2016. Key issues for the coming update include:
  - Difficulty accessing land use data necessary to develop the travel demand model;
  - Difficulty accessing financial data from member agencies;
  - MPO staff technical capacity - Staff is in the process of hiring a new travel demand modeler, but at the time of this report, funding has not been made available to finalize an offer to selected candidate;
  - Difficulty completing the procurement process to hire a consultant to assist in the development of the plan;
  - New topics to be included in the update, such as freight, climate change, and transportation performance management;
  - Expanded public participation will include listening sessions, neighborhood involvement and the CAC.

**Tier 3 – ORTP: Corrective Actions**

*Consequence if not resolved by the Compliance Deadline:* Non-approval of the FY16 OWP and/or OahuMPO portion of FY16 STIP

<b>ORTP Corrective Actions</b>	<b>Reference</b>	<b>Responsible Parties</b>	<b>Compliance Deadline</b>
Consult with State and local agencies responsible for land management, natural resources, environmental protection, conservation and historic preservation concerning the development of the transportation plan.	23 CFR 322(g)	Policy Committee TAC MPO Staff	With Policy Committee approval of the next ORTP Update  <b>April 2016</b>
The ORTP must include a discussion of the types of potential environmental mitigation activities and potential areas to carry out these activities.	23 CFR 322(f)(7)	Policy Committee TAC MPO Staff	With Policy Committee approval of the next ORTP Update  <b>April 2016</b>
The ORTP must demonstrate and document implementation of the approved CMP.	23 CFR 450.322 (f)(4)	Policy Committee TAC MPO Staff	With Policy Committee approval of the next ORTP Update  <b>April 2016</b>
The Final ORTP must include a documented disposition of public comments received.	23 CFR 316(a)(2)	Policy Committee TAC MPO Staff	With Policy Committee approval of the next ORTP Update  <b>April, 2016</b>

<b>ORTP Corrective Actions</b>	<b>Reference</b>	<b>Responsible Parties</b>	<b>Compliance Deadline</b>
The ORTP must include documentation of the analysis completed for Title VI/ EJ.	Title VI of the Civil Rights Act of 1964  Executive Order 12898  DOT EJ Order 5610.2(a)  FHWA EJ Order 6640.23A	Policy Committee TAC MPO Staff	With Policy Committee approval of the next ORTP Update  <b>April 2016</b>

*Additional Corrective Actions relative to the ORTP are outlined in Tier 1 and Tier 2.*

### **Tier 3 – ORTP: Recommendations**

- ORTP Cost Estimation Process:
  - The MPO should research how member agencies estimate project costs to better understand consistencies and inconsistencies between agencies and to improve cost estimation for the ORTP.
  - The MPO should establish procedures to ensure cost estimates meet specific currency standards to improve support for fiscal constraint of the ORTP.
  - The MPO should establish cost estimate update procedures as projects move from the ORTP to the TIP.

### **Tier 3 - Observation #8: Transportation Improvement Program (TIP)**

- The TIP is adopted once every 4-years and covers a 4-year period. The current TIP was adopted unanimously by the Policy Committee on July 2, 2010.
- The MPO processes amendments to the TIP approximately quarterly.
- Projects included in the TIP reflect the short-term list of projects from the ORTP and also come from member agencies local programming plans and budgets.
- Public participation was largely accomplished through the CAC. The CAC was invited to submit projects for consideration by the Policy Committee to be include in the TIP.
- The project selection processes used by the TAC and Policy Committee did not consider the adopted CMP, but did ensure consistency of the projects with the adopted ORTP.
- Staff confirmed that the TIP did not include the following required elements:
  - Documented disposition of public comments
  - The TIP does not include a documented analysis of the impact on Environmental Justice (EJ) and Title VI communities.
- MPO staff indicated interest in adopting the TIP more frequently than once every 4 years to improve the currency of the TIP and to help minimize amendments.

### **Tier 3 – TIP: Corrective Actions**

*Consequence if not resolved by the Compliance Deadline:* Non-approval of the FY16 OWP and/or OahuMPO portion of FY16 STIP

<b>TIP Corrective Actions</b>	<b>Reference</b>	<b>Responsible Parties</b>	<b>Compliance Deadline</b>
The Final TIP must include a documented disposition of public comments received.	23 CFR 316(a)(2)	Policy Committee TAC MPO Staff	With the Policy Committee approval of the next TIP following the issuance of this report
The TIP must demonstrate and document implementation of the approved CMP.	23 CFR 450.324 (l) (1)	Policy Committee TAC MPO Staff	With Policy Committee approval of the next TIP following the issuance of this report.
The TIP must include documentation of the analysis completed for Title VI/ EJ.	Title VI of the Civil Rights Act of 1964  Executive Order 12898  DOT EJ Order 5610.2(a)  FHWA EJ Order 6640.23A	Policy Committee TAC MPO Staff	With the Policy Committee approval of the next TIP following the issuance of this report

*Additional Corrective Actions relative to the TIP are outlined in Tier 1 and Tier 2.*

**Tier 3 – TIP: Recommendation**

- None

**Tier 3 - Observation #9: Public Participation Plan (PPP)**

- The current PPP was adopted on April 15, 2006 and amended on April 10, 2013.
- The PPP outlines the goals and procedural guidelines for public participation for OahuMPO planning processes.
- The PPP does not address the disposition of public comments for either the ORTP or the TIP nor does it explicitly include an evaluation for effectiveness.
- A key feature of OahuMPO’s PPP process is the Citizen Advisory Committee (CAC). This committee is very large and consists of neighborhood board, transportation providers, non-governmental organizations, organizations that represent traditionally underserved populations, alternative mode users, and organizations.
- Membership to the CAC is not limited. However, membership is considered through an application process.
- The CAC has bylaws governing its role and responsibilities within the OahuMPO planning process.
- MPO staff has actively engaged the CAC in the decisionmaking process, and have brought comments and recommendations made by the CAC to the Policy Committee. However, CAC project recommendations generally do not get included in the ORTP, TIP or OWP.
- Generally, MPO staff presents CAC recommendations at Policy Committee meetings.

- The MPO has analyzed EJ and Title VI populations. In addition, HDOT has conducted a 4-Factor Analysis to determine populations with limited English. Translation of OahuMPO documents is available upon request.
- Meetings of the OahuMPO committees are generally held during normal working hours in ADA accessible buildings and meeting spaces. Other public meetings are held at times that generally consider the audiences availability, and may be held after normal working hours, in ADA accessible buildings and meeting spaces.

**Tier 3 – PPP: Corrective Actions**

*Consequence if not resolved by the Compliance Deadline:* Non-approval of the FY16 OWP and/or OahuMPO portion of FY16 STIP

<b>PPP Corrective Actions</b>	<b>Reference</b>	<b>Responsible Parties</b>	<b>Compliance Deadline</b>
Update and approve revisions to the adopted PPP to clarify the following: <ul style="list-style-type: none"> <li>• The documentation of the disposition of public comments in the final ORTP and TIP</li> <li>• Document explicit outreach techniques to engage traditionally underserved populations (Title VI/ EJ).</li> </ul>	23 CFR 450.316(a)(2)  23 CFR 450.316 (a)(1)(vii)	Policy Committee TAC MPO Staff	Within 12 months from issuance of final certification report  <b>September 26, 2015</b>

*Additional Corrective Actions relative to the PPP are outlined in Tier 1 and Tier 2.*

**Tier 3 – PPP: Recommendations**

- Manage CAC expectations in the decisionmaking process:
  - The MPO should clarify in the CAC bylaws and in the PPP when in the decisionmaking process the CAC will be invited to provide comments, any parameters by which the CAC should focus its comments, and how CAC comments will be considered in the TAC and Policy Committee decisionmaking processes.
  - All OahuMPO documented planning processes (OWP, ORTP, TIP) should clearly define how the CAC will be involved, the parameters of its involvement, and how any comments received will be considered by the TAC and Policy Committee.

