



LINDA LINGLE
GOVERNOR
JAMES R. AIONA, JR.
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

MARK E. RECKTENWALD
DIRECTOR

LAWRENCE M. REIFURTH
DEPUTY DIRECTOR

January 23, 2006

Mr. Nate Smith
President
Time Warner Entertainment Company, L.P.
200 Akamainui Street
Mililani, HI 96789-3999

Re: Letter Order – 2006 Access Operating Fees for Akaku

Dear Mr. Smith:

Pursuant to Decision and Order No. 261 (**D&O 261**), Time Warner Entertainment Company, L.P. (**TWE**) is directed to pay annually a fee equal to three percent (**3%**) of its annual gross revenues in the franchise areas encompassing the tri-islands of Maui County and Lahaina (hereinafter referred to collectively as **Maui County**) to an account designated by the Director of Commerce and Consumer Affairs (**Director**), or to the Director's designee. These payments, referred to as **access operating fees**, are to be used for public, educational and governmental (**PEG**) access purposes and for other public purposes as designated by the Director.

D&O 261 directs TWE to make one yearly payment for the access operating fee by January 31st of each year. The next payment of the access operating fees by TWE is scheduled for January 31, 2006. In D&O 261, the Director reserved the authority to reconsider the amount of the access operating fee at any time.

On behalf of the Department of Commerce and Consumer Affairs (**DCCA or Department**), the Director has historically designated that the PEG access organizations in the different franchise areas be recipients of the access operating fees. This letter order refers to the PEG access organization in Maui County: Maui Community Television, Inc., also known as Akaku Maui Community Television (**Akaku**). DCCA entered into a contract with Akaku to (among other things) manage and operate the PEG channels, train the public to use the PEG facilities and equipment to create

programs, and cablecast the programs created and submitted by the public on the cable operator's channels in Maui County.

Recently, the DCCA was informed that its contracts with the PEG access organizations were subject to the Hawaii State Procurement Code unless an exemption applies. The Department plans to conduct public meetings to obtain input and comments from interested persons on PEG access and PEG services in the State. These public meetings will be held in each county and will provide the Department with information that will assist it in determining whether to competitively bid future PEG contracts, and on what terms, or to seek an exemption from the competitive bid requirement under section 103D102(b), Hawaii Revised Statutes.

The current supplemental agreement between DCCA and Akaku expires on June 30, 2006. It is not certain at this time whether those contracts will be extended beyond June 30, 2006.

In light of this, it would be premature to cause TWE to deliver to Akaku a full year's access operating fees at this time. This observation is consistent with that made with regard to Olelo, Na Leo and Hoike, where the Department has concurrently issued a letter order to TWE directing it to pay fifty percent (50%) of the respective access operating fees for 2006 to Olelo, Na Leo and Hoike on January 31, 2006. Similarly, the Department here directs TWE to retain fifty percent (50%) of the 2006 access operating fees for Maui County and Lahaina pending further order of the Director.

Furthermore, in Maui County, Akaku and Maui Community College (**MCC**) and Maui Department of Education (**MDOE**) (collectively **E-partners**) entered into an agreement dated April 7, 2005, which provided for payments to the E-partners of a portion of the cable access operating fees received by Akaku. This agreement, among other things, addressed the division of the access operating fees between Akaku and the E-partners. However, this agreement has since been repudiated by some of Akaku's board members. As a result, there is disagreement between Akaku and the E-partners as to the appropriate division of the access operating fees. The Department has encouraged the different factions on the Akaku Board and the E-partners to mediate and resolve their disputed issues.

The Department finds that the E-partners are providing valuable educational programming to the people of Maui County, and that accordingly, there is a basis for allocating a portion of the Maui County cable access operating fees to the E-partners. However, the allocation of the remaining funds is a matter that would be best determined by Akaku and the E-partners. At this time, the Department will instruct that only a percentage of the first and second quarter access operating fees be distributed, while we await the results of negotiation/mediation. If efforts at negotiation/mediation fail, however, or produce no results by February 28, 2006, then the Department will determine what additional actions are appropriate.

