

State-County Functions Working Group (Transient Accommodations Tax)

(Established by Act 174, Session Laws of Hawai'i 2014)

State of Hawai'i

<http://auditor.hawaii.gov/>

Minutes of Meeting

Date: Wednesday, February 4, 2015

Time: 10:06 a.m.

Place: State Capitol
415 S. Beretania Street
Conference Room 414
Honolulu, Hawai'i

Present: Simeon R. Acoba, Chair, Chief Justice Appointment
Ed Case, House Appointment
Mary Alice Evans, Governor Appointment
Steven Hunt, County of Kaua'i Appointment
George Kam, Senate Appointment
Deanna Sako, County of Hawai'i Appointment
Ray Soon, City and County of Honolulu Appointment
Jesse Souki, Governor Appointment
George Szigeti, House Appointment
Kerry Yoneshige, Governor Appointment

Jan K. Yamane, Acting State Auditor, Office of the Auditor
Kathleen Racuya-Markrich, General Counsel, Office of the Auditor
Jayna Oshiro, Analyst, Office of the Auditor
Pat Mukai, Secretary, Office of the Auditor

Excused: Sananda Baz, County of Maui Appointment
Neal Miyahira, Governor Appointment
Ronald Williams, Senate Appointment

I. Call to Order: Chair Acoba called the meeting to order at 10:06 a.m., at which time quorum was established. The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by Hawai'i Revised Statutes, Section 92-7 (b).

II. Public Testimony

None

III. a. Announcements, introductions, correspondence, and additional information

Chair Acoba distributed three items for discussion:

- 1) Sample testimony by Acting State Auditor, Jan Yamane on HB No. 1257
- 2) Member Sako's updated Structure of County of Hawai'i
- 3) Member Soon's General Structure of Government for City and County of Honolulu

b. Minutes of January 7, 2015 meeting

It was moved by Member Evans, seconded by Member Hunt, and unanimously carried to approve the minutes of the January 7, 2015 meeting.

IV. Consultant Services – Discussion

The WG discussed the following:

- a. Draft specifications including discussion item from prior meetings (handout)
- b. Selection criteria for consultant (handout)

Revisions to RFP (Request for Proposals) draft

After a review and discussion of the draft RFP, the WG asked for the following changes:

Page 3, 1.3 Terms and Acronyms. Add TAT = Transient Accommodation Tax.

Page 4, 1.4 RFP Schedule and Significant Dates. March 6, 2015 release of RFP is subject to change and may depend on the availability of money.

Member Yoneshige arrived at 10:11 a.m.

Member Souki arrived at 10:14 a.m.

Member Szigeti arrived at 10:25 a.m.

Page 5, 2.2.1 Contractor Defined, Qualifications. Add “consultant”, strike “advanced degree and XX years of experience” and replace “with training and experience.”

This section would be amended to read: “The Contractor is defined as a licensed certified public accountant, an economist, or other consultant with training and experience performing research and data analysis relating to the subject matter areas of Act 174, SLH 2014.”

Page 6, 2.2.3 Scope of Services, e. Add v. “Historical intent and evolution of TAT and current needs of visitor industry.”

Page 8, 2.2.6 Engagement Activities, d. Consultation on report findings and recommendations Strike “acceptance”, sentence to read: “Upon approval [acceptance] of the final draft by the WG. . . .”

Page 9, Strike sections 2.3.3, 2.3.4, and 2.3.5. Renumber: 2.4 Term of the Contract; and 2.5 Contract Administrator

Page 15, Section Four Evaluation Criteria, item 2) add new paragraph c. “Technical qualifications, i.e., including advance degrees, professional certificates.”

Comments and clarifications about the RFP process

Members Sako and Hunt suggested that GFOA – Government Finance Officers Association, has expertise in budget and financial matters and provided consulting services on strategic budgeting to the County of Kaua‘i. Such an organization could be a viable candidate.

Chair Acoba acknowledged Kathleen Racuya-Markrich from the Auditor’s Office who’s in charge of preparing the RFP for the WG.

In response to WG’s questions, Ms. Racuya-Markrich provided the following information:

- The Auditor’s Office has a qualifications list for CPAs. The accountants or CPA firms on the list can respond to the RFP.