## Successful Practices

The OahuMPO is commended for several successful practices noted during the review. These include the following:

- The OahuMPO CAC is a well-organized, functioning group representing a broad range of stakeholders and citizens. The OahuMPO does a good job of involving the CAC throughout the planning and decisionmaking processes. Members of the CAC voiced sincere appreciation for the MPO's efforts and recognized its unique opportunity to be involved and to contribute to planning in the region.
- MPO staff has demonstrated a keen understanding of the diversity represented in their region. Their efforts to map EJ and Title VI communities has provided the foundation necessary to begin assessing the benefits and burdens on these communities that may result from decisionmaking by the OahuMPO.
- The OahuMPO TAC members have established a successful working relationship and have demonstrated abilities to identify issues and work through challenges to reach a successful conclusion.
- The OahuMPO has initiated an internal assessment of how members perceive their role and responsibilities in the metropolitan planning process. The assessment also investigates perceived issues and solutions among the members. While not yet completed, the approach signifies the sincere interest of the OahuMPO to resolve the issues that are impeding its ability to carry out an effective continuing, cooperative, comprehensive multi-modal transportation planning process.

## Conclusion

The OahuMPO has the staff capacity, basic organizational structure, and internal willingness to successfully administer a continuing, cooperative, and comprehensive multi-modal transportation planning program. For that reason, and based on the overall findings of the independent review team, the FHWA and FTA jointly certify the federal planning processes of the Oahu Metropolitan Planning Organization, Transportation Management Area for the Island of Oahu, contingent upon the resolution of specified Corrective Actions within the timeframes outlined in this report.

**This certification will remain in effect until July 26, 2015, the first date on which several Tier 1 corrective action deadlines are identified. This certification remains in effect unless otherwise voided by FTA and FHWA due to failure to appropriately address the corrective actions.**

## Action Plan

<i>Corrective Actions</i>	<i>Reference</i>	<i>Responsible Parties</i>	<i>Compliance Deadline</i>
<b>Tier 1 – Corrective Actions</b>			
<b><i>Consequence if not resolved by the Compliance Deadline:</i></b> <b>Not certify the MPO</b>			
<p>Revise HRS 279E to ensure appropriate authority for the MPO to comply with Federal laws applicable to the MPO as outlined in the December 16, 2013 letter from FHWA (Appendix C).</p> <p><i>Note: This corrective action was added in response to the OahuMPO's comments on the draft report, which indicated a need to change the state law as a prerequisite to completing the following tier 1 corrective actions.</i></p>	<p>23 U.S.C 134 and 135</p> <p>23 CFR 450</p>	<p>Policy Committee led by Co-chairs</p>	<p>Within 60-days of the conclusion of the 2015 State Legislative Session</p>
<p>Approve and sign a revision to the 2008 Comprehensive Agreement to reflect a continuing, cooperative, and comprehensive, multi-modal transportation planning process. Including the following changes:</p> <ul style="list-style-type: none"> <li>• Define the decisionmaking body as the Policy Board;</li> <li>• Define the decisionmaking structure of the MPO and the role and responsibility of each body, e.g. the Executive Committee; Technical Advisory Committee and Policy Board;</li> <li>• Define Policy Board membership and define the eligibility of ex officio membership;</li> <li>• Define the eligibility of alternates within the MPO decisionmaking structure to ensure the opportunity for meeting quorum</li> <li>• Define the use of sub-agreements;</li> <li>• Define the funding structure of the MPO including member contributions;</li> </ul>	<p>23 CFR 450.310</p>	<p>Policy Committee HDOT DTS HART MPO staff</p>	<p>Within 10 months of issuance of final certification report</p> <p style="text-align: center;"><b>July 26, 2015</b></p>
<p>Develop and sign supplemental agreements with individual MPO member agencies or groups of member agencies to specify roles and responsibilities for the following:</p> <ul style="list-style-type: none"> <li>• Between the OahuMPO and the host agency (currently HDOT) outlining roles, responsibilities and required administrative procedures including, staffing and procurement.</li> <li>• Between the OahuMPO, and member agencies for consistent and dependable</li> </ul>	<p>23 CFR 450.314</p>	<p>Policy Committee HDOT DTS DPP TAC MPO staff</p>	<p>Within 10 months of issuance of final certification report</p> <p style="text-align: center;"><b>July 26, 2015</b></p>

<b>Corrective Actions</b>	<b>Reference</b>	<b>Responsible Parties</b>	<b>Compliance Deadline</b>
financial support for the MPO operation and formalizing funding for OWP planning activities. <ul style="list-style-type: none"> <li>Between the OahuMPO, and member agencies for the collection, maintenance and sharing of data necessary to develop and maintain the ORTP, TIP and CMP. This may include data associated with land use, travel, transportation funding/revenues and costs.</li> </ul>			
Develop and approve bylaws for the Policy Board, Executive and Technical Advisory Committees. Bylaws should include the address: <ul style="list-style-type: none"> <li>The function and role of the body within the MPO structure;</li> <li>Role and responsibility of member agencies;</li> <li>Define the use of proxy's or assigned alternates and their relationship to voting and quorum;</li> <li>Define a regular meeting schedule and time;</li> <li>Define the process for the delivery of meeting materials;</li> <li>Define new member orientation and education processes.</li> </ul>	23 CFR 450.314	Executive Committee Policy Committee TAC MPO staff	Within 10 months of issuance of final certification report  <b>July 26, 2015</b>

<b>Tier 2 – Corrective Actions</b>			
<b>Consequence if not resolved by the Compliance Deadline: Non-approval of the FY16 OWP and/or OahuMPO portion of FY16 STIP</b>			
Identify and document procedures for the development and approval of key planning products, e.g. ORTP, OWP, and TIP.	23 CFR 450.306	MPO staff w/planning partners	Within 12 months from issuance of final certification report  <b>September 26, 2015</b>
Develop and document a listing of available planning data among partner agencies, and the protocols for interagency transportation planning data collection, maintenance and sharing	23 CFR 450.320	MPO staff and TAC	Within 12 months from issuance of final certification report  <b>September 26, 2015</b>
Update and approve the Congestion Management Process, including procedures to implement CMP outcomes, performance measures to evaluate the effectiveness of	23 CFR 450.320	MPO staff and TAC	Within 12 months from issuance of final certification report

<b>Corrective Actions</b>	<b>Reference</b>	<b>Responsible Parties</b>	<b>Compliance Deadline</b>
implemented strategies, and how the CMP will be used to influence project selection for the ORTP and TIP.			<b>September 26, 2015</b>

<b>Tier 3 – Corrective Actions</b>			
<b>Consequence if not resolved by the Compliance Deadline: Non-approval of the OWP and/or OahuMPO portion of the STIP</b>			
The OWP must document all planning studies, processes, and programs funded through the MPO with federal funds regardless if they are current or on-going projects. The same level of information should be provided to ensure funding is available and to provide a full outline of the MPO's planning program.	23 CFR 450.308 (c)	Policy Committee TAC MPO Staff	With the Policy Committee approval of the 2016 OWP
Required ORTP Preparation and Content Improvements: <ul style="list-style-type: none"> <li>Consult with State and local agencies responsible for land management, natural resources, environmental protection, conservation, and historic preservation concerning the development of the transportation plan.</li> <li>The ORTP must include a discussion of the types of potential environmental mitigation activities and potential areas to carry out these activities.</li> <li>The ORTP must demonstrate and document implementation of the approved CMP.</li> <li>The Final ORTP must include a documented disposition of public comments received.</li> <li>The ORTP must include documentation of the analysis completed for EJ and Title VI.</li> </ul>	23 CFR 450.322	Policy Committee TAC MPO Staff	With the Policy Committee approval of the next ORTP Update due April 2016
Required TIP Preparation and Content Improvements: <ul style="list-style-type: none"> <li>The Final TIP must include a documented disposition of public comments received.</li> <li>The TIP must demonstrate and document implementation of the approved CMP.</li> <li>The TIP must include documentation of the analysis completed for EJ and Title VI.</li> </ul>	23 CFR 450.324	Policy Committee TAC MPO Staff	With Policy Committee approval of the next TIP - following the issuance of this report.
Required Public Participation Plan improvements: <ul style="list-style-type: none"> <li>The documentation of the disposition of</li> </ul>	23 CFR 450.316	Policy Committee TAC	With the Policy Committee

