



**KAHULUI AIRPORT
AIRLINE COMPETITION PLAN UPDATE**

KAHULUI AIRPORT, MAUI, HAWAII

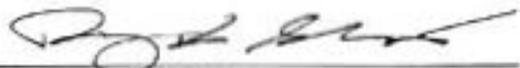
STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
AIRPORTS DIVISION

JULY 2002

**KAHULUI AIRPORT
AIRLINE COMPETITION PLAN UPDATE**

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
AIRPORTS DIVISION
Honolulu International Airport
400 Rodgers Boulevard, Suite 700
Honolulu, Hawaii 96819

Submitted by:



Roy K. Sakata
Acting Airports Administrator
Department of Transportation
State of Hawaii

7/15/02

Date

July 2002

Introduction

Kahului Airport is located on the north central shore of Maui, northeast of the town of Kahului. The Airport encompasses approximately 1,447 acres of land and is owned and operated by the State of Hawaii as part of the statewide airports system. A medium hub airport, Kahului Airport currently has two airlines, Hawaiian Airlines and Aloha Airlines, carrying approximately 71% of the passenger traffic¹. Under the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, a competition plan is required for this airport.

The Kahului Airport Airline Competition Plan (Competition Plan) was submitted to the Federal Aviation Administration (FAA) on December 1, 2000. After additional information was provided, FAA accepted the Competition Plan on June 15, 2001. However the acceptance letter (attached) also listed points to be addressed in the next plan update.

Availability of Gates and Related Facilities

There are two distinct types of air carrier operations using the terminal gates - inter-island and overseas. Inter-island operations provide air service within the Hawaiian Islands. Interisland flight distances from Kahului Airport are short, varying from 25 miles to 202 miles. Narrow-bodied aircraft, primarily Boeing 717's and Boeing 737's are used. Overseas operations provide air service to the continental United States and Canada. Flight distances are long, 2,400 miles and greater. Generally, wide-bodied aircraft, such as Boeing 767's, Boeing 777-200's, Lockheed L-1011's, McDonnell-Douglas DC-10's, and long ranged narrow-bodied aircraft, such as Boeing 737-700's and Boeing 757's are used. Aircraft used for these two types of air carrier operations affects gate assignments. As shown on the Gate Assignment Table, while aircraft used for inter-island operations can be accommodated at all gates, those used for overseas operations aircraft can't. These gate restrictions will affect the aircraft mix that can be accommodated.

In the acceptance letter, FAA requested that the following points be addressed in the new plan update:

1. How many additional inter-island operations can be accommodated at overseas gates?

¹ FAA's Airport Competition Plan Data Year 2000 - Table 1: Carrier Detail by Airport

Currently, nine gates are designated for overseas operations (Gates 1, 5, 7, 23, 27, 29, 33, 35 and 39). Figure 1 shows the Kahului Airport terminal gate configuration. Generally, a gate fully utilized for inter-island operations will handle one operation per hour, from 6:00 a.m. to 9:00 p.m., a total of fifteen operations per day. If all nine gates are utilized exclusively for inter-island operations, 135 operations per day can be accommodated.

2. How many additional overseas operations can be accommodated?

Currently, seven gates are used for inter-island operations (Gates 9, 11, 13, 15, 17, 19, and 21). Only Gates 17 and 21 are configured to handle wide-bodied aircraft such as McDonald-Douglas DC-10's, Lockheed L-1011's, and Boeing 767's. Gate 15 is configured to handle large narrow-bodied aircraft such as Boeing 757's. The remaining inter-island gates cannot accommodate aircraft larger than Boeing 717's and Boeing 737's. Currently, the maximum usage of an overseas gate is four operations per day. If Gates 15, 17, and 21 are utilized exclusively for overseas operations, eight wide-bodied and four large narrow-bodied operations can be accommodated. The remaining four inter-island gates can accommodate sixteen overseas operations per day if Boeing 737-700's or a similar size aircraft is used.

3. What is the rate of trade-off between accommodating inter-island versus overseas flights?

Inter-island gates handle fifteen operations per day while overseas gates handle up to four operations per day. Using this ratio, the trade-off is fifteen inter-island operations for four overseas operations. However, as stated above, only two inter-island gates can handle wide-bodied aircraft and one additional inter-island gate can handle large narrow-bodied aircraft.

