U.S. Department
of Transportation
Federal Aviation
Administration

Office of the Chief Counsel

800 Independence Ave., S.W.
Washington, D.C. 20591

AUG 24 2015

Mason K. Chock
Councilmember, Kaua'i County Council
Council Services Division
4396 Rice Street, Suite 209
Lihu'e, Kaua'i, Hawaii 96766

Re: Cost reimbursement for public aircraft operations

Dear Mr. Chock,

This responds to your letter of June 22, 2015, requesting an interpretation of the public aircraft statute. You indicated that Kaua'i County operates a leased helicopter for rescue purposes. We presume from the nature of your question that you are operating this helicopter as a public aircraft operation qualified under Title 49 of the United States Code, §§ 40102(a)(41)(D) and 40125, with the governmental function being search and rescue operations.

Your letter indicates that a bill was introduced to your county council proposing cost recovery for fuel from persons rescued using your helicopter. You ask whether a bill "to seek reimbursement of fuel expenses for the County helicopter in a rescue operation would be considered a "commercial purpose," thus removing the County helicopter from status as a Public Aircraft Operation (PAO)."

Seeking reimbursement for fuel from rescued individuals is considered compensation under §40125(a)(1) of the public aircraft statute. Accordingly, your helicopter would not qualify as a public aircraft operation under the terms of §40125(b) since that compensation gives it a commercial purpose. We have issued this same interpretation regarding various items considered for reimbursement in public aircraft search and rescue operations, including medical services provided by a contractor. Our previous responses provide our analysis in more detail. *See* letter to Ray Barrato from Rebecca MacPherson, July 14, 2011; letter to Margaret Keavney from Rebecca MacPherson dated July 27, 2012; letter to Brian Barrett from Rebecca MacPherson dated October 15, 2012. For your convenience, we are including copies of those interpretations as enclosures.

If Kaua'i County chooses to operate a rescue helicopter and wishes to charge for any part of its services, the operation would need to qualify as a civil air carrier and comply with all applicable regulations.

This interpretation was prepared by Karen Petronis, Senior Attorney in my office, and coordinated with the General Aviation and Commercial Division of the Flight Standards Service. If you have any further questions regarding this interpretation, please contact my staff at 202-267-3073.

Sincerely,

Lorelei Peter
Acting Assistant Chief Counsel for Regulations
Enclosures (3)