<b>Corrective Actions</b>	<b>Reference</b>	<b>Responsible Parties</b>	<b>Compliance Deadline</b>
<p>public comments in the final ORTP and TIP</p> <ul style="list-style-type: none"> <li>Document explicit outreach techniques to engage traditionally underserved populations (EJ and Title VI).</li> </ul>		<p>CAC MPO Staff</p>	<p>approval of the next ORTP Update due April 2016</p>

<b>Recommendations</b>	<b>Responsible Parties</b>
<p><b>Recommendations</b></p> <p>OahuMPO staff technical capacity enhancements:</p> <ul style="list-style-type: none"> <li>Prepare 5-year Strategic Plan - outlining upcoming product deadlines; training interests and needs; technical capacity and professional service needs; administrative procedures, processes and deadlines; and new product and planning opportunities and timelines.</li> </ul>	<p>Policy Committee MPO staff</p>
<p>Oahu MPO administrative improvements:</p> <ul style="list-style-type: none"> <li>Establish formal performance reviews and appraisals for the MPO Director and MPO staff to monitor and recognize technical capacity and administrative improvements, needs and successes.</li> <li>The MPO Director should engage in focused training in leadership, management, public relations and working with the media in a public position. A mentorship program for the MPO Director and MPO staff could help support and improve technical capacities and job satisfaction.</li> </ul>	<p>Policy Committee MPO staff</p>
<p>Develop Training Curriculum:</p> <ul style="list-style-type: none"> <li>Outlining role and responsibility of the MPO for regional transportation planning and programming and the steps necessary to meet requirements; the MPO decisionmaking structure and roles and responsibilities for decisionmaking; how components of the MPO and MPO products relate to the overall multi-modal transportation planning process; how the MPO planning and programming decisions are carried out through and related to member agency decisionmaking processes and programs.</li> </ul>	<p>Policy Committee MPO staff</p>
<p>ORTP Cost Estimation Process:</p> <ul style="list-style-type: none"> <li>The MPO should research how member agencies estimate project costs to better understand consistencies and inconsistencies between agencies and to improve cost estimation for the ORTP.</li> <li>The MPO should establish procedures to ensure cost estimates meet specific currency standards to improve support for fiscal constraint of the ORTP.</li> <li>The MPO should establish cost estimate update procedures as projects move from the ORTP to the TIP.</li> </ul>	<p>TAC MPO Staff</p>
<p>Manage CAC Expectations in the decisionmaking process:</p> <ul style="list-style-type: none"> <li>The MPO should clarify in the CAC bylaws and in the PPP when in the decisionmaking process the CAC will be invited to provide comments, any parameters by which the CAC should focus its comments, and how CAC comments will be considered in the TAC and Policy Committee decisionmaking processes.</li> <li>All OahuMPO documented planning processes (OWP, ORTP, TIP) should clearly define how the CAC will be involved, the parameters of its involvement, and how any comments received will be considered by the TAC and Policy Committee.</li> </ul>	<p>Policy Committee TAC CAC MPO Staff</p>

## **Appendices**

**Appendix A** – OahuMPO Certification Review Agenda

**Appendix B** – Public Meeting Agenda and Disposition of Public Comments

**Appendix C** – December 16, 2013 Letter from FHWA to OahuMPO Policy Committee Chair

**Appendix D** – Planning Partner Comments on the Draft Report and the Disposition of Planning Partner Comments

**Appendix A**  
**OahuMPO Certification Review Agenda**

# Certification Review of the OahuMPO

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***Agenda***  
Honolulu, HI  
June 3-4, 2014

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**Tuesday, June 3**

8:30 – 8:45	Welcome and Introductions	Brian Betlyon FHWA Resource Center
8:45 – 10:00	Review of 2011 Actions	Dwayne Weeks FTA - Headquarters
10:00 – 10:15	<i>Break</i>	
10:15 – 12:00	Organizational Structure	Ted Matley FTA – Region IX
12:00 – 1:00	<i>Lunch</i>	
1:00 – 2:15	Agreements and Contracts	Ray Sukys FTA – Region IX
2:15 – 2:30	<i>Break</i>	
2:30 – 4:00	Planning and Programming Process	Theresa Hutchins FHWA - Headquarters

**Wednesday, June 4**

8:30 - 10:30	Planning and Programming Process	Theresa Hutchins
10:30 – 10:45	<i>Break</i>	
10:45 – 12:00	Institutional Relationships	Brian Betlyon
12:00 – 12:30	Wrap-up	All

**Appendix B**  
**Public Meeting Agenda and Disposition of Public Comments**

**Federal Highway Administration & Federal Transit Administration**

**Conduct a Public Review  
Of the  
Oahu Metropolitan Planning Organization**

**Agenda**

Thursday, June 5, 2014  
3:00-4:30 PM  
Room 309, Hawaii State Capitol Building

2:45 pm	Sign in Sign up to speak (five minutes per speaker)
3:00 pm	Welcome & Overview by the Federal Review Team
3:10 pm	Public Comments (Lead by the Federal Review Team)
4:15 pm	Final Comments
4:25 pm	Closing Remarks
4:30 pm	Adjourn

## Disposition of Public Comments

A public meeting was held on Thursday, June 5, 2014 to receive public input on the planning processes of the OahuMPO. The meeting was held at Hawaii State Capitol Building, at 3:00 pm to 4:30 pm. Approximately 35 people attended the public meeting, including members of the public, representatives of special interest groups and neighborhood associations, and the media. The published announcement for the meeting and opening statements made by the federal team emphasized that the purpose of the meeting was to gather input and comments on the planning processes executed by the OahuMPO for the purposes of the TMA certification review process. Approximately 18-comments were received either verbally or in-writing in response to the public input session.

Many of those in attendance at the public meeting represented community groups or neighborhoods with focused interest on specific transportation issues or projects. There were a few comments received either verbally or in-writing that were relevant to the MPO planning process. Below is a brief summary of the comment made during the public meeting and those submitted in-writing and the disposition of those comments.