4. Given the past rate of expansion of service at Kahului Airport, the current fleet mix, and projection for growth, when does the Airports Division project that the lack of gate, ticket counter, or other terminal capacity force the Airports Division to deny requests for access to the Airport?

Previously, as stated in the Competition Plan, there were 110 overseas and 485 inter-island departures per week. Currently, however, the overseas departures have increased

to 138 while the inter-island departures dropped to 425. This translates to a 25% increase in oversea departures versus a 12% decrease in inter-island departure. As described above, overseas operations can only be accommodated at a limited selection of gates. Also, there's an existing high occupancy of the overseas gates between the peak hours of 10:30 a.m. to 1:30 p.m. This translates to Airports Division having a limited ability to accommodate new requests for access using wide-bodied or large narrow-bodied aircraft during the peak hours. However, there's significant capacity for new entrants during the off-peak hours. Also, the 138 overseas departures include operations airlines added for the summer peak. Because overseas operations generally decreases once summer is over, it may be possible to accommodate new entrants during the peak hours after summer

The Competition Plan stated the critical constraint on the entry of new carriers is the lack of ticket counter space. There are 56 ticket counter positions, 16 are under lease and 40 are under revocable permits. The project to provide 22 new ticket counter positions has been deferred due to the reprioritization for security projects, of the capital improvement program following September 11, 2001. However, given the reduction of inter-island operations and the large number of ticket counters under revocable permits, Airports Division feels that the ticket counter can accommodate additional inter-island operations through proper planning and an utilization analysis. In regards to overseas operations, given the 10:30 a.m. to 1:30 p.m. peak hours gate constraint, additional overseas operations at the ticket counter during off-peak hours can be accommodated.

Leasing and Subleasing Arrangements

Airports Division owns, in fee, the terminal facilities at Kahului Airport. The airlines are charged for using terminal facilities, either through a lease or revocable permit. Airfield costs are recovered through a landing fee. Residual costs to operate the statewide airports system is recovered through the Airports System Support Charge. A lease with an airline will contain conditions and rental rates for a set duration, usually one or more years. A revocable permit provides for use of the terminal facilities, but contains language that allows Airports Division to cancel the permit upon thirty days written notice. Other user-based fees are assessed for common use areas and recovered on a per revenue landing basis.

Subleasing is allowed only on a lease and is prohibited under a revocable permit. Conditions in the lease require approval of any sublease. Also, it is Airports Division's policy to deny, take all or a portion of, or require a change to sublease rents that it considers excessive and/or speculative.

In the acceptance letter, FAA asked Airports Division the following questions:

1. Has Airports Division adopted procedures that an air carrier would follow if a dispute concerning access, sublease fees or terms, or ground handling services arose?

As stated in our May 1, 2001 reply letter, procedures governing disputes concerning subleases are covered under our Sublease Evaluation Policy (attached). This policy governs terms and conditions for subleases, including prior written consent and a cap on sandwich profit to prevent speculation of State-owned land.

2. If a dispute concerning access, sublease fees or terms or ground handling services arose, is there a recognized forum for hearing complaints?

Currently, complaints would be initially directed to the Maui District Office at Kahului Airport. This would be the forum for resolving complaints.— Complaints could also be resolved at the Airports Division or departmental level.

3. What role, if any, do carriers serving the airport fill in this forum?

The carriers serving the airport, unless directly involved in the complaint, would fill an extremely limited role in this forum.

4. Is there an appeal process?

Currently, there is no set appeal process. However, if the complaint has not been satisfactorily resolved at the Maui District Office level, it could proceed to the Airports Division or departmental level on Oahu.

5. How are new entrants made aware of dispute procedures?

There are no formal methods of making new entrants aware of dispute procedures. However, new entrants can discuss

matters with the Maui District Office personnel.

Gate Assignment Policy/Common Use Gates

Because Airports Division owns, in fee, the terminal facilities at Kahului Airport, it retain total control of the terminal gates at all times. Gate usage is monitored by Airports Division to obtain the best utilization of available gates.

In the acceptance letter, FAA provided these suggestions on policies concerning gate assignment and signatory carrier prerequisite:

1. Concerns were expressed that current policies appear to give a preference to a signatory carrier over a non-signatory carrier without regard to the relative intensity of usage that each would make of a gate. Also, there was no criteria or methodology by which non-signatory carriers are evaluated for forfeiture of gates when a signatory air carrier requests additional gates. The FAA suggests that the Airports Division consider adjusting the review criteria to include review of both signatory and non-signatory air carrier gate use.