- The RFP would not be evaluated by an evaluation committee of three. Instead, the proposals will be evaluated by the Auditor's Procurement Officer, Mr. Ron Shiigi, and based solely on the Evaluation Criteria in Section Four of the RFP, page 15.
- The consultant would be contracted to produce the WG's final report to the Legislature. The draft process is outlined on Page 8, paragraph c: Preliminary and final draft, which requires the consultant to prepare an introductory chapter, preliminary draft, and outline to be approved by the WG. The preliminary draft will be based on the approved outline to include the WG's recommended findings and conclusions. If the WG changes the preliminary report, the consultant is obligated to rework the WG's changes. The consultant is reporting back to the WG and seeking approval throughout the process.
- Page 7, Submittal date for final draft, includes the WG's conclusions and recommendations based on the work the consultant provides. Every step of the consultant's work needs to be accepted and approved by the WG because this is the WG's report.

Member Evans retracted her earlier suggestion of including 'f' on Page 8, because the draft does actually have the steps that she and Members Case and Soon were trying to tease out. The draft process will save the WG and Auditor's Office from having to write the final report.

To alleviate Member Hunt's concern that the consultant's independence and opinions may differ from the WG, Member Souki suggested striking sections 2.3.3 and 2.3.4. Chair Acoba also suggested striking 2.3.5.

Member Sako commented that the schedule for the consultant to submit the preliminary findings and recommendations to be approved by the WG provides time for collaboration.

Member Soon suggested adding on Page 6e, v., "historical intent and evolution of the TAT and/or the current needs of the visitor industry." He realizes these are soft as compared to the specific ratios but if they're not considered in the allocation models as alternative models, the group is missing important information.

Member Case asked whether 'visitor needs' means 'infrastructure needs.' He agreed with Member Soon that we need a model outside the box for allocating TAT money that is flexible and can respond to whatever the current needs are in the visitor industry that keeps changing.

Chair Acoba asked the group to approve the changes subject to modifications of dates by the Auditor's Office. Approval of the changes was moved by Member Soon, seconded by Member Case. The RFP changes were unanimously approved. The final RFP will be approved at the next meeting.

V. Allocation of TAT Revenues – Discussion (handout)

This agenda item was not discussed.

VI. Duties and obligations – Counties (handout)

The WG discussed the following:

- a. In general
- b. Tourism-related

County of Hawai'i's list of duties and responsibilities

The WG reviewed the County of Hawai'i's structure prepared by Member Sako. Member Sako explained that the basic categories of general government are public safety, highways, streets, health, education, welfare, culture, recreation, and sanitation. The first column covers the duties and responsibilities of the county, to provide general services. The next column identifies the categories where there are tourism-related activities. For example, the Legislative Branch (county council) promotes the island by setting aside moneys for sister-city activities which are considered tourist-related. The Finance Department issues State IDs to tourists, but does not have a significant role in other tourism-related activities. The costs are covered 100 percent by the county. The TAT contributes toward the costs of the departments that have tourism-related activities. The budget does not identify specifically where TAT moneys go.

Chair Acoba asked if O'ahu, Maui, and Kaua'i counties can agree to this layout of the counties' obligations and duties. The group should have a fairly uniform list across county lines and designate those as responsibilities of the counties.

City and County of Honolulu's list of duties and responsibilities

Member Soon provided the general structure of the City and County of Honolulu for the WG's review.

Member Case suggested that it would be helpful if there was consensus among the counties as to the services delivered and what is tourism-related.

Member Kam liked Honolulu's list because it included a weighing factor (low, medium, or high) on the impact on tourism. He suggested the counties collaborate to make a master list.

Chair Acoba asked the county members to prepare a template everyone can agree to at the next meeting; and possibly for the report to have four charts—Big Island, O'ahu, Maui, and Kaua'i.

State's list of duties and responsibilities

Member Sako commented on the amount of information in the "Guide to Government in Hawai'i" publication distributed to all WG members. There are certain departments that appear to have definite tourism-related activities and some that don't just like the counties. It's not clear what are the activities and functions within departments such as DAGS and DLNR.

Member Evans explained B&F and the Legislature break down the State functions and activities similar to the counties. Instead of thinking of departments, the mindset is on how the State's program budget structure is organized, by environment, public safety, education, etc. There are nine for the State and under each general function are levels, at the very bottom, are the actual programs. The group may be able to take the general functions, one or two levels down.