Comment Focus	Comment Summary	Disposition
Laniakea Beach Park	<ul style="list-style-type: none"> <li>Oppose HDOT's plan to barricade access to the Laniakea Beach Park.</li> </ul>	<ul style="list-style-type: none"> <li>Comment is outside the scope of the public meeting and the TMA certification review process</li> <li>Comments will be provided to HDOT for its consideration</li> </ul>
Makaha Beach Park	<ul style="list-style-type: none"> <li>Oppose HDOT decision to fund Makaha Bridge Replacement Projects instead of the programmed Farrington Highway re-routing around Makaha Beach Park.</li> </ul>	<ul style="list-style-type: none"> <li>Comment is outside the scope of the public meeting and the TMA certification review process</li> <li>Comments will be provided to HDOT for its consideration</li> </ul>
Makaha Bridge Replacement Projects	<ul style="list-style-type: none"> <li>Concern that the Makaha Bridge projects violate Section 4(f) of NEPA</li> <li>Bridges considered for replacement are not in need of replacement</li> <li>Temporary construction phase facilities (roads and bridges are inadequate to support the needs of the area</li> </ul>	<ul style="list-style-type: none"> <li>Comment is outside the scope of the public meeting and the TMA certification review process</li> <li>Comments will be provided to HDOT for its consideration</li> </ul>
Handi-Van	<ul style="list-style-type: none"> <li>Concern on Handi-Van data collection and reporting</li> <li>Concern for how the disabled will be accommodated between Rail and Handi-Van</li> </ul>	<ul style="list-style-type: none"> <li>Comment is outside the scope of the public meeting and the TMA certification review process</li> <li>Comments will be provided to FTA for its consideration</li> </ul>
HDOT's coordination with the (MPO) planning processes	<ul style="list-style-type: none"> <li>HDOT arbitrarily funds or does not fund projects without regard to the MPO's decisionmaking authority and planning processes</li> <li>HDOT is unresponsive to questions and comments</li> </ul>	<ul style="list-style-type: none"> <li>These comments are consistent with concerns raised during the TMA certification review meetings. Recommendations and Corrective actions included in this report are designed to support a 3C multi-modal transportation planning process among all partner agencies, including HDOT.</li> </ul>
HDOT's projects	<ul style="list-style-type: none"> <li>HDOT does not follow mainland safety standards</li> </ul>	<ul style="list-style-type: none"> <li>Comment is outside the scope of the public meeting and the TMA certification</li> </ul>

Comment Focus	Comment Summary	Disposition
	<ul style="list-style-type: none"> <li>• HDOT doesn't coordinate construction projects to consider the impact to and for alternate routes</li> </ul>	<ul style="list-style-type: none"> <li>• review process</li> <li>• Comments will be provided to HDOT for its consideration</li> </ul>
Chapter 279E Hawaii Revised Statutes.	<ul style="list-style-type: none"> <li>• State needs to either revise Chapter 279E to support the MPO planning process, or institutionalize the governor's designation of OahuMPO as the MPO.</li> </ul>	<ul style="list-style-type: none"> <li>• This comment is consistent with confusion noted during the TMA certification review meetings. The recommendations and corrective actions outlined in this report are intended to support a federally required 3C multi-modal TMA planning process whether the MPO is designated by State law or the governor.</li> </ul>
MPO staff	<ul style="list-style-type: none"> <li>• The MPO is a well-run agency and staff does a good job</li> </ul>	<ul style="list-style-type: none"> <li>• The federal team appreciates this comment and has noted similar affirmative findings in the TMA Certification report.</li> </ul>
MPO Processes	<ul style="list-style-type: none"> <li>• The MPO processes and procedures are sound and well-founded.</li> </ul>	<ul style="list-style-type: none"> <li>• The federal team appreciates this comment and has noted similar affirmative findings in the TMA Certification report.</li> </ul>

**Appendix C**  
**December 16, 2013**  
**Letter from FHWA to OahuMPO Policy Committee Chair**



U.S. Department  
of Transportation  
**Federal Highway  
Administration**

**Hawaii Federal-Aid Division**  
December 16, 2013

300 Ala Moana Blvd, Rm 3-306  
Box 50206  
Honolulu, Hawaii 96850  
Phone: (808) 541-2700  
Fax: (808) 541-2704

In Reply Refer To:  
HDA-HI

Mr. Breene Harimoto  
OahuMPO Policy Committee Chair  
707 Richards Street #202  
Honolulu, HI 96813

Subject: Review of MPO Laws as related to Hawaii Revised Statute 279E

Dear Mr. Harimoto:

The following is our response to your letter dated September 3, 2013, requesting the Federal Highway Administration's (FHWA) guidance and interpretation regarding certain sections of Hawaii Revised Statute Chapter 279E-Metropolitan Planning Organization (HRS 279E<sup>1</sup> [*see Attachment I*]). Your nine bullets requested clarification on the following major areas of HRS 279E:

1. Relationship of HRS 279E to current Federal Statute (23 U.S.C. 134 [*See Attachment 2.*])
2. Role of the Metropolitan Planning Organization (MPO) and its functional capacity
3. Scope of the planning process (role of the MPO and its relation to other State agencies and programs)
4. MPO organization: Designation and Membership
5. MPO-TMA Products
6. Funding

**1. Relationship of HRS 279E to Federal Statute (23 U.S.C. 134)**

Overall, we find that HRS 279E has not been updated to reflect changes in federal law concerning metropolitan planning organizations in the past years. The *Moving Ahead for Progress in the 21<sup>st</sup> Century Act of 2012* (MAP-21)<sup>2</sup> is the most recently enacted law concerning transportation planning (metropolitan and statewide). Major alterations to federal transportation planning law over the last 22 years (1981-2012<sup>3</sup>) changed the roles and duties required of the metropolitan planning organizations and states. Because HRS 279E does not reflect nor support the required federal metropolitan

<sup>1</sup> Hawaii Revised Statute Chapter 279E-Metropolitan Planning Organization accessed 10/8/2013. [http://www.capitol.hawaii.gov/hrscurrent/Vol05\\_Ch0261-0319/HRS0279E/HRS\\_0279E.htm](http://www.capitol.hawaii.gov/hrscurrent/Vol05_Ch0261-0319/HRS0279E/HRS_0279E.htm)

<sup>2</sup> P.L. 112-141, enacted July 6, 2012

<sup>3</sup> Federal Authorization Acts 1981-2013:

- *Federal-Aid Highway Act of 1981* ([P.L. 97-134])
- *Surface Transportation and Uniform Relocation Assistance Act of 1987* (STURRA [P.L. 100-17])
- *Intermodal Surface Transportation Efficiency Act of 1991* (ISTEA [P.L. 102-240])
- *National Highway System Designation Act of 1995* (NHS Act [P.L. 104-59])
- *Transportation Equity Act for the 21st Century of 1998* (TEA-21 [P.L. 105-178])
- *Safe, Affordable, Flexible, Efficient Transportation Equity Act—A Legacy for Users Act of 2005* (SAFETEA-LU [P.L. 111-68])
- *Moving Ahead for Progress in the 21<sup>st</sup> Century Act of 2012* (MAP-21 [P.L. 112-141])

transportation planning processes, we recommend a revision of the state statute to reflect 23 U.S.C. 134 Metropolitan Planning: the scope of required processes, practices, and responsibilities of MPOs therein. The updated Hawaii statute could refer to the requirements in 23 U.S.C. 134 and its implementing regulations at 23 CFR 450.300 et seq. as the official guiding law and add other language appropriate for Hawaii State legal needs including any conflict in the law to be construed in favor of federal law.

*[OahuMPO questions: 1, 9d]*

## **2. Role of the MPO and its functional capacity**

The federal transportation planning statute does not position MPOs as advisors. By law, the MPO is the decision maker on the use of federal-aid transportation funds in metropolitan planning areas<sup>4</sup>. The MPO is the Policy Board<sup>5</sup>. MPO staff, including the executive director, support and provide technical resources to the Policy Board. Decisions made by the Policy Board are a result of consultation, cooperation, coordination, and consideration<sup>6</sup> as directed by federal statute<sup>7</sup> and regulation with the MPO's state and local agency partners, and with interested parties. HRS 279E needs to be updated to reflect this.

