

# OVERVIEW

THE AUDITOR  
STATE OF HAWAII

## Follow-Up Audit of the Administration of Personal Services Contracts of the Department of Education

### Summary

The Office of the Auditor conducted a follow-up audit of the Department of Education's administration of personal services contracts for the period July 1994 through December 1995. The audit examined the extent to which the department has implemented our prior recommendations in the *Audit of the Administration of Personal Services Contracts in the Department of Education*, Report No. 94-27.

In our follow up, we found that questionable contracting practices continue. The Department of Education still lacks a policy and guidelines that would justify the need for and the appropriateness of contracted personal services and demonstrate how effectively those services contribute to the department's educational mission. The department continues to ignore the issue of establishing criteria for acquiring additional services. As a result, the services acquired may duplicate the work already being done or should be done by other employees. For example, contracting with teachers to develop curriculum may duplicate the work already being done or should be done by the Office of Instructional Services.

We also found that the department's practice of contracting with a limited pool of present and former employees continues to violate the open competition principle that guides state acquisition of goods and services. The department also paid an employee \$13,800 for contract work while the employee was on full pay sabbatical.

The department has failed to comply with the requirements of the procurement code. It asserts that its 400+ contracts for services for amounts under \$10,000 were "small purchases" as provided in Section 103D-305, HRS. However, we found no evidence that the required three quotations were ever solicited. It is also questionable whether these contracts were true "small purchases" exempt from public notice and competition.

The department has also developed the "temporary contract employee" classification because of IRS requirements that payments to these contractors should be through normal payroll channels. The department asserts that the procurement code requirements of open competition for the selection of these contractors do not apply since it pays these contractors through the payroll system. However, the department does not follow the requirements of the ordinary personnel administration process, such as posting notices and other hiring practices to ensure that qualified persons apply and are hired.

Also, it appears that the qualified bidders list was used for the purpose of channeling a contract to a pre-selected individual.

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## Recommendations and Response

We again recommend that the superintendent of education establish policies and guidelines that ensure public funds are spent only for personal services that are essential to carrying out the educational mission of the department. The department should link these expenditures with educational results. Also, the department should cease its practice of contracting with a limited pool of present and former employees and should instead enter contracts openly and competitively. The department should adopt procurement practices that conform to the Hawaii Public Procurement Code.

The department generally agrees with our recommendations, however it disagrees with the content of our findings. The department states that its procedures provide guidance, but that "more specific information as to the relationship of the requested personal services to the Department's mission, objectives or standards" is needed. That is our point.

The department agrees with our recommendation that it cease its practice of contracting with a limited pool of present and former employees and enter contracts openly and competitively.

The department disagrees with our finding that it is not in compliance with the procurement law. It asserts that the results of our sample of contracts examined should not be inferred to all contracts and that our interpretation of the law relating to parceling is incorrect. We believe that our sample of contracts and interpretation of the law support our finding. Moreover, since the procurement code applies to all contracts, finding non-compliance with even one contract can merit mention. We found non-compliance with the entire sample.

Despite its disagreement with our findings, the department states that it will correct areas of noncompliance and will continue its efforts to improve its contracting for personal services. We are pleased that it "is committed to ensuring that public funds are properly spent."

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