**Hawaii Department of Transportation (HDOT) Motor Vehicle Safety Office (MVSO) – NHTSA Recipient (Highway Safety Program Grant (405(b), 405(c), 405(d), 405(f), 405(g))**

I. Pre-Award Data Collection Requirements for Primary and Direct Recipients

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NHTSA requests comments and responses to the following specific categories of information that NHTSA will collect prior to awarding FFA. In providing comments and responses, please address the following for each category of information to be collected: (i) the processes and procedures required of staff who are preparing applications to obtain the information; (ii) the anticipated staffing, burden hours, and timeline required to obtain, analyze, and provide the information; (iii) best methods for relaying the information ( *e.g.,* fillable form, report template); and (iv) ways for NHTSA to enhance the quality, usefulness, and clarity of the information collected.

1. List of all pending civil rights lawsuits and administrative complaints (including basis and status) filed under Federal law against the applicant/recipient that allege discrimination based on race, color, national origin (including limited English proficiency), disability, age, or sex during the last three years;

HDOT Response: (i) The Title VI Coordinator has this information and will provide to HDOT MVSO staff. (ii) This may take up to 5 hours upon request to provide. (iii) Other Federal agencies requesting such information ask for it as part of a Title VI Plan (e.g. FTA, MARAD), or part of a pre-award checklist. (iv) Unclear what would improve on this beyond explanation what the data will be used for on NHTSA OCR side.

2. List of all civil rights lawsuits and administrative complaint investigations decided against the applicant/recipient within the last three years that alleged discrimination under Federal law based on race, color, national origin (including limited English proficiency), disability, age, or sex and provide a copy or copies of applicable decision(s) and describe all corrective action(s) taken;

HDOT Response: (i) The Title VI Coordinator has this information and will provide to HDOT MVSO staff. (ii) This may take up to 5 hours upon request to provide. (iii) Other Federal agencies requesting such information ask for it as part of a Title VI Plan (e.g. FTA, MARAD), or part of a pre-award checklist. (iv) Unclear what would improve on this beyond explanation what the data will be used for on NHTSA OCR side.

3. List of all Federal civil rights compliance reviews of the applicant/recipient conducted by any Federal agency within the last three years, enclose copy or copies of the review(s) and any decision(s), order(s), or agreement(s) based on the review(s), and describe any corrective action(s) taken.

HDOT Response: (i) The Title VI Coordinator has this information and will provide to HDOT MVSO staff. (ii) This may take up to 5 hours upon request to provide. (iii) Other Federal agencies requesting such information ask for it as part of a Title VI Plan (e.g. FTA, MARAD), or part of a pre-award checklist. (iv) Unclear what would improve on this beyond explanation what the data will be used for on NHTSA OCR side. Clarity on why NHTSA would be interested in Federal compliance reviews as compared to MARAD, who has indicated interest in any State reviews included in as well, would be appreciated.

4. Description of FFA applications pending in other Federal agencies and of other current FFA provided;

HDOT Response: (i) The Title VI Coordinator will need to coordinate with all modal offices to receive a list of pending and current FFA sources for funding. (ii) This may take up to 200 hours upon request to provide. (iii) Other Federal Agencies do not request for such information, beyond that for their own Federal agency as listed in a Title VI plan (e.g. FTA) (iv) Including this request strikes as very onerous and a precise explanation of why NHTSA OCR staff wishes to know all other FFA applications pending or current FFA provided for an organization that receives a wide variety of funds from multiple Federal sources is greatly appreciated. Additionally, is this data collection element subject to the three-year requirement like other sections? It is unclear.

5. Demographic information on the population served by the federally funded program or activity;

HDOT Response: (i) The Title VI Coordinator will work with HDOT MVSO staff to collect and provide this information (ii) This may take up to 50 hours upon request to provide. (iii) Other Federal agencies requesting such information ask for it as part of a Title VI Plan (e.g. FTA, FHWA) (iv) Specifics on what are acceptable data sources, ways of presenting such data, etc., would be appreciated to ensure there is no confusion on the part of the recipient.

6. Description of the applicant's/recipient's discrimination complaint process;

HDOT Response: (i) The Title VI Coordinator has this information and will provide to HDOT MVSO staff. (ii) This may take up to 5 hours upon request to provide. (iii) Other Federal agencies requesting such information ask for it as part of a Title VI Plan (e.g. FTA, MARAD), as separate procedures. (iv) Unclear what would improve on this beyond explanation what the data will be used for on NHTSA OCR side.