*[OahuMPO questions: 2, 6, 9a, 9f]*

## **3. Scope of the planning process (role of the MPO and its relation to other State agencies and programs)**

The United States Department of Transportation (USDOT) policy relative to the metropolitan planning process is "to encourage and promote the safe and efficient management, operation, and development of surface transportation systems."<sup>8</sup> While the state and local systems and facilities owners and operators are responsible for the management and operations of these systems, the MPO role is to provide the 3-C (comprehensive, cooperative, and continuing<sup>9</sup>) transportation planning process for the metropolitan planning area. This scope requires MPOs to consider projects and strategies that support the eight national planning factors using a performance-based approach<sup>10</sup>. This includes the MPO responsibility to develop a multi-modal long range transportation plan, a congestion management process, and a transportation improvement program (TIP)<sup>11</sup> in consultation and cooperation with appropriate state and local transportation and planning agencies, as well as those affected by transportation<sup>12</sup>. All of this is accomplished as a result of the MPO's consulting, cooperating, coordinating, and considering the plans and planning activities of others as they affect metropolitan transportation planning and it to their processes.

HRS 279E does not reflect these roles and provisions.

*[OahuMPO questions: 3, 4, 7, 9e]*

<sup>4</sup> 23 U.S.C. (j)(5), 23 U.S.C. (k)(4)(a)

<sup>5</sup> 23 U.S.C. 134 (b)(2) Metropolitan planning organization - The term "metropolitan planning organization" means the policy board of an organization established as a result of the designation process under subsection (d). In Hawaii, the MPO Policy Board is called the Policy Committee.

<sup>6</sup> 23 CFR 450.100 - definitions

<sup>7</sup> 23 U.S.C. 134 (g) (3) MPO Consultation in Plan and TIP Coordination - Relationship with other planning officials.

<sup>8</sup> 23 U.S.C. 134 (a) Policy

<sup>9</sup> 23 U.S.C. (c)(3); 23 CFR 450.300(a)

<sup>10</sup> 23 U.S.C. 134 (h) - Scope of Planning Process

<sup>11</sup> 23 U.S.C. 134 (c) - General Requirements

<sup>12</sup> 23 U.S.C. 135 (g) - MPO Consultation in Plan and TIP Coordination

#### 4. MPO organization: Designation and Membership

23 U.S.C. 134 (d) states: "To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals--" <sup>13</sup> Further, 23 U.S.C. 134 (k) states that each urban area over 200,000 individuals shall be designated as a Transportation Management Area (TMA). MPOs and TMAs are two different concepts with different requirements. However, as presently written, HRS 279E allows only for the creation of TMA MPOs with a population of 200,000 or more, such as OahuMPO. This is in conflict with federal law.

Title 23 U.S.C. 134 (d)(2) describes the structure of the MPO serving as a TMA (as OahuMPO is) and makes <sup>14</sup> clear that Policy Board membership is to be made up of representatives of the local elected officials, transportation officials within the MPO and *appropriate* state officials. By the term "appropriate" to modify state officials is understood to mean those in the transportation community representing state agencies, such as the Hawaii Department of Transportation (HDOT) and state-level elected officials representing the local community. We note that HRS 279E was amended in the last legislative session to include a representative of HART (provider of public transportation <sup>15</sup>) on the Policy Board as required. However, the current OahuMPO Policy Committee membership, as is allowed under HRS 279E-2, has at least one state-level elected representative from another island seated as a voting member, which conflicts with the federal requirement of appropriate state official representation.

HRS 279E does not appropriately reflect these requirements.

*[OahuMPO questions: 5, 8]*

#### 5. MPO-TMA Products

Title 23 U.S.C. 134 outlines the roles and responsibilities of MPOs, and in detail those of MPOs serving as TMAs like OahuMPO. The specific sections are:

- 23 U.S.C. 134 (g) – MPO Consultation in Plan and TIP Coordination
- 23 U.S.C. 134 (i) - Development of Transportation Plan
- 23 U.S.C. 134 (j) –Metropolitan TIP
- 23 U.S.C.134 (k) Transportation Management Areas (2) Transportation Plans, (3) Congestion Management Process, and (4) Selection of Projects

These sections outline the MPO's responsibilities for development of the long range plan, the TIP, and the Congestion Management Process. MPOs are required to document these and other planning activities funded under 23 U.S.C. and title 49 U.S.C. Chapter 53 in the annual unified planning work program (UPWP, referred to as the overall work program (OWP) in Hawaii) <sup>16</sup>.

HRS 279E does not accurately reflect these roles and provisions.

*[OahuMPO questions: 9, 9b]*

<sup>13</sup> 23 U.S.C. 134 (d)-Designation of Metropolitan Planning Organizations

<sup>14</sup> 23 U.S.C. 134 (d)(2) Structure

<sup>15</sup> 23 U.S.C. 134 (d)(2)(B)

<sup>16</sup> 23 CFR 450.308

## 6. Funding

Title 23 U.S.C. provides federal funds to be apportioned<sup>17</sup> to the individual States; and with the changes made in MAP-21, Hawaii will now have to consider the suballocation provisions of MAP-21<sup>18</sup> for Surface Transportation Program funds (23 U.S.C. 133(d) - STP) and Transportation Alternative Program funds (23 U.S.C. 213(c) – TAP). These provisions require the state to suballocate fifty percent of these program funds by population<sup>19</sup>. Those federal-aid funds for projects located in the MPO are required to meet federal provisions where all federally funded projects within the boundaries of a TMA MPO [OahuMPO] shall be selected for implementation from the approved TIP by the MPO in consultation with the State and any affected public transportation operator. Conversely, projects on the National Highway System (NHS), as well as the bridge or interstate program, shall be selected for implementation from the approved TIP by the state in cooperation with the MPO.<sup>20</sup> In short, the two sets of projects have reverse consultation requirements between the state and the MPO.

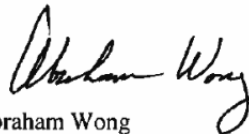
Title 23 U.S.C. also determines the distribution of Metropolitan Planning (PL) funds to each state. The state and the MPOs jointly determine the formula or proportionate share of the PL funds for the MPOs.<sup>21</sup> For the OWP tasks, the MPO determines and approves the PL funds use for eligible project activities. The state may approve the portion of the OWP that is funded with state funds. The FHWA approves and authorizes the final work program for the project activities that are funded with PL funds.<sup>22</sup> It should be further noted that 23 U.S.C. 104(d)(1)(A) requires that federal-aid monies apportioned to a state for MPO functions “shall be made available by the state to the metropolitan planning organization responsible for carrying out section 134 [of Title 23] in the state.”

HRS 279E does not accurately reflect these roles and provisions and it should be amended to do so.

*[OahuMPO questions: 9c, 9d]*

Should you have additional questions, do not hesitate to contact Liz Fischer of my staff at (808) 541-2325 or by email at [elizabeth.fischer@dot.gov](mailto:elizabeth.fischer@dot.gov).

Sincerely yours,



Abraham Wong  
Division Administrator

By email:

OahuMPO: Brian Gibson, Randolph Sykes

FHWA- HCC: Lance Hanf, Janet Myers

FHWA-HI: Mayela Sosa, Liz Fischer

PettyMauiMPO: Rowena Dagdag-Andaya, Marc Takamori, David Goode, Joanne Johnson-Winer

FTA-Region IX: Ted Matley, Ray Sukys, Leslie Rogers

FTA-TPE: Dwayne Weeks

FHWA-HEPP: Lorrie Lau, Harlan Miller, Kenneth

<sup>17</sup> 23 U.S.C. 104. For the full MAP-21 update of 23 U.S.C. see <http://U.S.C.odebeta.house.gov/browse.xhtml> (current as of 10/19/2012).

<sup>18</sup> Sections 1108 Surface Transportation Program and 1122 Transportation Alternatives Program.

<sup>19</sup> <http://www.fhwa.dot.gov/map21/qandas/qasuballocation.cfm>.

<sup>20</sup> 23 U.S.C. 213(c), 23 U.S.C. 133(d)

<sup>21</sup> 23 U.S.C. 134 (k) (4) TMA Selection of projects.

