



U.S. Department
of Transportation
Federal Transit
Administration

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SEP 20 2004

Mr. George Miyamoto
Acting Director
Department of Transportation Services
City and County of Honolulu
650 South King Street, 3rd Floor
Honolulu, HI 96813

Re: Rescission of Record of Decision
Primary Corridor Transportation Project
Initial Operating Segment

Dear Mr. Miyamoto:

The Federal Transit Administration (FTA) regrets to inform you that it is rescinding its Record of Decision (ROD) of October 23, 2003 for the Initial Operating Segment (IOS) of the Primary Corridor Transportation Project. FTA has determined the IOS project to be ineligible for FTA funding.

Unfortunately, the Department of Transportation Services' (DTS) actions to begin incurring costs in the final design and construction of the IOS absent required FTA approvals precludes further FTA participation in the IOS project. The City's implementation of design and construction of the IOS project or any part thereof, as the IOS is defined by the FTA's October 23, 2003 Record of Decision, has not followed FTA's Section 5309 New Starts program requirements such as inclusion in the federally-approved state transportation improvement program, FTA approval to enter final design, a Letter of No Prejudice or grant award. FTA's program requirements, which have been known and shared with DTS repeatedly, are clearly set forth in law, regulations, and agency guidance. (See 49 USC 5309(d), 23 CFR 450.216(a)(6), 23 CFR 450.222(a), 49 CFR 611.7, and FTA Circular 9300.1A Chapter V section 3 and Chapter VI section 2).

In addition, the incurrence of costs on the IOS project has not followed FTA's Section 5309 Bus and Bus Facilities program requirements that also mandate inclusion in a federally-approved state transportation improvement program prior to the incurrence of cost. On September 17, 2004, FTA disapproved the State's request to amend the IOS project into the federally-approved statewide transportation improvement program due to the City's failure to meet FTA requirements as noted above.

FTA staff has provided numerous and consistent notice of the consequences of the City's action to move the IOS project forward without necessary FTA approvals. In a teleconference call in December 2003, we communicated our concern about this matter and recommended delay in the award of your construction contracts. Our communication about this issue was frequent and consistent.

Therefore, because the IOS project is no longer eligible for FTA funding participation and, therefore, there is no Federal "action", as defined by 23 CFR Section 771.107(b), a Record of Decision under the National Environmental Policy Act is no longer appropriate and that Record of Decision dated October 23, 2003, is rescinded.

If you have any further questions, please call me at (415) 744-3133.

Sincerely,



Lealie T. Rogers
Regional Administrator

cc: Gordon Lum, OMPO
Abraham Wong, FHWA