Chair Acoba asked Member Evans to work with either Member Yoneshige or B&F to prepare a list of the State's general services and tourism-related activities.

Member Yoneshige said he will work with B&F. DAGS has the actual numbers expended whereas, B&F has the actual numbers budgeted.

Chair Acoba asked that at the next meeting the group have the categories divided between State and counties with their lists showing what the State and counties do and the costs based on the CAFRs.

Chair Acoba said this will be on the agenda and presented at the next meeting and, if it's possible, to include the charts.

ASA Yamane asked that the charts be submitted ahead of the meeting when the agenda is filed (the Wednesday before the meeting). We try to get the distribution out to the members for their review two days after the agenda is filed.

VII. 2015 Legislature – Bills and Testimony

Testimony on TAT related bills

ASA Yamane reviewed the list of bills that are moving forward this year relating to the TAT. She attended a tourism committee hearing on two of the TAT bills (HB 1257 and HB 1448) and presented generic testimony (handout) to explain the impact any changes to the TAT enacted this year will have on the WG's work. She also met with Rep. Brower, Chair of the House Tourism Committee. The concern is that if any TAT changes have an effective date of July 1, 2015, the WG will have to consider those changes on a going forward basis.

The Auditor's Office can continue to submit generic testimony, but ASA Yamane asked if the WG wants to have a standard testimony submitted on its behalf when these bills are heard.

Auditor's budget request for WG's consultant services

As required in Act 174, ASA Yamane stated that she requested moneys for the WG's expenditures in the Office of the Auditor's budget, which is part of the legislative budget bill. However, the budget bill that was heard on February 4, 2015, did not include the WG expenditures. Instead, the Legislature introduced two bills—one each in the House and Senate—requesting \$165,000 to cover the consultant work and the actual WG related expenses for neighbor island travel, report production, etc.

From a strategic standpoint, this could be very difficult for the WG. These budget requests are heard last after the agencies' operating budgets. Last year, there was no money left over, which could happen this year. Even if we receive the appropriation, the effective dates of the bills are July 1, 2015. This means we could not award a consultant services contract until we have the money.

Options for consultant services

ASA Yamane outlined several options to accomplish the work.

- 1) Proceed with the RFP for consultant services but adjust the timeframe to award on July 1, 2015. In other projects, the office has gone forward with an RFP and held it until we heard whether the money was appropriated. If no money is appropriated, then we have the option to cancel the work.
- 2) WG members can be assigned to work in smaller groups as investigative committees or investigative groups to work on targeted areas. It wouldn't be limited only to the WG members, others can be included in this work. That way, some of the work will be done by relying on the deep expertise of the WG members.
- 3) The office has \$40,000 left in this year's budget of special studies money. We could supplement some of the work by the investigative groups by issuing a scaled down RFP to help with the compilation of information. However, use of money is subject to approval from Senate President and House Speaker. ASA Yamane was unsure whether the Senate President or House Speaker would sign off on using \$40,000, or wait for their bills to be considered.

In response to Member Case's question about lowering the price after responses to the RFP came in, ASA Yamane said we would have to go out with a new RFP.

ASA Yamane explained there are different methods of procurement depending on the dollar figure. If the amount is much smaller, under \$100,000, we could consider using the small purchase method rather than the RFP. This method requires three quotes from which we pick the proposal based on lowest cost.

ASA Yamane suggested scaling back the deliverables given the July 1st date because the consultant would only have two months before reporting back to the WG for review. The WG has worked on some materials that can be delivered to the consultant to start with.

Member Souki liked the idea of using the special studies money because you need approval from the House and Senate leadership.

Alternative to not contracting for consultant services

ASA Yamane said if there is no money for consultant services, the Auditor's Office staff would try to write up the WG's report. However, the office will have to rely heavily on the WG members because the office does not have the expertise in some of the special areas. We would rely on the WG members who have the expertise.

Member Sako stated it would either have to be the Auditor's Office or each member taking a section.

Chair Acoba said the WG's role is defined better because without funding for a consultant, it's clear the group has to do it with the help of the Auditor's Office. Another possibility is to use source people, if any of the members have connections with such people.

Option to float the RFP

Chair Acoba stated he is not opposed to floating the RFP if this is what the group feels, or, putting out a smaller contract.

ASA Yamane said the usual percentage of passage of bills is 10 percent and she cannot say if the WG's budget is a legislative priority.