Airports Division believes this suggestion has merit. Consideration will be given on relative intensity of usage for gate assignments. A non-signatory carrier will not be displaced if the signatory carrier would be operating fewer flights on the gate. However, if the relative intensity would be equal, a signatory carrier would displace a non-signatory carrier.

2. FAA encouraged the adoption of a method of automatically providing gate availability information to all airlines serving the airport as well as new entrants that have expressed an interest in operating a Kahului Airport.

After evaluating this suggestion, Airports Division believes the current method of providing gate availability information upon request is adequate.

3. The requirement for three years of either audited financial statements or Federal tax returns to obtain signatory status appears to exceed industry practice. Specifically, it would appear to preclude start-up carriers from obtaining signatory status for an extended period of time. FAA suggests that a less burdensome requirement, such as a

reduction in the number of years for which financial information is required or procurement of a payment bond, surety, or letter of credit, be used.

Airports Division is currently evaluating this suggestion.

Airports Controls over Airside and Groundside Capacity

The existing airport-airline lease extension agreement is based on a residual rate setting methodology. The lease extension also provides a concurrence methodology for capital improvement projects in excess of the concurred capital improvement program. New projects go through a concurrence process in which fifty percent of the signatory airlines representing at least fifty percent of the total landing fees and Airport System Support Charge can delay the project by withholding concurrence. However, the lease extension allows Airports Division to proceed with a non-concurred project in the State Fiscal Year following the year concurrence was withheld. In essence, the airport-airline lease extension allows the signatory airlines, by withholding concurrence, to delay a capital improvement project up to one year.

In the acceptance letter, FAA indicated that the concurrence methodology "appears to be a form of a majority-in interest (MII) agreement." FAA's *Airport Business Practices and Their Impact on Airline Competition* (October 1999) recommends that airport ensure that MII agreements do not prevent or delay projects that could be beneficial to new entrants or other competitors. Furthermore, FAA indicated that Airports Division may want to carefully consider revising the agreement language to gain greater control over capital development on the airport when the opportunity presents.

Airports Division believes FAA's interpretation of the concurrence methodology as a form of MII agreement does have merit. This interpretation, as well as the concerns of *Airport Business Practices and Their Impact on Airline Competition* will be taken into account when airport-airline lease negotiations resume. However, Airports Division currently has no timetable of when the department and the airlines will begin active discussions and both parties continue to operate under the present lease extension agreement.

Summary

While the current airport-airline lease extension is a residual agreement, FAA indicates that the concurrence methodology that allows the signatory airlines to delay projects up to one year may appear to be a form of MII agreement. However, due to airport ownership of the terminal facilities, Airports Division retains the flexibility on gate and holdroom assignments. This allows Airports Division to maximize utilization of the facilities at Kahului Airports, including gates, holdrooms, and ticket counters.

Because of the interest that members of the traveling public may have in airline competitive issues at Kahului Airport, FAA encourages Airports Division to put a copy of the competition plan and response letter on the airport web site. Currently, Airports Division is in the process of implementing this recommendation.

Interisland passenger air travel is often the only practical link between the Hawaiian Islands. Additional competition would benefit the traveling public, especially Hawaii residents. Airports Division welcomes any legitimate entry by new carriers, working with them to make available gates, holdrooms, and ticket counter space.

Kahului Airport Airline Competition Plan Update

Gate Assignments Table

Gate 1	B717, B737	Gate 23	B717, B737
Gate 1A	DC10, L1011	Gate 23A	B757, B767, DC10, L1011
Gate 5	B767, DC10, L1011	Gate 27	B757, B767, DC10, L1011
Gate 5A	B717, B737	Gate 27A	B717, B737
Gate 7	B717, B737	Gate 27-1	B777
Gate 7A	B767, DC10, L1011	Gate 29	B747
Gate 7B	B777	Gate 29A	B717, B737
Gate 9	B717, B737	Gate 29B	B757, B767, DC10, L1011
Gate 11	B717, B737	Gate 33A	B757, B767, DC10, L1011
Gate 13	B717, B737	Gate 33B	B717, B737
Gate 15	B717, B737, B757	Gate 33-1	B777
Gate 17	B717, B737	Gate 35	B717, B737
Gate 17a	DC10, L1011	Gate 35A	B767, DC10, L1011
Gate 19	B717, B737	Gate 37	B717, B737
Gate 21	B717, B737	Gate 39	B767, DC10, L1011
Gate 21A	DC10, L1011	Gate 39A	B717, B737
		Gate 39-1	B777