<sup>22</sup> 23 CFR 420.109 - Planning and Research Program Administration for PL funds.

<sup>23</sup> 23 CFR 420.115

**Attachment 1- Excerpted Sections HRS 279E**  
**OahuMPO Request for Clarification**  
(HRS 279E<sup>23</sup> follows in its entirety)

HRS 279E Section	Response Group <sup>24</sup>
<b>HRS §279E-1</b>	
1. <i>"The legislature finds that <u>Section 112 of the Federal-Aid Highway Act of 1973, Section 9 of the Urban Mass Transportation Act of 1964, as amended, and other federal law require that a metropolitan planning organization be designated to act as an <u>advisory</u> urban transportation planning organization...."</u></i>	1
2. <i>"This MPO will be primarily an <u>advisory body</u> to the legislature and the legislative body of the appropriate county in affairs involving the continuous, comprehensive, cooperative urban transportation planning for the county."</i>	2
3. <i>"In transportation, the <u>state government has responsibility for such normally local government programs as airports, bikeways, harbors and waterways.</u>"</i>	3
4. <i>"In short, <u>the State has responsibility for most of the major transportation facilities and projects on Oahu and any designation of an MPO must take this into account. Designation of an MPO which does not provide for significant state participation simply does not recognize the existing delineation of state and county functions relating to transportation in Hawaii.</u>"</i>	3
<b>HRS §279E-2</b>	
5. <i>"There is established in each county with a population in excess of <u>200,000</u> a metropolitan planning organization called the <u>Metropolitan Planning Organization</u>, abbreviated by the letters MPO. The MPO shall be an <u>advisory</u> body responsible for carrying out a continuing, comprehensive, transportation planning process...."</i>	4
6. <i>"The MPO shall recognize that all of its activities shall be primarily <u>advisory</u>, and that policymaking powers shall remain with the legislature or the legislative body of the appropriate county...."</i>	2
7. <i>"<u>Nothing in this law is intended to change the basic jurisdiction for planning responsibilities already given to the state and county agencies in existing statutes and ordinances. Those state and county agencies are to cooperate with the MPO by providing input from their present planning processes and the MPO will advise those agencies by way of submitting to them the coordinate plan with it develops.</u>"</i>	3
<b>HRS 279E-3</b>	
8. <i>"The MPO shall consist of a policy committee and appropriate staff. The MPO policy committee shall consist of fourteen members. These members shall include:</i> <ol style="list-style-type: none"> <li>a. <i>Five members of the legislative body of the appropriate county;</i></li> <li>b. <i>Three members of the state senate:</i> <ol style="list-style-type: none"> <li>i. <i>One of whom shall be chairperson of the senate committee with primary responsibility for transportation issues. In the event there is more than one chairperson of the senate committee with primary responsibility for transportation issues, the senate president shall identify the chairperson</i></li> </ol> </li> </ol>	4

<sup>23</sup> Hawaii Revised Statute Chapter 279E-Metropolitan Planning Organization accessed 10/8/2013.

[http://www.capitol.hawaii.gov/hrscurrent/Vol05\\_Ch0261-0319/HRS0279E/HRS\\_0279E-.htm](http://www.capitol.hawaii.gov/hrscurrent/Vol05_Ch0261-0319/HRS0279E/HRS_0279E-.htm)

<sup>24</sup>

1. Relationship of HRS 279E to current Federal Statute (23 U.S.C. 134)
2. Role of the MPO and its functional capacity
3. Scope of the planning process (role of the MPO and its relation to other State agencies and programs)
4. MPO organization: Designation and Membership
5. MPO-TMA Products
6. Funding

## HRS 279E Section

*who shall serve on the MPO policy committee and who shall not be required to be a resident of the appropriate county;....*

Response  
Group<sup>24</sup>

## HRS §279E-7

- |  |      |
|--|------|
| 9. "The functions of each Metropolitan Planning Organization shall include:  | 5    |
| a. Serve in an <u>advisory body</u> to the legislature, the legislative body of the county, and the appropriate state and county agencies in carrying out continuous, comprehensive, and cooperative transportation planning and programming for the county as required by federal laws and rules.   | 2    |
| b. Obtain information and plans from the appropriate county and state agencies to formulate a <u>short-range six-year transportation plan for the county and an annual update of that plan</u> , and a master multi-modal long-range transportation plan for the county in order to <u>advise</u> the legislature, the legislative body of the county, and other appropriate agencies regarding those plans. | 5    |
| c. Develop a <u>formula for the distribution of metropolitan planning funds</u> which shall consider but not necessarily be limited to population, status of planning, and metropolitan area transportation needs, and submit this formula for approval by the Secretary of Transportation.  | 6    |
| d. <u>Receive and distribute, as necessary, federal funds under Section 112 of the Federal-Aid Highway Act of 1973, the Urban Mass Transportation Act of 1964, as amended, Section 13 of the Airport and Airway Development Act of 1970, as amended, and Section 5 of the Urban Mass Transportation Act of 1964, as amended.</u>   | 1, 6 |
| e. <u>Advise on plans, projects and programs requiring action by the state legislature or the legislative body of the county which have been submitted for review to the MPO.</u>  | 3    |
| f. Undertake such other functions as may become appropriate in <u>an advisory body</u> to ensure a joint planning process between the county and the State, and advise appropriate legislative bodies and agencies, as necessary.  | 2    |

## Appendix D

### Planning Partner Comments on the Draft Report and Disposition of Planning Partner Comments

Reference	Comment	Response
Executive Summary, page 1	The issue of provisions in Hawaii Revised Statute (HRS) 297E not being in compliance with federal law is significant enough that it should be specifically noted in the Executive Summary.	Tier 1 has been revised to recognize the conflict between HRS 279E and Federal law.
<b>Summary of Key Observations, Page 1</b>		
Bullet 1: The 2008 Comprehensive Agreement...does not meet federal requirements	It would be very helpful if specific inadequacies or exemplary best practices were cited.	<b>No Change</b> Additional technical assistance will be provided to the MPO throughout the next year to ensure adequate information is made available so the MPO can be successful in resolving the Corrective Actions.
Bullet 3: The MPO lacks adequate documentation of the procedures....	Request that this statement provide more clarification on the type of documentation that is lacking.	<b>No Change</b> Additional technical assistance will be provided to the MPO throughout the next year to ensure adequate information is made available so the MPO can be successful in resolving the Corrective Actions.
Bullet 5: The MPO lacks documentation for the coordination and procedures for data collection, maintenance, and sharing.	MPO would need to know what data would be collected and maintained before it can document the coordination and procedures needed.  Most planning data are collected by and maintained at participating agencies. MPO staff and/or those needing data may contact the appropriate agencies.	<b>No Change</b> Additional technical assistance will be provided to the MPO throughout the next year to ensure adequate information is made available so the MPO can be successful in resolving the Corrective Actions.
Summary of Key Observations, page 1, bullet 7: MPO staff does not have the technical capacity necessary to fully implement federal requirements.	MPO is in the process of hiring a new staff with the technical capabilities of a travel demand modeler. Therefore, training and mentorship to enhance the technical capacities of the other staff will not be necessary; as in the past, the travel demand modeler was tasked with doing all technical analysis (e.g., CMP).  Title Vi and environmental justice analysis is done by current staff.	<b>No Change</b> These recommendations are critical to improving staff technical capacities and lay the groundwork for improvements and the MPO's ability to meet requirements.
Recommendations, page 5, column 1, 1 <sup>st</sup> & 2 <sup>nd</sup> cells: Reference to training and mentorship for MPO staff technical capacity enhancements.		
Tier 3 – Observation #5: Overall Work Program, page 18, bullet 9, last sentence: In addition, MPO staff		