7. Statement affirming that staff has been designated to coordinate and carry out the responsibilities for compliance with Federal civil rights laws, and the name, title ( *e.g.,* Title VI Coordinator, ADA Coordinator), description of responsibilities, and contact information for such staff;

HDOT Response: (i) The Title VI Coordinator has this information and will provide to HDOT MVSO staff. (ii) This may take up to 5 hours upon request to provide. (iii) Other Federal agencies requesting such information ask for it as part of a Title VI Plan (e.g. FTA, MARAD), or part of a pre-award checklist. (iv) Unclear what would improve on this beyond explanation what the data will be used for on NHTSA OCR side.

8. Whether the applicant/recipient provides initial and continuing public notice of its nondiscrimination policy statement and, if so, whether (a) the methods of notice accommodate individuals with visual and/or hearing disabilities, (b) the notice is posted in a prominent place on the applicant's/recipient's website, in the offices or facilities or, for educational programs and activities, in appropriate periodicals and other written communications; and (c) the notice identifies a designated civil rights coordinator;

HDOT Response: (i) The Title VI Coordinator has this information and will provide to HDOT MVSO staff. (ii) This may take up to 5 hours upon request to provide. (iii) Other Federal agencies requesting such information ask for it as part of a Title VI Plan (e.g. FTA, MARAD), or part of a pre-award checklist. (iv) Unclear what would improve on this beyond explanation what the data will be used for on NHTSA OCR side.

9. Whether the applicant/recipient has a written policy/procedure for individuals with disabilities to request reasonable accommodations to access benefits and services;

HDOT Response: (i) The ADA Coordinator has this information and will provide to HDOT MVSO staff. (ii) This may take up to 5 hours upon request to provide. (iii) Information is generally posted on HDOT website. (iv) Unclear what would improve on this beyond explanation what the data will be used for on NHTSA OCR side.

10. Whether the applicant/recipient has a written policy/procedure for providing meaningful access to benefits and services for persons with limited English proficiency;

HDOT Response: (i) The Title VI Coordinator has this information and will provide to HDOT MVSO staff. (ii) This may take up to 5 hours upon request to provide. (iii) This information is provided in the HDOT Language Access Plan (iv) Unclear what would improve on this beyond explanation what the data will be used for on NHTSA OCR side; and

11. Whether applicant/recipient has a plan to ensure Federal civil rights compliance in subrecipient programs, if any, including subrecipient compliance reviews.

HDOT Response: (i) The Title VI Coordinator has this information and will provide to HDOT MVSO staff. (ii) This may take up to 5 hours upon request to provide. (iii) Other Federal agencies requesting such information ask for it as part of a Title VI Plan (e.g. FTA, MARAD). (iv) Unclear what would improve on this beyond explanation what the data will be used for on NHTSA OCR side.

II. Compliance Reviews

NHTSA must also conduct periodic compliance reviews of its recipients. *See* 49 CFR 21.11(a); 49 CFR 25.605; 49 CFR 27.123(a); *see also* 45 CFR 90.42(a). Post-award reviews are conducted as desk audits and/or on-site visits. Because the review may cover all or a portion of the recipient's compliance with specific Federal civil rights laws, the scope of a review is defined on a case-by-case basis. NHTSA may summarize the results of the review in a draft compliance report, which will include findings of no deficiency (no corrective action necessary), findings of deficiency (corrective action required), and advisory comments, as appropriate. If findings of deficiency remain in the final compliance report, the recipient will be required to take corrective action, develop a timeline for compliance, and report its progress.

NHTSA requests comments and responses to the following questions:

1. What factors should NHTSA consider in developing a compliance timeline for a finding of deficiency?

HDOT Response: Both key factors as identified in the USDOT 1000.12C rule (e.g. adoption of Title VI assurances, implementation of complaint procedures, community participation plan) and factors independently identified by NHTSA as significant to their oversight of Title VI/Environmental Justice/Language Access compliance (Title VI/Environmental Justice component to highway safety plans? Specific subrecipient compliance requirements?) should be important. If NHTSA is striving for a triennial turnaround time for recurring Title VI compliance, then corrective action plans should also reflect the same turnaround time to allow for the recipient to address corrective actions to the satisfaction of NHTSA by or before the next submittal of Title VI and related information as part of a pre-award or Title VI Plan requirement.

2. Is there a minimum time period for which NHTSA should monitor a recipient after a finding of deficiency?

HDOT Response: Following the above, the time period should be three years to keep with the triennial requirement.

3. How frequently should NHTSA require progress reports from a recipient who is undertaking corrective action following a finding of deficiency.

HDOT Response: Depending on the deficiency, should be at a maximum quarterly for severe deficiencies (or special emphasis areas if NHTSA prefers to focus on a process like that). If deficiencies can be addressed within 6 months or a year, then a report at that time should be sufficient.

III. Implementation and Additional Considerations

1. What promising practices are NHTSA recipients—larger and smaller recipients, and national organizations—using to:

a. Engage traditionally underserved communities, and how is the effectiveness assessed?

