



Press Release

Gallagher Requests Formal Opinion on DIA Actions Letter to Suthers Outlines Illegal Fuel Rebate

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(Denver) Denver Auditor Dennis Gallagher has requested a formal opinion regarding rebates that Denver International Airport made to certain airlines in 2008. In a letter to State Attorney General John Suthers, dated December 29, 2009, Gallagher requests an opinion as to whether the rebates are subsidies and illegal under Colorado law. The rebates were discovered during an audit of DIA.

Gallagher released the audit earlier in December, which chastised DIA for the subsidies and recommended that DIA recoup the money. DIA responded that it disagreed with the finding and stated that the rebates were not a subsidy.

Gallagher said that he was disappointed that DIA not only disagreed with the finding but sought to avoid the issue by parsing words. "It's a bit like Bill Clinton's rationalization to the grand jury '...it depends on what the meaning of is, is'."

Gallagher also noted that DIA had never provided any substantiation for their position that the subsidies were not subsidies and were allowed under state law.

In his letter to Suthers, Gallagher states:

“DIA has taken a position that the \$10.7 Million in credits to the airlines does not constitute a 'subsidy' and therefore is an appropriate allocation. However they can provide no legal or other substantiation for that position.”

I am requesting a formal legal opinion from you as to whether direct unfettered credits to airlines as occurred in the instance our audit cites, are in point of fact a subsidy and inappropriate under CRS 43-10-110 and that such credits are inconsistent with 'aviation purposes' as defined in (CRS) 43-10-110.”

The audit discovered that in 2008, the State Aeronautics Board had rebated to DIA some \$10.7 Million in Aviation Fuel Tax Rebates. Statute clearly states that rebates are to be used for 'aviation purposes' only and cannot be used for subsidies. The audit found that the rebates had actually been given back to some airlines in the form of credit memo subsidies in violation of state law.

“These were taxes collected by the state and rebated to the airport for certain specific purposes. I believe the airport violated state law in how they used this money. Since DIA disagrees that this use was illegal, it is appropriate for the Attorney General to weigh in on this,” Gallagher said in a statement.