Reference	Comment	Response
noted a willingness to do work in-house, but...nor has the improvement of staff's technical capacity been explored.		
Tier 3 – OWP: Recommendations, page 19, bullets 1 & 2: Reference to training and mentorship for MPO staff technical capacity improvements		
<b>Summary of Corrective Actions and Recommendation, Tier 1 – Corrective Actions, page 2</b>		
Observations and Recommendations, Tier 1 – Observation #1: Agreements and Contracts, Corrective Actions, page 12		
<b>Action Plan, Page 25</b>		
<p>Above-mentioned References: Approve and sign a revision to the 2008 Comprehensive Agreement.....define the funding structure of the MPO including member contributions.</p> <p>Compliance Deadline: Within 6 months of issuance of final certification report.</p>	<p>6 months is not enough time to accomplish this. In order to revise the Comprehensive Agreement to address the items listed, HRS 279E would first have to be amended. Once that is done, the Comprehensive Agreement will then need to be revised, going through discussions with the participating agencies and the Policy Committee, as well as legal reviews by both the City and State before the document can be approved and signed by all parties.</p> <p>In 2015, the State Legislative session starts on January 21 and ends at the beginning of May.</p> <p>The Policy Committee was not made aware of changes that needed to be made to HRS 279E until their May 16, 2014 meeting; at which time, the legislative session had already ended.</p>	<p>Tier 1 – Observation 2: Compliance Deadline is Extended to 10-months to reflect legislative session and to align with new law enactment.</p>
<b>Summary of Corrective Actions and Recommendation, Tier 1 – Corrective Actions, page 3</b>		
<b>Action Plan, Page 26</b>		
<p>Above-mentioned References: Develop and approve bylaws for the Policy Board and the Executive and Technical Advisory Committees. Bylaws should include and address:....</p> <p>Compliance Deadline: Within 9 months of issuance of final certification report.</p>	<p>9 months is not enough time to accomplish this. HRS 279E and the Comprehensive Agreement would need to be amended and revised, respectively, prior to establishing bylaws for the committees. The bylaws would also need to go through discussions with the various parties (legislative bodies and participating agencies) and legal reviews by both</p>	<p>Tier 1 – Observation 3: Compliance Deadline is Extended to 10-months to reflect legislative session and to align with new law enactment.</p>

Reference	Comment	Response
	the City and State before the documents can be approved and signed by all parties.	
Tier 3 – Corrective Actions, page 4, row 1, column 1: The OWP must document all planning studies ...funded through the MPO with federal funds regardless if they are current or ongoing projects. The same level of information should be provided....	Starting in FY 2015 OWP Revision #1, all funds will be current year funds.	<b>No Change</b> This corrective action will support the FY 2015 revisions.
Summary of Corrective Actions and Recommendations, Tier 2 – Corrective Actions, page 3, row 3: Update and approve Congestion Management Process.  Deadline: Within 12 months from issuance of final certification report	Will be exceptionally difficult to do this within 12 months so that it includes performance measures, none of which have yet been chosen.	<b>No Change</b> The required changes to the CMP are not extensive and should not require great effort.
Background, page 7, paragraph 6, sentence 1: ...the FHWA Hawaii Division Office and the FTA Region IX, despite technical guidance and stewardship activities, became increasingly aware of continued and escalating challenges....	OahuMPO staff acknowledges and appreciates its working relationship with FHWA, and the assistance it has provided in educating its participating agencies on the roles and responsibilities of a TMA MPO. While it is somewhat subjective and debatable, we feel the phrase “close technical guidance” may be an overstatement designed to absolve FHWA of any responsibility for the current situation. Striking a more positive note would be more helpful, such as acknowledging the willingness of OahuMPO staff to work cooperatively with FHWA and FTA to advocate for and help implement the necessary changes.	<b>No Change</b> FHWA did provide close technical guidance in the form of training, and other opportunities over the course of several years. This is not an overstatement of fact.
Scope and Methodology, page 9, item 6: ...meeting support materials, and other briefing materials .... meeting federal requirements.	What are meant by these terms?	<b>No Change</b> Additional technical assistance will be provided to the MPO throughout the next year to ensure adequate information is made available so the MPO can be successful in resolving the Corrective Actions.
<b>observations and Recommendations – Tier 1 – Observation #2: Organizational Structure</b>		
Page 13, bullet 3, last 2 Sentences: This practice has resulted in few meetings being scheduled due to member availability and the priority	The Sunshine Law is not unique to Hawaii, however, its interpretation and implementation may be. In any event, OahuMPO strives to stay	<b>No Change</b> This is a statement of fact, not a judgment on the PC’s ability or intent to meet the Sunshine law.

Reference	Comment	Response
<p>given by members to support MPO meeting participation. It has also resulted in meetings that do not start at the advertised time due to members who arrive late or meeting cancelations after the advertised meeting start time because of a lack of quorum.</p>	<p>within the legal limits allowed by the law.</p>	
<p>Policy Committee, page 13, bullet 3: ...and has no affiliation with Honolulu or the Island of Oahu.</p>	<p>The Senate and the House chairs of the committees responsible for transportation are very familiar with the issues on the Island of Oahu, as they are responsible for shepherding legislation for the entire State, which includes the Island of Oahu.</p>	<p>Tier 1 – Observation #3 Changed to clarify broadly the appointment and affiliation with Oahu.</p>
<p>Tier 2 – Observation #3: MPO Procedures, page 16, bullet 3, sentence 2: TAC members expressed frustration over the collection and availability of data.</p>	<p>The term “data” needs to be specified. <u>What kind of data? The TAC members were frustrated with MPO staff or with another participating agency?</u></p>	<p><b>No Change</b> Additional technical assistance will be provided to the MPO throughout the next year to ensure adequate information is made available so the MPO can be successful in resolving the Corrective Actions.</p>
<p>Pg. 20 Tier 3 – Observation #6, middle of the page. “Difficulty accessing land use data necessary to develop the travel demand model”</p>	<p>This statement is misleading. The DPP is committed to providing the land use forecast to OahuMPO. We are transitioning from a traditional land use model, which was developed in-house, to UrbanSim, a new model that was delivered by a consultant to OahuMPO in 2013. Because of the anticipated need for technical support with the new model, a work element was included in the FY 2014 Overall Work Program for consultant services on an on-call basis. The DPP has been faced with a technical problem with UrbanSim that we have been unable to resolve for months now. We have been waiting for OahuMPO to negotiate a contract with a consultant so that we can move forward.</p>	<p><b>No Change</b> The report clarifies there are difficulties and this comment supports that finding.</p>



***Report prepared by:***

***FHWA Hawaii Division Office  
300 Ala Moana Blvd, Suite 3-306  
Honolulu, HI 96850  
808-541-2700***

***For additional copies of this report, contact us.***

Testimony of Tom Dinell,  
Chairman of the Certification Action Review  
Committee (CRAC) of the  
OMPO Citizens Advisory Committee (CAC)  
in Support of an Amendment to S.B. No. 1180  
Being Heard by the Senate Committees on  
Transportation and Public Safety, Intergovernmental  
and Military Affairs  
on Thursday February 12, 2015, at 2:30 pm

The CAC supports bringing OMPO into compliance with the mandates specified in the Federal TMA Certification Review, dated September 26, 2014. S.B. 1180 is a necessary step in achieving that compliance. The problem with the bill as drafted, however, is that it basically ignores the CAC. Therefore, the CAC requests that section - 6a of SB 1180 be amended by adding the following clause:

"...provided that the Citizens Advisory Committee of the Oahu MPO shall select one of its members to serve as a voting member of Oahu MPO Policy Board and another of its members to be a non-voting member of the Oahu MPO Technical Advisory Committee."

