

COUNCIL OF THE COUNTY OF MAUI
**POLICY AND INTERGOVERNMENTAL
AFFAIRS COMMITTEE**

November 7, 2014

**Committee
Report No.** _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Policy and Intergovernmental Affairs Committee, having met on September 29, 2014, makes reference to County Communication 13-348, from the Chief of Police, transmitting a copy of an executed Memorandum of Agreement between the County of Maui and the State of Hawaii Department of Accounting and General Services, Office of Information Management and Technology, dated October 15, 2013 (“Agreement”). The Agreement allows the County to share 12 channel pairs in a 700-megahertz (“MHz”) pool assigned to the State by the Federal Communications Commission for public-safety radio-repeater operations in Pu`u Mahoe, Maui, Hawaii.

A Captain, Department of Police, explained the State maintains the entire spectrum of 700-MHz channels, so counties cannot apply for these channels. He noted the Department’s new radio system requires the use of some 700-MHz channels. Because of the growing use of these frequencies, he estimated that within the next six months, the Department will have a plan in place to allow the County to have its own allocation of these frequencies, making the Agreement moot.

Your Committee notes Section 2.20.020, Maui County Code, provides, “Unless authorized by ordinance, the mayor shall not enter into any intergovernmental agreement or any amendment thereto which places a financial obligation upon the county or any department or agency thereof.”

Your Committee notes paragraph 12 of the Agreement requires the County to indemnify, defend, and hold harmless the State from any liability or damages resulting from the County’s use of State radio frequencies as provided for in the Agreement. Your Committee asked the Department of the Corporation Counsel whether the indemnification provision creates a financial obligation, requiring the Council to have first authorized the Mayor to enter into the Agreement by ordinance.

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A Deputy Corporation Counsel advised the indemnification provision does create a financial obligation on the part of the County. He further advised the Agreement is in the process of being amended to remove the indemnification provision. He noted the new language would require legislative approval be granted in the event any payment is needed.

Your Committee voted 8-0 to recommend filing of the communication. Committee Chair Hokama, Vice-Chair Couch, and members Baisa, Carroll, Crivello, Guzman, Victorino, and White voted "aye". Committee member Cochran was excused.

Your Committee notes that, subsequent to its meeting on this matter, the Department of the Corporation Counsel transmitted a document entitled "AMENDMENT TO MEMORANDUM OF AGREEMENT 700 MHZ PUBLIC SAFETY BAND", dated October 3, 2014 ("Amendment"). The Amendment replaces the indemnification provision in paragraph 12 with language requiring each party to bear responsibility for damage or injury resulting from acts or omissions of its employees while within the scope of employment, provided funds have been authorized and appropriated by the respective legislative bodies and allocated by the executive budget process.

Your Policy and Intergovernmental Affairs Committee RECOMMENDS that County Communication 13-348 be FILED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



G. RIKI HOKAMA, Chair