

Statement on House Investigative Committee's October 28, 2021 Hearings

The Committee was formed under the guise of investigating compliance with our audits of the Department of Land and Natural Resources' Special Land and Development Fund and the Agribusiness Development Corporation. Today's hearing, which featured testimony on HART and government auditing standards, made clear that a major part of the Committee's – and certainly Chair Belatti's – purpose has little to do with DLNR and ADC, but everything to do with a never-ending investigation of the Office of the Auditor. The Committee has now set many more hearing days aside, to continue to “follow the evidence wherever it leads,” which has become Chair Belatti's mantra throughout the hearings. However, it has become increasingly clear that Chair Belatti's “wherever” has been predetermined and her “evidence” prefabricated. This type of proceeding is incredibly dangerous, where there is no right to cross examine and only hand-picked, biased witnesses are called and asked leading questions.

The process chosen by the investigative committee is a real disservice to the witnesses, like Randal Lee, to those committee members who are genuinely trying to understand things, and to the public. The process provides no opportunity for me to provide a complete understanding of facts and, based on one-sided, incomplete testimony, draws an inaccurate and incomplete picture.

RANDAL LEE

Mr. Lee, who admitted to only perusing our final report on HART, can rest assured that we did look at the matters that he identified to us and which he described to the investigative committee. Those who read the HART audit, Report No. 19-03, will find we reported that the City prematurely entered into contracts. Here are some of the headings and subheadings from the report: “The City prematurely entered into contracts under an artificial timeline and a fragile financial plan”; “Premature awarding of the initial \$483 million contract was driven by concerns that rising costs and loss of tax revenue would derail the Project”; “The City awarded nearly \$2 billion more in contracts in 2010 and 2011 despite not achieving milestones needed to begin construction activities”; “Low construction cost estimates, higher than anticipated inflation, and unanticipated issues also drive costs increases”; “Rising costs and revenues shortfall result in \$700 million to \$910 million budget gap.” We also specifically reported about the utility relocation costs (on page 16).

We were tasked with not only auditing HART but also assessing DAGS' review and approval of HART invoices. We determined that we did not have sufficient construction expertise to do that work and needed to retain a construction expert to help us. Because we had committed the funds that were included in the act directing us to audit HART, we intended to use moneys that had been appropriated to the Office of the Auditor in FY18 for operations to retain the construction expert. Speaker Saiki, however, demanded that we obtain his approval to spend additional moneys on our HART work. We formally requested his approval, and Speaker Saiki denied the request. We determined it was more pressing for us to retain the construction expert to perform the work with respect to the DAGS invoice review, and we had to terminate our contracts with Randal Lee and Dan Hanagami so we would have sufficient funds to do so.

Also, Mr. Lee's belief that we “rehabilitated” Mr. Frank Doyle is his impression. I tried to understand the context surrounding Mr. Doyle's answers to Mr. Lee's and Mr. Hanagami's questions. Mr. Lee and Mr. Hanagami, as former criminal investigators, had a different approach than me and my auditors. We were not looking for criminal misconduct. We were performing an audit, not an investigation.

Lastly, during our audit, we had multiple discussions with the FBI and the US Attorney's office, and immediately after we released Mr. Hanagami from his contract, Mr. Hanagami went to work with the FBI and the US Attorney's office in their investigation of HART. It is my understanding that the US Attorney's office issued subpoenas to HART for its documents and that the FBI confiscated some of HART's computers. Mr. Hanagami was working very closely with Mr. Lee when they were working for us. I assume that, once he joined forces with the FBI and US Attorney's office, Mr. Hanagami followed up and investigated the issues described by Mr. Lee, if Mr. Hanagami believed that there may be some misconduct or other issues with the change orders described by Mr. Lee. I'm unaware whether the federal investigation of HART is ongoing.

EDWIN YOUNG

Clearly, Edwin Young wasn't called to educate the committee on the Yellow Book; it was just a jumping off point for him to talk about the 2021 State Auditor Working Group Report; to legitimize that report and to de-legitimize us. Edwin Young was the chair of the State Auditor Working Group. He was clearly not an impartial, unbiased witness.

We addressed the report, showing how there was no validity to the statements and conclusions he made in that report. People should read the Office of the Auditor's response on our website.

And, frankly, his criticism is surprising to me; he repeatedly emailed me – when he was the City auditor and after he retired – congratulating me on audits that we issued. Here is one example that he sent to me about our work on HART: “Congratulations on another hard hitting and eye-opening audit report. . . . Keep up the terrific audit work. Edwin Young/Retired.”

During his testimony, Mr. Young kept referring to the importance of the peer review, but never once mentioned that we are peer reviewed every three years as required by Government Auditing Standards. The office has been peer reviewed twice since I've been auditor. Those peer reviews were conducted by other working state auditors and confirmed that we are a solid audit office. This is from the most recent peer review:

As noted above, the Hawai'i Office of the Auditor adheres to Government Auditing Standards (i.e., the Yellow Book or GAGAS) published by the Comptroller General of the United States. This peer review compared the office's policies and performance to Yellow Book requirements and the knowledge base of peers from similar offices. The review provided a collective assessment of the office's quality assurance and review processes, how those quality processes were used to develop the office's performance audits, and the qualifications and independence of staff. Specifically, the peer review team sought to determine whether the sample of reports reviewed [which included HART], as well as the processes that underlie the reports, met the following criteria:

- 1) Work is professional, independent, and objectively designed and executed.
- 2) Evidence is competent and reliable.
- 3) Conclusions are supported.
- 4) Products are fair and balanced.
- 5) Staff is competent to perform work required.

We received the highest rating. Those professional standards are precisely what Edwin Young claims that we are failing to comply with.

Mr. Young also repeatedly referred to the Legislature as our “boss.” While that may be the structure of the audit offices where he worked, that is not how the Office of the Auditor is established. The Office of the Auditor is part of the Legislative Branch and is an important resource for the Legislature; however, the office is not part of the Legislature. The Auditor is established in the State Constitution to be independent. There is a fine line between this office being responsive to the Legislature and being directed by it.

Lastly, I have to address Mr. Young’s reckless and false implication that my office has some bearing on the State’s bond rating and that I may be responsible for costing the state millions of dollars. Mr. Young’s allegations are untrue and another example of the lengths Mr. Young appears willing to go to discredit both me and the office. The state’s credit rating could be affected by, among other things, the untimely issuance of the state’s financial audit, called the Annual Comprehensive Financial Report or ACFR, which must be issued before December 31. The ACFR has been issued timely during the 5 years that I have been auditor. That was not always been the case in the past.

CONCLUSION

Instead of trying to improve government by following up on real issues with real recommendations, the Committee is trying to bury our office under a torrent of innuendo and half-truths, while the audits of the Special Land and Development Fund and the Agribusiness Development Corporation go unnoticed. Auditing is hard – speaking truth to power often is – but we do so. If Chair Belatti and the other members of the Committee are truly concerned with me or my office, I am open to a fair, open inquiry, one that allows for a two-way discussion of these issues.