Member Souki said floating the RFP is a good idea because the RFP takes such a long time to process, it's easier to call it back than having to do it late in the process.

Member Yoneshige is in favor of moving forward with the RFP since the Legislature has introduced bills for its funding. It also demonstrates that the WG has made an effort to find a solution for a good report.

Member Hunt also favors floating the RFP and to possibly phase it so we know what each potential component might cost.

Member Soon likes the idea of the RFP but agrees with the Chair. He would like to figure out what the group can do. He would hate to be sitting and waiting for two months to see what kind of responses we get.

Member Kam stated the WG needs to assume it's not getting the funding. The burden is on the group to figure it out and do the best we can.

Chair Acoba stated the group agrees on floating the RFP, but asked ASA Yamane if it can be canceled at any time if it is not needed.

ASA Yamane said if you get the money, the work will be done but it will be done late. If you make a decision that the consultant services are not needed and you want to cancel and the money comes through, that can be a little awkward for the WG. ASA Yamane explained if the bill passes in May, then we will be queued up and ready to go as soon as we can, but the money itself won't come into the budget until July 1st.

Member Soon asked if there's an opportunity to delay the report for one year.

Member Case said he wouldn't support that. The WG is supposed to be doing our job and then reporting to the Legislature. The Legislature is supposed to not be doing anything with the TAT while we're doing our job.

Member Evans and Member Szigeti left the meeting at 11:25 a.m.

Member Hunt favors phasing the work. Phase I, would be to look at the analysis portion with tables and enough material for the WG to review, make some decisions, and approve. For \$40,000 someone may be interested in doing the work and the WG has already looked at providing a lot of information such as the CAFR's breakdown. Phase II would be the report writing and more formal deliverables, subject to funding.

ASA Yamane said we can finalize the RFP at the next meeting, which gives us ample time to float it. As to the special studies money, the request can be made to House Speaker and Senate President.

House Tourism Committee Chair Brower addresses WG

Chair Acoba recognized Representative Brower, House Tourism Committee Chair.

Chair Acoba assured Rep. Brower that the WG is committed to providing a report that will be helpful to the Legislature. He invited Rep. Brower to the table to discuss the WG's ongoing work.

Rep. Brower said he's read information about the WG's last meetings and would like to provide whatever information the WG may need to accomplish its work since he was involved with the bill process that became Act 174.

Member Soon asked Rep. Brower whether the Legislature intended for the WG to: 1) say what the distribution of roles and responsibilities are to the State and counties; and 2) how the TAT should be allocated based on the distribution of roles and responsibilities. The original TAT history was never based on that distribution.

Rep. Brower replied the simple answer is yes. There were intentions for the TAT in the mid-80s, and some people believe that should hold. But at the same time, others talk about the drain on the infrastructure and amenities caused by the heavy number of tourists. Politically, people are very passionate about the island they live on and champion whatever cause might resonate with the decision-makers. The Legislature is looking to the group for findings because this is such a hard question. You can tread new ground in what you think. What do the islands put into the TAT and what is a fair return on their needs. He also suggests including how infrastructure impacts on their needs.

Member Soon asked whether the WG should be looking at overall expenditures or just those related to tourism services.

Rep. Brower said the neighbor islands, mayors, and council members, have raised concerns about the toll tourism takes on infrastructure. That's in part why the counties need the money. As a 30-year resident of Waikiki, he's a little more O'ahu-centric. Neighbor Island residents say, let's take into account which islands generate the most revenue from the TAT and expend the

money there. So, one of the reasons for having a panel of diverse interests is for all those messages to come out.

Member Soon explained the WG's approach follows the specific language in Act 174 by looking at all State expenditures, all county expenditures, then establish a ratio and apply the ratio to the TAT. For many of us, it's not a logical path. A modified approach is to look at those State expenditures that have a nexus to tourism, those county expenditures that have a nexus to tourism, and compare that ratio. The WG has also discussed reserving some of the funds to the TAT for some functions; and putting the amortization of the convention center into the State's half (i.e., no longer a line item). The same would be for any other currently allocated TAT; to put them in their proper place for State and counties. The third approach would be to isolate some of those things that should be separately funded by the TAT and then, to play with the allocation in a different way. There are multiple ways of looking at this. Many of us saw some real value in the historical approach and to analyze the history as to why these things were happening. What is the logical extension of that into the future?