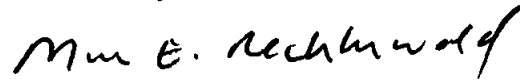
Accordingly, there being good cause therefore and pursuant to HRS §440G-12, and Sections 4.2(d) and 12.8 of D&O 174 and Sections 4.2(d) and 12.8 of D&O 241, TWE is directed to:

1. Pay sixteen and seventy-five one-hundredths percent (16.75%) to Akaku, and eight and twenty-five one-hundredths percent (8.25%) to the E-partners of the 2006 access operating fees for Akaku that are scheduled to be paid on January 31, 2006, provided that the funds for the E-partners shall not be released until the E-partners have executed a letter in the form attached hereto as Exhibit "A."
2. Deposit and maintain the remaining seventy-five percent (75%) balance of the 2006 access operating fees in an interest bearing account in any federally insured financial institution authorized in the State of Hawaii.
3. TWE shall maintain separate accounting records for the access operating fees attributable to Akaku. Upon request of the Department, TWE shall provide DCCA with supporting documentation of the bank account and accounting records.
4. From the amounts retained in the interest bearing bank account, TWE shall pay twenty-five percent (25%) of the amounts that are scheduled to be paid on January 31, 2006 to the Director's designee(s) upon direction of the Department. The Director anticipates that payment instructions for the 25% of the 2006 access operating fees will be forthcoming by March 2006.
5. Upon further direction of the Director, TWE shall disperse the remaining amounts of access operating fees in the bank account. The Director anticipates that payment instructions for the remaining fifty percent (50%) of the 2006 access operating fees will be forthcoming by June 2006.
6. TWE may recover reasonable costs of administering the bank account, including the tax impact of any interest earned, from the interest on the account.
7. Any interest earned on the bank account shall be prorated and disbursed as further directed by the Department.

Mr. Nate Smith
January 23, 2006
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Thank you for your attention to and cooperation in this matter. Please call Clyde Sonobe, Cable Television Administrator if you have any questions.

Sincerely,



Mark E. Recktenwald
Director of Commerce and Consumer Affairs

Enc.

cc: Russell Saiki
John Komeiji, Esq.
Kealii Lopez
J Robertson
Juergen Denecke
Iris Cober
Clyde Sakamoto
Kenneth Nomura
Clyde Sonobe

January ____, 2006

Mark E. Recktenwald
Director of Commerce and Consumer Affairs
335 Merchant Street, Room
Honolulu, HI 96813

Dear Director Recktenwald:

By letter order dated January 23, 2006, Maui Community College (MCC) and Maui Department of Education (MDOE) are to receive a portion of the 2006 access operating fees for the franchise areas of Maui County and Lahaina. As a condition for the receipt of these funds, MCC and MDOE agree to use these funds in accordance with the attached budgets, which were submitted to the Department of Commerce and Consumer Affairs on or about January 9, 2006.

MCC and MDOE further agree to report on the use of these funds as requested by the Department of Commerce and Consumer Affairs.

Very truly yours,

Kenneth Nomura
Central Maui Complex Area Superintendent

Clyde Sakamoto, Ed.D.
Chancellor
Maui Community College

Enc.