U.S. Department
of Transportation

**Federal Aviation
Administration**

Office of Airport Planning
and Programming

800 Independence Ave., SW.
Washington, DC 20591

JUN 15 2001

Mr. Jerry Matsuda, P.E.
Airport Administrator
Department of Transportation
Airports Division
Honolulu International Airport
400 Rodgers Boulevard, Suite 700
Honolulu, HI 96819

Dear Mr. Matsuda:

Thank you for your May 1 reply to our March 19, 2001 review of the State of Hawaii Department of Transportation Airports Division's Competition Plan for Kahului Airport (OGG), requesting additional information and clarification.

The information you provided was responsive to our request. In light of these responses, we have determined that your competition plan is in conformity with the requirements of section 155 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), Pub. L. 106-181, April 5, 2000. However, we offer some suggestions for your consideration as you implement and update your plan for the next fiscal year. These suggestions are in addition to those we provided in our initial response to your competition plan. We have also identified areas where additional information would be helpful in the first update to your plan. For your convenience, we have categorized our suggestions and information requests according to the categories specified in PGL 00-3.

Availability of gates and related facilities

Thank you for providing copies of the Airport-Airline Lease-Extension Agreement and the Airports Division's Administrative Rules.

We note there are 20 gates at OGG; that none are leased; and that the Airports Division has the final decision on all gate allocations and assignments. Further it is noted that only some areas within the terminal (ticket counters, airline offices, airline ramp offices, baggage conveyor systems, baggage makeup and breakdown, open equipment parking, ramp equipment and operations space, ramp storage, and one airline VIP lounge) are leased under long-term exclusive use leases. All remaining similar facilities are rented to non-signatory air carriers on a month-to-month revocable "permit" basis. To terminate a month-to-month revocable permit either party must provide a 30-day advance termination notice.

The Airports Division is to be commended for adopting leasing arrangements that provide it with the ability to recapture or reassign facilities on short notice to accommodate entry or expansion. However, the response to our inquiry concerning gate capacity and expansion raises several questions. The response indicates the terminal usage is at capacity for inter-island operations and averages 1.7 operations each day per overseas gate. The last sentence of the response states, "there is expansion potential both for overseas and inter-island operations at the gates being used for overseas operations." Please provide additional information on the capacity of the overseas gates to accommodate inter-island service. Specifically, given the current fleet mix, (1) how many additional inter-island operations can be accommodated at overseas gates; (2) how many additional overseas operations can be accommodated; and (3) what is the rate of trade-off between accommodating inter-island versus overseas flights? Also, given the past rate of expansion of service at OGG and the current fleet mix, and projections for growth, when does the Airports Division project that the lack of gate, ticket counter, or other terminal capacity would force the Airports Division to deny requests for access to the Airport?

Leasing and subleasing arrangements

Thank you for sending a copy of the Department of Transportation Sublease Evaluation Policy with your May 1 response to our letter.

The information you provided on the leasing and subleasing policy was responsive to our request for information on the different conditions that affect signatory and non-signatory carriers.

In your next update please explain whether the Airports Division has adopted procedures that an air carrier would follow if a dispute concerning access, sublease fees or terms, or ground handling services arose. For instance, is there a recognized forum for hearing complaints? What role, if any, do carriers serving the airport fill in this forum? Is there an appeal process? How are new entrants made aware of dispute procedures? Even though an airport may have gates available for immediate access, our *Airport Practices* report found that entry is facilitated when airport management assumes an active and continuous role in monitoring gate utilization, assisting new entrants in securing subleases or gate sharing arrangements, and monitoring subleasing agreements.

In the event that the Airports Division has not adopted dispute resolution procedures and policies, we encourage you to do so. Our *Airport Practices* report found that new entrants are more likely to be treated fairly if airports adopt procedures to resolve disputes between carriers.