Rep. Brower stated he will support any decision of the WG provided it is based on logical reasoning. In his opinion, the allotment to the counties should be a fair percentage of what the counties put in; and the counties and the State should live within their means.

Member Soon stated, the difficulty is that the State's TAT revenues are really the sum of the county revenues. The State is really contributing zero because you can assign it all to the counties or you can assign it all to the State.

Rep. Brower said in his opinion, Maui county should get a proportion of TAT revenues based on the amount of TAT money raised. Similarly, what O'ahu gets back should depend on the TAT revenues O'ahu raised.

Member Soon asked what would the State get.

Rep. Brower said the State can take something off the top to manage HTA or smaller funds like Conservation Funds, but after that, a fair percentage should go to the counties of what they put in.

Member Hunt stated that using the metrics, a lot of the reporting is central. City and County of Honolulu reports 80.73 percent of the TAT statewide but the host and visitor day counts 47.35 percent of the days. There's already going to be a major disconnect between visitors on island and the revenue that gets reported by the district. The smaller counties will lose big time.

Rep. Brower said in his opinion, if you can show, in practical, reasonable terms how you offset that, it's something you can sell to the legislators. And then, it would be up to them to make any changes.

Chair Acoba thanked Rep. Brower and acknowledged what he said was helpful.

Options for consultant services to be taken up at the next meeting

Chair Acoba said on the table are several options to be taken up at the next meeting.

ASA Yamane understands the analysis would be the first piece, reporting would be the second piece. The request we would make on the \$40,000 would be all the analytics. That's the work the WG wants to see early on so it can rely upon the analysis as the basis for its conclusions and recommendations.

Member Kam asked if the \$150,000 would still be recommended or would we ask for less on the RFP.

ASA Yamane said if the Legislature agrees to the \$40,000, then the WG may want to reduce the amount in the bills.

Chair Acoba said one option would be to withdraw the budget requests for \$150,000.

ASA Yamane said yes, if you believe the early money is going to be sufficient for the work that you need to have done.

Member Kam suggested withdrawing the request and asking for an appropriate amount given we only have two months.

Chair Acoba said maybe we need to think about what Member Kam said—do we go with the \$40,000 or the \$150,000. It puts us in a compromising position to ask for both. The final vote on the RFP has to take place at the next meeting.

ASA Yamane stated that the Auditor's Office will separate out the smaller piece and the later piece, and come up with some RFP options for the WG.

a. Discussion - WG's position if any, on bills seeking to amend TAT

ASA Yamane asked for a discussion and decision on testimony for the TAT bills. She said the WG can take no position on this year's bills, but state it is continuing to work through this year and that any change in the TAT may affect the WG's work.

Member Case proposed advising the Legislature that the WG takes no position on the merits of these bills but they should not be considered this year pending our report. It does present some measure of conflict for everybody on this WG because everybody has some stake in the outcome, one way or the other, especially the counties, DLNR, and the private sector.

Chair Acoba stated the group is not taking any position but asked whether the WG goes as far as to say, hold off on all these bills?

Member Case said yes.

ASA Yamane stated we can also add in the testimony more detail about the membership, who the WG represents, and who appointed the members. It would be clearly the voice of the WG and not the opinion of any member. One of the tourism committee chairs remains mindful that there's this higher level work, which is the WG. The WG can request that they not lose sight of the reason they asked you to do this in the first place, which was to come up with a better solution. The testimony could submit comments and ask that the bills be held.

Member Case reiterated, the WG should take no position on the merits of this bill but believes that the decision on TAT legislation should be deferred until next session.

Member Souki left the meeting at 12:17 p.m.

As to WG testimony, it was moved by Member Case, seconded by Member Soon, to submit testimony as discussed, offering comments and asking that TAT bills be held.

Chair Acoba said the group was very happy to have Rep. Brower here at the meeting and it helped the WG a lot.

b. Delegation of authority to the Chair and/or other Working Group member to work with the Office of the Auditor to testify on behalf of the Working Group

This agenda item was not discussed.

VIII. Adjournment: With no further business to discuss, Chair Acoba adjourned the meeting at 12:22 p.m.

Reviewed and approved by:

Jan K. Yamane
Acting State Auditor

Approved as circulated.

TATWG/20150204

DRAFT