EXHIBIT A

PEG Access Funds Financial Report
Budget for 05/06 and 06/07
Expenses as of 12/31/05
Department of Education-Maui (MDOE)
December 31, 2005

2005 Income from Akaku

\$65,018.32 8% of total Franchise Fee (\$812,729.00) to DOE (1st year only) 6/13/05
\$101,591.13 DOE share of Franchise Fee 8/11/05
\$166,609.45 Total Income

Budget for July 1, 2005-June 30, 2006

Equipment and Supplies

\$10,500.00 Video equipment for all Maui District high schools (7)
\$10,500.00 Computers for video editing for Maui District high schools (7)
\$15,000.00 Equipment purchase for video production
\$590.00 Studio Security Alarm
\$4,000.00 Xerox Maintenance
\$1,600.00 Xerox Paper
\$200.00 Xerox Cartridges
\$600.00 Blank Video Tapes
\$1,800.00 Telephone, Pager, Cellular
\$5,000.00 R&M
\$5,000.00 Conferences and Staff Development
\$1,200.00 Travel expense for TV Production Technician to Lanai/Molokai/Hana
\$40,207.05 Partial replacement of Studio equipment
\$96,197.05 Total Equipment and Supplies

Personnel

\$10,280.00 PTT
\$1,575.00 Student Hire
\$7,000.00 Contract for Video Production*
\$36,277.40 Salary and Fringe for TV Production Technician*
\$10,280.00 Part time assistant to TV Production Technician
\$5,000.00 Consultation for Studio upgrade
\$70,412.40 Total Personnel

\$166,609.45 Total Budget for FY 05-06

Expenses as of December 31, 2005

\$6,000.00 Personal Services Contract*
\$823.31 Payroll*
\$1,394.64 Payroll*

\$965.52 Payroll*
 \$1,629.95 Multiformat Monitor
 \$269.95 DVDirect Stand Alone Recorder
 \$534.95 DVD Recorder/Player
 \$269.95 VCR
 \$334.95 Photo Printer
 \$349.95 Lavalier
 \$349.95 Lavalier
 \$999.95 Mini DV Recorder
 \$299.95 External Hard Drive
 \$2,272.00 Power Mac G5
 \$199.00 Protection Plan for G5
 \$699.00 Apple Cinema Display
 \$590.00 Security Alarm
 \$600.00 Blank Video Tapes
 \$1,200.00 Island Air and Dollar Rent A Car Coupons (Molokai)**
 \$300.00 Xerox Repair
 \$1,000.00 Xerox Paper
 \$5,000.00 Digital AV Switcher for Maui Schools
 \$122.57 Fire Wire Cables
 \$600.00 Video Lighting Workshop for Studio Crew Chief and Studio Tech
\$26,805.59 Total as of 12/31/05

\$139,803.86 Balance as of 12/31/05

* Creation of a TV Production Technician position to produce videos on Maui District schools for broadcast on MDOE Educational Access Channel 56.

** TV Production Tech's trip to Molokai for video taping

(Anticipated)2006 Income from Akaku

\$32,509.00 One half of 8% of total Franchise Fee (\$812,729.00) to DOE & MCC
 \$101,591.13 DOE share of Franchise Fee January 06
 \$134,100.13 Total Income

Budget for July 1, 2006-June 30, 2007

Equipment and Supplies

\$9,000.00 Video equipment for all Maui District intermediate schools (6)
 \$9,000.00 Computers for video editing for Maui District intermediate schools (6)
 \$590.00 Studio Security Alarm
 \$4,000.00 Xerox Maintenance
 \$1,600.00 Xerox Paper
 \$200.00 Xerox Cartridges
 \$600.00 Blank Video Tapes
 \$1,800.00 Telephone, Pager, Cellular

\$5,000.00 R&M
\$3,000.00 Travel expense for TV Production Technician to Lanai/Molokai/Hana
\$2,000.00 Possible travel for state and national competition for video production
\$15,337.73 Partial replacement of Studio equipment
\$3,000.00 Equipment for movement of DOE headend from MCC to Maui High
\$55,127.73 Total Equipment and Supplies

Personnel

\$20,560.00 PTT
\$1,575.00 Student Hire
\$36,277.40 Salary and fringe for TV Production Technician*
\$20,560.00 Part time assistant to TV Production Technician
\$78,972.40 Total Personnel

\$134,100.13 Total Budget for FY 06-07

University of Hawai'i

MAUI COMMUNITY COLLEGE

Office of the Chancellor

January 9, 2006

Mr. Mark Recktenwald, Director
Department of Commerce & Consumer Affairs
State of Hawaii
335 Merchant Street
Honolulu, Hawaii 96813

Dear Mr. Recktenwald:

In response to your request for the distribution of resources received from PEG funds this year, we provide the following information. With our colleagues in the Maui DOE, we are also providing information regarding how resources that we expect to receive this 2006 may be expended as well.

