

OVERVIEW

THE AUDITOR
STATE OF HAWAII

Audit of the Judiciary's Management of Its Resources

Summary

Senate Concurrent Resolution No. 259, House Draft 2 of 1994, directed the State Auditor to perform a management audit of the Judiciary's budget office and civil service personnel system. The resolution noted the Legislature's continuing concern with the Judiciary and its "purposeful disregard for established budgetary and management practices."

Our audit found weaknesses in both the Judiciary's budgeting and personnel management systems, although both systems had improved significantly since our 1989 audit. Budgeting operations, under the recently created Budget and Statistics Division, and personnel functions, under the Personnel Division, both report to the administrative director of the courts who is appointed by the chief justice with the approval of the Supreme Court.

We found that the Judiciary's budgeting system is undermined by arbitrary and unpredictable actions by its Budget and Statistics Division. The actions have no basis in written guidelines or procedures. The division restricts appropriations to create a reserve fund for contingencies. It makes "leveling adjustments" or shifts among categories within an appropriation, and it makes transfers among appropriations. These actions impair planned use of resources and lead to questions about the real budget needs of the Judiciary. We also found that the Judiciary does not consistently expend appropriations in accordance with legislative intent.

We found some continuing weaknesses in the Judiciary's financial management. It has yet to implement recommendations made in our 1989 audit that it terminate contingency purchases of equipment from savings, reconcile trust accounts, and dispose of unclaimed bails and stale and returned checks in a timely manner. In FY 1993-94, it made contingent or unbudgeted purchases of \$1.6 million for equipment from savings when the Legislature had appropriated only about \$250,000. Its failure to reconcile trust accounts is a significant deficiency that has been brought to its attention in each of the last five years.

We found that management controls over several key areas of the personnel system are either insufficient or non-existent. The system still lacks adequate measures of effectiveness, time standards for the processing of personnel action requests, and an affirmative action plan.

The Judiciary has undermined the credibility of its personnel system by allowing some personnel actions which have created a perception of unfair or preferential treatment. These actions include the assignment of the functions of the administrative director

of the courts to a circuit court judge, the extended temporary appointment of the deputy administrative director, and the use of temporary assignments for extended periods of time.

Recommendations and Response

We recommend that the Judiciary improve its budgeting system by establishing written guidelines and criteria for restrictions, adjustments or transfers, and include in its budget requests a contingent fund similar to the one created for the governor. We also recommend that the Judiciary expend legislatively mandated appropriations in accordance with legislative intent.

The Judiciary should institute better management controls over the personnel system including, but not be limited to, establishing time standards for recruitment and classification actions and clarifying its policies and practices on temporary appointments and temporary assignments. The Judiciary should also appoint an administrative director who holds no other office or employment.

The Judiciary responded that it agrees with most of the recommendations in our report. At the same time, it disagrees with the findings that led to and supported the recommendations.

The Judiciary defends its budgeting practices as necessary to achieve a responsible and fiscally prudent budget. We believe that the same goal can be achieved with better information on priorities and written guidelines and criteria for changes to program appropriations.

The Judiciary defended the transfer of the functions of the administrative director to the first division of the First Circuit Court as being in accordance with the constitutional authority of the Chief Justice as administrative head of the courts. The Judiciary also pointed to a Citizen's Panel Report which concluded that the "administrative director should be a judge." In addition, the Judiciary stated that the statute, 601-3 HRS, is unconstitutional and should be amended by the Legislature.

We disagree. Article VI, section 6 of the Hawaii Constitution states that the chief justice may assign judges *from one circuit court to another for temporary service*. The Judiciary also misinterprets the 1986 Citizen's Panel Report. The report does state that the administrative director should be a judge, but the report also stated that the Judiciary should appoint a former judge until legislation is formulated which would allow the administrative director to be a sitting judge. With regard to the constitutionality of Section 601-3 HRS, we note that in a number of cases, courts have affirmed the fundamental rule that there is a presumption in favor of the constitutionality of a legislative enactment. A statute remains presumptively valid and constitutional until duly adjudicated to be in whole or in part in conflict with law.

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