HDOT Response: Rollout of community engagement efforts with underserved communities, tracking and mapping activities performed via GIS tools, and periodic review to determine effectiveness of engagement and where deficiencies may be identified.

b. Review policies and practices to ensure that programs and activities do not result in disparate impacts based on race, color, national origin (including limited English proficiency), disability, age, or sex?

HDOT Response: Internal review on a periodic basis can determine deficiencies alongside compliance efforts for subrecipients.

c. Ensure that individuals and communities with limited English proficiency have meaningful access to the recipient's programs and activities?

HDOT Response: The agencies of the State of Hawaii are mandated to ensure language access resources are available to those who request it by state law (§321C, Hawaii Revised Statutes). HDOT has a language access plan in place that details such resources and requirements and HDOT OCR staff engage in training and outreach to ensure employees understand what is required of them and how to use resources.

d. Ensure effective communication with individuals with communication-related disabilities ( *e.g.,* visual, auditory)?

HDOT Response: Same as above but for communication-related disabilities and available resources for access.

e. Ensure that facilities are free from physical barriers to access for individuals with disabilities?

HDOT Response: N/A as NHTSA funds received are not used for infrastructure. However, infrastructure processes are subject to ADA review by the State Disability Communication and Access Board and are subject to approval. Clarification is requested for coverage of ADA requirements for NHTSA-funded events, subrecipient activities, etc..

f. Ensure that subrecipients comply with Federal civil rights laws?

HDOT Response: Regular compliance reviews and oversight of subrecipients is required, including regular outreach and contact to ensure that subrecipients can refer back to HDOT OCR staff for subject-matter guidance as needed.

2. What factors should NHTSA consider when tailoring compliance information, requirements, and guidelines to each recipient type ( *e.g.,* type of funding, award size)?

HDOT Response: As all agencies under USDOT seem to indicate they are following what is required under Order 1000.12C, NHTSA should also follow this for minimums of what is required for recipients. Establishing standards for equity demographic indicators for incidents such as crashes, tools for screening potential impacts to underserved populations, and looking to better implement GIS and/or data analysis for highway safety planning to address Environmental Justice concerns would be good.

Review of key items other Federal agencies require (such as the detailed FTA 4702.1B Title VI Circular requirements or the templates for Title VI and Community Participation Plans recently rolled out by FAA) may help to guide NHTSA OCR staff on what to provide for their recipients. As MARAD is also in the middle of establishing Title VI/ADA requirements for their recipients, discussion with them may help to determine how NHTSA moves forward. Discussion with recipients on impacts would be helpful to better understand and determine what recommendations recipients could provide to NHTSA in constructing guidelines and requirements.

3. Should NHTSA require and collect any additional pre-award Federal civil rights compliance information not discussed above or included in applicable funding notices prior to awarding FFA? If so, what is that information and how should NHTSA collect it?

HDOT Response: No, and the information proposed to be requested under (I)(4), above, would potentially too great to collect if looking beyond NHTSA grants. Only exception possible here would be asking for compliance review information from State agencies.

4. What considerations and benchmarks ( *e.g.,* formula grant application deadlines, budgetary phases) should NHTSA incorporate into the implementation timeline for its Nondiscrimination Guidelines?

HDOT Response: If the proposed triennial framework materializes, then such framework should be tied in with the Federal Fiscal Year and/or appropriate grant application deadlines such that NHTSA OCR can ensure that recipients’ Civil Rights obligations are being met at the minimum at the time of application and pre-award review.

5. What specific subject matter technical assistance and trainings would help to ensure that recipients fulfill their Federal civil rights obligations?

HDOT Response: Depending on how NHTSA OCR establishes their civil rights compliance framework, holding training sessions and open forums for recipients to ask questions would be appreciated. Additionally, if templates are established for addressing compliance, then walkthrough training sessions would be appreciated to ensure questions about completing such templates could be addressed.

6. What additional supports ( *e.g.,* webinars, internet-accessible information on NHTSA's web page, subject-specific resource lists, factsheets, checklists, templates, sample notices and forms, illustrative analysis) will assist applicants and recipients in fulfilling the requirements of NHTSA's proposed Nondiscrimination Guidelines?

HDOT Response: Please record trainings so they can be posted online for later review. Please post any template documents for recipients and subrecipients to use, if templates are created. If there are data analysis/GIS/etc. components required, please provide samples of acceptable components to better provide an understanding to recipients.

HDOT MVSO and the HDOT Office of Civil Rights (OCR) welcomes additional discussion and follow-up from NHTSA partners on this topic. Please feel free to reach out to MVSO or HDOT OCR for additional feedback.