Maui Community College PEG Access Operations

Maui Community College currently operates MCC-TV - Channel 55, one of the two PEG Education Access channel for Maui County. MCC-TV operates 24 hours a day, seven days a week and 365 days a year Through MCC-TV, Maui Community College has offered **accredited and therefore accountable** educational programming for over twenty years. Thousands of Maui residents have taken advantage of credit and non-credit classes via MCC-TV. During the Spring and Fall Semesters in 2005, 819 students majoring in Nursing, Administration of Justice, Fire Science, and Liberal Arts were enrolled. Specifically, these students who will be our nurses, firefighters, police officers, business persons and other professionals are progressing to complete their course requirements for degrees facilitated by cable television instruction. If more resources were available, even more courses and degree programs could be supported by cable tv staff to permit students to complete degree requirements.

Thousands more have enjoyed the community and public programming the college offers. The College is committed to providing our residents with fully accredited educational programs and instruction, high quality community service programs. Students will have access to cable television production classes and develop skill sets that may relate to career opportunities in telecommunications.

Attached to this document is a budget report on how PEG access funds are being used in the calendar year 2005. Because of the college's distance education operations, we were able to leverage staff and facilities to help support operations of MCC-TV. Our costs were significantly less than the cost it takes to operate Akaku Community Television's two channels (53 & 54). Our operations were supported with essentially three program producers and one engineer. Akaku operations require a staff that more than quadruples ours. Clearly, by continual financial support of MCC-TV, the

Department of Commerce & Consumer Affairs will maximize this public and educational benefit.

Here are just some of the programming highlights MCC-TV currently offers our viewing public:

Credit Classes

25 credit classes per week. By registering with MCC and taking classes via MCC-TV, viewers in Maui County can receive an AA degree. Of course, programming content is available to any viewer subscribing to Oceanic Time Warner Cable Systems.

Non Credit Classes

Non-credit classes are offered in partnership with The UH Community College System and through the college's satellite downlink services.

Community Programming

A number of community programs are aired weekly by MCC-TV. These Maui Community College produced programs include, The Preserving Our Recollections oral history project, MCC Today, an MCC informational series, and E Hele Mai 'Ai, a healthy eating series featuring The Maui Culinary Academy. In addition, the college downlinks a number of satellite programs including *The Classic Arts Showcase*, a series that promotes culture and the arts, and selected programs from *The Annenberg Channel*, a satellite network offering family-based educational programming.

Programming in Development

MCC has a number of programs in development. Once a dedicated funding source is established with PEG franchise fees, the following programs will begin development. Some of these programs include:

On Maui, The Maui TV Magazine news show, produced in conjunction with TComm 261/190V telecommunications classes.

E Hele Mai 'Ai – A healthy-eating series produced in conjunction with Maui Culinary Academy students.

Election 2006

Candidate presentations and a possibilities for debates will also be planned as part of our educational process and involvement in the election and democratic process.

Digital Media Maui – A special events series featuring works from MCC students enrolled in Digital Media courses, journalism classes, and Liberal Arts studies. Works would include animated and filmed shorts, news events, and live-to-tape theatre productions.

Current Events: Maui, a current events program featuring live and taped coverage of community events held on the college campus.

Plant Operations

The college provides educational programming to the residents of Maui 24/7/365. Operations are conducted from the Ka'a'ike IT Center. This facility was built utilizing state funding. Akaku Community Television operations has directly benefited from use of this facility. All equipment purchased for MCC-TV operations with funding from Akaku (through 1999 when funding ended) is now obsolete and not in use.