Gate assignment policy/common use gates

The responses to the questions concerning gate assignment and priority assignment were very helpful in understanding the gate assignment policy and operations at OGG. However, the response did not indicate the criteria or methodology by which nonsignatory air carriers are evaluated for forfeiture of gates when a signatory air carrier requests additional gates. In addition, we are concerned that current policies appear to give a preference to a signatory carrier over a nonsignatory carrier without regard the relative intensity of usage that each would make of a gate (i.e., a non-signatory carrier could be required to forfeit a gate even if the replacement signatory carrier would operate fewer flights on the gate). The FAA would like to suggest that the Airports Division consider adjusting the review criteria to include review of both signatory and non-signatory air carrier gate use. Consideration of signatory gate use could enhance opportunities for air carrier competition by permitting more intensive use of airport facilities.

In addition, it is not clear how air carriers are made aware of gate availability. Although such information is available upon request, we would encourage the adoption of a method of automatically providing such information to all airlines serving the airport as well as new entrants that have expressed an interest in operating there.

The requirement for three years of either audited financial statements or Federal tax returns to obtain signatory status appears to exceed industry practice and could place new entrants or carriers with limited presence at the airport at a competitive disadvantage with existing signatory carriers. In particular, it would appear to preclude start-up carriers from obtaining signatory status for an extended period of time. We suggest that the Airports Division consider less burdensome requirements, such as a reduction in the number of years for which financial information is required or procurement of a payment bond, surety, or letter of credit.

In your next update please describe the Airports Division's accomplishments in these areas.

Financial constraints

Thank you for providing the Airport-Airline Lease Extension Agreement and pointing out the sections that control the source of revenue for airport improvements. In addition, your response on exclusive-use terminal charges was helpful.

Airport controls over airside and groundside capacity

We understand from the competition plan that you have a "concurrency methodology" clause in your agreements, which allows signatory airlines to delay a capital improvement project for up to one year. You note that this delay option has never been exercised. However, based on your description, the clause appears to be a form of a majority-in-interest (MII) agreement. Our *Airport Practices* report recommended that airports ensure that MII agreements do not prevent or delay projects that could be beneficial to new entrants or other competitors. You may want to carefully consider revising the agreement language to gain greater control over control capital development on the airport when the opportunity presents itself.

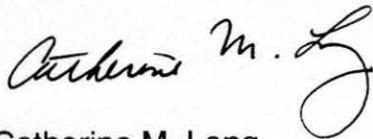
Finally, because of the interest that members of the traveling public may have in airline competitive issues at your airport, including your policy of ensuring reasonable access for new entrant airlines, we encourage you to put a copy of your competition plan, including this response, on your airport web page.

We look forward to reviewing your the first update to your competition plan.

The Secretary is required to review the implementation of the competition plans from time-to-time to make sure each covered airport successfully implements its plan. In connection with our review, we may determine that site visits to one or more locations would be useful. We will notify you should we decide to visit OGG in connection with its competition plan.

If you have any questions regarding this letter or the FAA's review of your plan, please contact Mr. Barry Molar, Manager, Airports Financial Assistance Division at (202) 267-3831.

Sincerely,



Catherine M. Lang
Director, Office of Airport
Planning and Programming

Department of Transportation

SUBLEASE EVALUATION POLICY

Reference

Chapter 171-36(a)(6), Hawaii Revised Statutes

"The lessee shall not sublet the whole or any part of the demised premises except with the approval of the board; provided that prior to the approval, the board shall have the right to review and approve the rent to be charged to the sublessee; provided further that in the case where the lessee is required to pay rent based on a percentage of its gross receipts, the receipts of the sublease shall be included as part of the lessee's gross receipts; provided further that the board shall have the right to review and, if necessary, revise the rent of the demised premises based upon the rental rate charged to the sublessee including the percentage rent, if applicable, and provided that the rent may not be revised downward;" (Amended 1992)

Purpose

The purpose of the sublease evaluation policy is to prevent speculation.

The basic rationale or philosophy behind the sublease evaluation policy is that the State, as mandated by statutes, should not allow anyone to make sandwich profits from the use of State-owned land, but, at the same time, recognize the sublessor's right to make a fair return for the investment.

When the State determines that "sandwich profits" are being realized, the State may take such action as it deems necessary, including, without limitation:

- (1) limiting the amount of rent charged to the sublessee; or
- (2) permit the sublessor to receive the sublease rental but increase the lease rent paid to the State by the amount of the sandwich profit determined by the State.

The State may reevaluate the "sandwich profit" on an annual basis.

