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STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
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IN REPLY REFER TO:

December 23, 2015

The Honorable Ronald D. Kouchi,
President and Members of the Senate
Twenty-Eighth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Joseph M. Souki,
Speaker and Members of the House of
Representatives
Twenty-Eighth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Souki and Members of the Legislature:

For your information and consideration, I am transmitting a copy of the Operation and Use Privileges Report; In accordance with Section 261-7(e), Hawaii Revised Statutes, I am also informing you that the report may be viewed electronically at: <http://hidot.hawaii.gov/library/reports/reports-to-the-legislature/>

Sincerely,

A handwritten signature in blue ink, appearing to read "Ford N. Fuchigami", written over a blue line.

FORD N. FUCHIGAMI
Director of Transportation

CC: Legislative Reference Bureau

**REPORT TO THE TWENTY-EIGHTH LEGISLATURE
STATE OF HAWAII
2016**

**PURSUANT TO SECTION 261-7(e), HAWAII REVISED STATUTES,
REQUIRING THE DEPARTMENT OF TRANSPORTATION
TO SUBMIT A REPORT TO THE LEGISLATURE
ON THE CIRCUMSTANCES OF ESTABLISHING RATES AND CHARGES
BY CONDUCTING PUBLIC INFORMATIONAL HEARINGS AND
IMPLEMENTED PURSUANT TO THE SECTION**

Prepared by

**DEPARTMENT OF TRANSPORTATION
STATE OF HAWAII**

December 1, 2015

BACKGROUND

The Office of Airports-Compliance and Management Analysis, Federal Aviation Administration (FAA), U.S. Department of Transportation, Revenue Use Compliance Review dated January 30, 2015, regarding their findings and recommendations identified as a result of their on-site audit to evaluate the Airports Division, Department of Transportation's (DOTA), compliance with FAA's Policy and Procedures Concerning the Use of Airport Revenue (Revenue Use Policy) for the period of July 1, 2007 through June 30, 2013.

In summary, the Audit Team during their perimeter tour of the Honolulu International Airport (HNL), the Kahului Airport (OGG), the Kona International Airport at Keahole (KOA), the Hilo International Airport (ITO), and the Lihue Airport (LIH), noted that several of the T-Hangar spaces under Revocable Permits (RPs) were being used for commercial maintenance of small aircraft. They further recommended that DOTA develop a separate rental rate for commercial leases of the T-Hangars if the commercial maintenance of small aircraft is the highest and best use of the space.

In furtherance of FAA's recommendation, on February 4, 2015, the Land and Transportation Division, Department of the Attorney General, stated that Hawaii Revised Statutes (HRS) Section 171-55 and 261-7 govern how T-Hangar rental rates should be established for commercial activities from a T-Hangar on a RP. They also mentioned that all RP's must be approved by the Board of Land and Natural Resources and may not exceed one (1) year from date of issuance.

On April 9, 2015, key legislators (Senate President Donna Mercado Kim, Speaker of the House Joseph M. Souki, Senator Clarence K. Nishihara, Chair of the Senate Transportation Committee, and Representative Henry J.C. Aquino, Chair of the House Transportation Committee) were informed via individual letters on the FAA Findings and the use of §261-7(e) to establish rates for commercial activities from T-Hangars with an estimated effective date of June 1, 2015; proposed schedule for public informational hearings; and the submission of a final report to the Legislature.

On May 18, 2015, conducted Public Informational Hearing on Oahu.

On May 20, 2015, conducted Public Informational Hearing on Kauai-LIH.

On May 21, 2015, conducted Public Informational Hearing on Maui-OGG.

On May 27, 2015, conducted Public Informational Hearing on West Hawaii-KOA.

On May 28, 2015, conducted Public Informational Hearing on East Hawaii-ITO.

On June 8, 2015, received and accepted written testimony from Manuiwa Airways, Inc., Volcano Helicopters, who arrived after the hearing, was completed at ITO.

On July 1, 2015, received clarification from the FAA's Airport District Office in Honolulu, Hawaii, that self-sufficiency is a factor but the main intent is to have DOTA charge some fee for commercial activities as well as to ensure that DOTA provided an even competitive field (if company A leases a commercial hangar for maintenance, company B shouldn't be allowed to use a T-hangar at much lower rate, without paying extra).

On September 2 and 3, 2015, FAA confirmed DOTA's recommendation that we can decide NOT to approve any aeronautical or non-aeronautical commercial activities to be conducted from T-Hangers on an RP. However, any future request(s) to conduct commercial aeronautical activities from T- Hangers at any of Hawaii's airports, the DOTA will need to determine on a case-by-case basis, considering the aeronautical commercial activity being requested; the availability of the premises to accommodate the request; highest and best use of the premises; and to conduct a detailed needs assessment of the commercial activity being proposed as it relates to the premises and environment, to include, if necessary, by not limited to an Air Space Study. If the assessment results is a value to the aeronautical community as well as to the State of Hawaii as self-sustaining activity and the highest and best use of the premises, the requestor will be offered a five (5) year lease to conduct the aeronautical commercial activity from the premises on a percentage of gross receipt.

The above-identified recommendations are being discussed with the Operations Branch Officer and the Airport District Managers before it is submitted to the Director of Transportation for his approval.

DOT's final determination will be reported to the Legislature in a follow-up report either during this session (2016) or before the 2017 legislative session.