Currently, all MCC-TV record and playback operations use an analog video-taped system. Unlike Akaku Public Access operations, there is no digital acquisition equipment in our plant operations. The Akaku plant operation uses a state-of-the-art fully digital record and playback system. MCC-TV plans to utilize PEG access funds to upgrade it's programming facilities to match the reliability and redundancy Akaku.

Without Akaku funding resources, the college's distant education programs via MCC-TV and the community service programs we offer face an uncertain future. Collaborating with Akaku Community Television and the DOE will be a high priority when involving education access program development and support. With a *dedicated* funding source from PEG access funds, the services the college provides to the community through MCC-TV will continue to grow and flourish.

We note that as MCC and DOE program two of the five PEG channels on Maui. To resolve an unduly prolonged conflict, the College and the DOE agreed to accept less than we felt higher education and k-12 deserved to address the critical needs of educating children and students in Maui County. If a permanent solution may be contemplated, we would seek a fair participation in the capital funds and compensation as well for the resources unfairly kept from "education." Your consideration of restoring and continuing resources for public and higher education would be greatly appreciated.

Sincerely,



Clyde M. Sakamoto
Chancellor

Maui County Education Access Budget Addendum – FY2005-2006

Expenses:

Personnel costs for operation of MCC-TV. MCC-TV Includes one FTE Program Producer, a .25 FTE Program Producer, a .5 FTE Chief Engineer, a .5 FTE Electronics Technician and one student help at 20 hours per week.

Personnel Totals: \$101,256.00

Equipment & Supplies:

Supplies:

Video-Tape Stock:	\$5,500.00
DVD Stock:	\$2,500.00
Studio Lamps:	\$4,500.00
Studio Media: (gels/tough-spun, etc,)	\$3,500.00
Misc Studio: (gaff tape, BNC connects)	\$1,500.00

Equipment:

Digital Server System	\$30,000.00
D-1 Camera Upgrades	\$12,000.00
Ultimatte Camera Upgrade	\$5,000.00

Computer/Software:

G-4 Apple Computer with Final Cut Pro	\$4,500.00
PC bundled with Bug Crawler ID	\$15,000.00
PC Bundled with LightWave 3-D	\$4,500.00
G-4 Apple Laptop	\$2,500.00

Equipment/Supplies Totals: \$91,558.00

Total Expenses: \$192,814.00

Maui County Educational Access
Budget from July 1, 2006 – June 30, 2007

INCOME

Akaku: Maui Community Television Grant **\$101,591.00**

EXPENSES

Personnel I (D. Reece – Program Producer FTE) \$43,217.00

Personnel II (R. Dela Cruz – Engineer .5 FTE) 24,433.00

Student Hire (3 Asst. Program Producer .5 FTE) 14,949.00

PERSONNEL TOTAL **\$82,599.00**

Materials & Supplies \$5,000.00

Equipment 20,000.00

Computer/Software 1,500.00

EQUIPMENT TOTAL **26,500.00**

TOTAL EXPENSES **\$109,129.00**

Maui County Education Access Budget Addendum – FY2006-2007

Expenses:

Personnel costs for operation of MCC-TV. Includes one FTE Program Producer, one .5 FTE Chief Engineer, and three student help producers at 20 hours per week.

Personnel Totals: \$82,599.00

Equipment/Supplies:

Video-Tape Stock:	\$1,000.00
DVD Stock:	\$2,000.00
Studio Lamps:	\$1,500.00
Studio Media: (gels/tough-spun, etc.)	\$ 250.00
Misc Studio: (gaff tape, BNC connects)	\$ 250.00

Equipment:

Digital Media Mini-Cams (x5)	\$20,000.00
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Computer/Software:

Software upgrades	\$1,500.00
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Equipment/Supplies Totals: \$26,500.00

Total Expenses: \$109,129.00