We come to the Legislature for assistance because so far the OMPO Policy Committee has been indifferent to our request for having a voting member on that body or its successor board.

The CAC takes it works as part of the OMPO process very seriously. Now we want the new Policy Board to take the CAC just as seriously as the CAC takes itself. The CAC desires to be an essential part of the review process, not just a nice add on so someone can claim that the community has been consulted. Frankly, the CAC is frustrated by being ignored by the current PC time and time again.

We note that the CAC is the one component of the OMPO that was not criticized in the Federal TMA Certification Review, but actually

was praised as being an exemplary model of what a CAC should be. We also note that what the CAC is proposing is not a new or novel idea. 14% of the metropolitan transportation planning bodies have a citizen voting member on their policy board.

The CAC urges that SB 1180 be amended as proposed above to assure that the CAC becomes an integral part of the Oahu Metropolitan Planning Organization planning process.

Thank you for considering the CAC's request.

# OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII  
NO. 1 CAPITOL DISTRICT BUILDING  
250 SOUTH HOTEL STREET, SUITE 107  
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TELEPHONE: 808-586-1400 FAX: 808-586-1412  
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To: Senate Committees on Transportation and on  
Public Safety, Intergovernmental and Military Affairs

From: Cheryl Kakazu Park, Director

Date: February 12, 2015, 2:45 p.m.  
State Capitol, Conference Room 229

Re: Testimony on S.B. No. 1180  
Relating to Metropolitan Planning Organizations

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Thank you for the opportunity to submit testimony on this bill, which would create a new chapter relating to metropolitan planning organizations. While we take no position on the policy questions being posed to the Legislature, the Office of Information Practices (“OIP”) has worked with OMPO to prepare the attached technical amendments to the bill.

OIP takes no position on the substantive intent of section \_\_\_-9 of the bill, which would allow policy board members, who in many instances also serve as members of a county council or the Legislature, to discuss issues that may be policy board business in the context of their service as council members or legislators, and to discuss issues that may be council business in the context of their service as OMPO board members. However, OIP had technical concerns about the method chosen to do this in the bill as introduced, and is specifically concerned about proposed section \_\_\_-9, at bill page 9, lines 11-21, which would provide a partial exemption to the Sunshine Law, part I of chapter 92, HRS.

As introduced, bill section \_\_\_-9 had several technical problems. Subjecting a policy board to only limited provisions of the Sunshine Law, as subsection (a) would do, would lead to problems of interpretation as the Sunshine Law's provisions are intended to work together – for instance, one eliminated provision includes the definitions of terms used elsewhere in the law. Section 92-2.5 is permissive, not restrictive – it allows board members to speak about board business outside a meeting in specified circumstances – so an exemption from it would have the effect of limiting board members to speaking about board business only at a meeting, rather than broadening their ability to speak together outside a meeting.

OIP has worked to assist OMPO in developing language that will better achieve OMPO's objective, and this proposed language, a copy of which is attached hereto, would not present technical problems. The problem OMPO seeks to address is that issues within a policy board's authority are typically also within the authority of another body to which a policy board member may belong, such as a county council or the Legislature. Thus, council members' discussion of such issues at policy board meetings could violate the Sunshine Law as a discussion of council business outside a council meeting; and council members' or legislators' discussion of such issues at a council meeting or in the course of legislative duties could violate the Sunshine Law as a discussion of policy board business outside a policy board meeting. Both OMPO's proposed alternatives would make clear that members of another Sunshine Law board (such as a county council) will not violate the Sunshine Law with respect to their service on that board when they discuss overlapping issues at a policy board meeting. OMPO's suggested alternative 1, the broader of the two, would allow less than a quorum of policy board members to discuss policy board business outside a meeting, which would cover county council

members discussing the issues at a council meeting, legislators discussing the issues in a legislative caucus, or policy board members from different backgrounds discussing the issues in any setting. The suggested alternative 2 is much more limited, as it would cover only discussions by sitting legislators outside a policy board meeting, and would also limit the number of legislators serving on a policy board.

If this Committee wishes to provide policy boards with the ability to more freely discuss issues that are within the authority of the policy board and also of another body on which they serve, either of OMPO's proposed amendment alternatives would work to do so. OIP takes no position on whether the Legislature should do so as a policy matter.

Thank you for the opportunity to testify.

February 11, 2015

Dear Senators,

I oppose SB1180 (Metropolitan Planning Organizations) in its current form.

The Citizen Advisory Council (CAC) should be addressed in SB1180 and the Bill should provide provisions to ensure a representative of the CAC be elected by the CAC body as a voting member on the OMPO Policy Board (PB).

The CAC takes its responsibilities as part of the OMPO process very seriously and strongly desires to be an active participant of the review and approval process. The CAC is very frustrated by being consistently ignored by the previous Policy Committee and particularly by the Hawaii DOT time and time again.

This proposal is not a new idea. At least 14% of the OMPO policy boards around the United States have a citizen representative as a voting member of the PB. One voting member on the PB is not going to dominate and determine the decisions of that body, but will assure that the CAC voice is heard.

The CAC is the one component of the OMPO that was not criticized by the Feds in their recent critical review of the OMPO processes, but was praised as being an exemplary model of what a CAC should be. Our OMPO CAC is a role model for the Country but is not respected as it should be by its own organization, this must change in order for the CAC to remain dedicated to their role in serving the metropolitan community of Oahu.

Please amend SB1180 so it includes language that adds a representative of the CAC as a voting member of the Policy Board.

Mahalo,



AL Frenzel  
84-933 Alahale Street  
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(808) 343-4916

Date: February 09, 2015

To: Senator Clarence K. Nishihara, Chair  
Senator Breene Harimoto, Vice Chair  
Committee on Transportation

Senator Will Espero, Chair  
Senator Rosalyn H. Baker, Vice Chair  
Committee on Public Safety, Intergovernmental and Military Affairs

From: Mike Golojuch, Sr.

Subject: SB1180

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As a member of the Citizens Advisory Committee to Oahu Metropolitan Planning Organization, serving as Chair on two occasions and the current Vice Chair, I support the intent of SB1180 but ask that SB1180 be modified to include a member of the Citizens Advisory Committee (CAC) as a member of the Policy Committee.

Reasons for including a CAC member are:

1. This is not a new idea. At least 14% of the Metropolitan Planning Organizations (MPO) have a citizen' representative as a voting member.
2. The CAC needs to be an essential part of the review process and not just a nice add on so someone can claim that the community as been consulted.
3. The Oahu CAC is the one component of the OahuMPO that was not criticized by Federal Transportation in their recent critical review of the OahuMPO. In fact the Oahu CAC was praised, as being an exemplary model of what a CAC should be.
4. A CAC voting member on the Policy Committee is not going to dominate and determine the decisions of that body, but will assure that the CAC voice is heard.
5. The CAC takes its work as part of the OMPO process very seriously. Now we want the Policy Committee to take the CAC just as seriously as the CAC takes itself.

Thank you, for allowing me to express my views on this issue.

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**Subject:** Submitted testimony for SB1180 on Feb 12, 2015 14:45PM  
**Date:** Thursday, February 12, 2015 9:52:01 AM

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**SB1180**

Submitted on: 2/12/2015

Testimony for TRA/PSM on Feb 12, 2015 14:45PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
W. Ken Koike	Individual	Oppose	No

Comments: I am STRONGLY OPPOSED to SB1180 because it lacks a VOTING MEMBER of the Citizen's Advisory Committee (CAC) on the Policy Committee (PC). Please amend this bill so we, the common citizens, who are not given special monies, kickbacks or special political favors from the corporations who stand to gain significant profits from the decisions made over our finances by this committee, have our proper say over these matters. Please give us an official voice at the table? Your support will demonstrate that you're not already bought by special interests... Mahalo!

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