Procedure

At the time the lessee requests approval of a sublease, the lessee shall submit any and all information the DOT deems necessary to properly analyze the proposed sublease, including, without limitation, the proposed sublease document, floor plans of the leased premises and the premises to be subleased, plans for any and all proposed improvements, estimated operating and other costs, total investment of the lessee, the proposed payments to DOT for permitting the sublease and any other financial information.

As part of its analysis of the proposed sublease, the State will consider:

- a. data found in the real estate market, including, without limitation, data relating to what other investors are experiencing for similar/comparable investments; and
- b. those allowances and operating expenses that are properly attributable to the subleased premises.

To qualify as properly attributable to the subleased premises and therefore eligible for deduction from the effective sublease income (gross annual sublease income minus the general excise taxes paid and/or payable), such allowances (including, without limitation, reserves for replacement of

limited life items) and operating expenses must be reasonable, legitimate, adequately justified by the lessee and approved by the State. The operating expenses are to be prorated on an annual basis. Operating expenses are the periodic expenditures necessary to maintain the real property and continue the production of the effective gross income and include, but are not limited to the following:

1. **Fixed Expenses** - Fixed Expenses are operating expenses that generally do not vary with occupancy and have to be paid whether the property is occupied or vacant (i.e. real estate taxes, building insurance costs, etc.).
2. **Variable Expenses** - Variable Expenses are operating expenses that generally vary with the level of occupancy or the extent of services provided (i.e. utilities, painting, repair, maintenance, etc.).
3. **Reserve for Replacement Allowances** - Reserve for Replacement Allowances provides for the periodic replacement of building components that wear out more rapidly than the building itself and must be replaced periodically during the buildings economic life (i.e. roofing, carpeting, sidewalks, driveways, parking areas, etc.).
4. **Lease Rental** - The lease rental amount shall be the proportionate share of the total lease rent attributable to the subleased premises, based on the proportion the subleased area bears to the entire leased premises.

The Fixed Expenses, Variable Expenses and the Reserve for Replacement Allowances shall be prorated based on the proportion the leasable area of the sublease premises bears to the total leasable area of the building.

(For a detailed explanation on allowable operating expenses, please refer to Chapter 19, "Income Estimates," The Appraisal of Real Estate, Ninth Edition or such later edition, as applicable, prepared by the Textbook Revision Committee of the American Institute of Real Estate Appraisers.)

A reasonable return on the sublessor's investment which includes recapture of the sublessor's investment and some amount of profit is allowed. The allowance is the result of multiplying the sublessor's total investment in the subleased area by the Investment Return Rate.

The "Investment Return Rate" used in this DOT Sublease Evaluation Policy will be the sum of the following rates:

- a. **Treasury bonds rate.** The interest rate for Fifteen (15) year Treasury bonds in effect at the time the proposed sublease is being evaluated, as listed in the Wall Street Journal, or if not available, such similar publication as mutually agreed upon by the lessor and the lessee;
- b. **Capital recapture rate.** The annual percentage rate which would enable the lessee to recover the lessee's investment in the improvements constructed on the leased premises over the term of the lease (hereinafter the "capital recapture rate"). For example, if the lease term is twenty-five (25) years, the capital recapture rate shall be four percent (4%) per year; and
- c. **Premium rate.** A premium rate of two percent (2%).

The existing DOT lease rent attributable to the subleased area is also subtracted from the sublease income. Any balance remaining is the sandwich profit. If the State selects the option to approve the sublease rental, then the sandwich profit will be paid to DOT.

Should the State decide to consent to the sublease but limit the amount of rental charged to the sublessee, the maximum allowable sublease income may be determined by applying the following mathematical equation:

$$M - T - R(M - T) - E = 0$$

whereby,

M = maximum allowable sublease income

T = general excise tax

R = rate for management and vacancy loss (10%)

E = total allowances excluding management and general excise tax*

*when applicable

Solving for M:

$$M = \frac{E + T \cdot RT}{1 - R}$$

Effect of Termination or Involuntary Assignment

In the event that a lease or sublease becomes available to a new lessee or sublessee as a result of the involuntary termination of the lease or sublease by foreclosure of the lien of any mortgagee's interest in the leased or subleased premises (whether by court order or otherwise), the purchaser/assignee thereof and the interest so acquired shall not be subject to the requirements of this DOT Sublease Evaluation Policy. Subsequent subleases shall be subject to the requirements of this DOT Sublease Evaluation Policy.