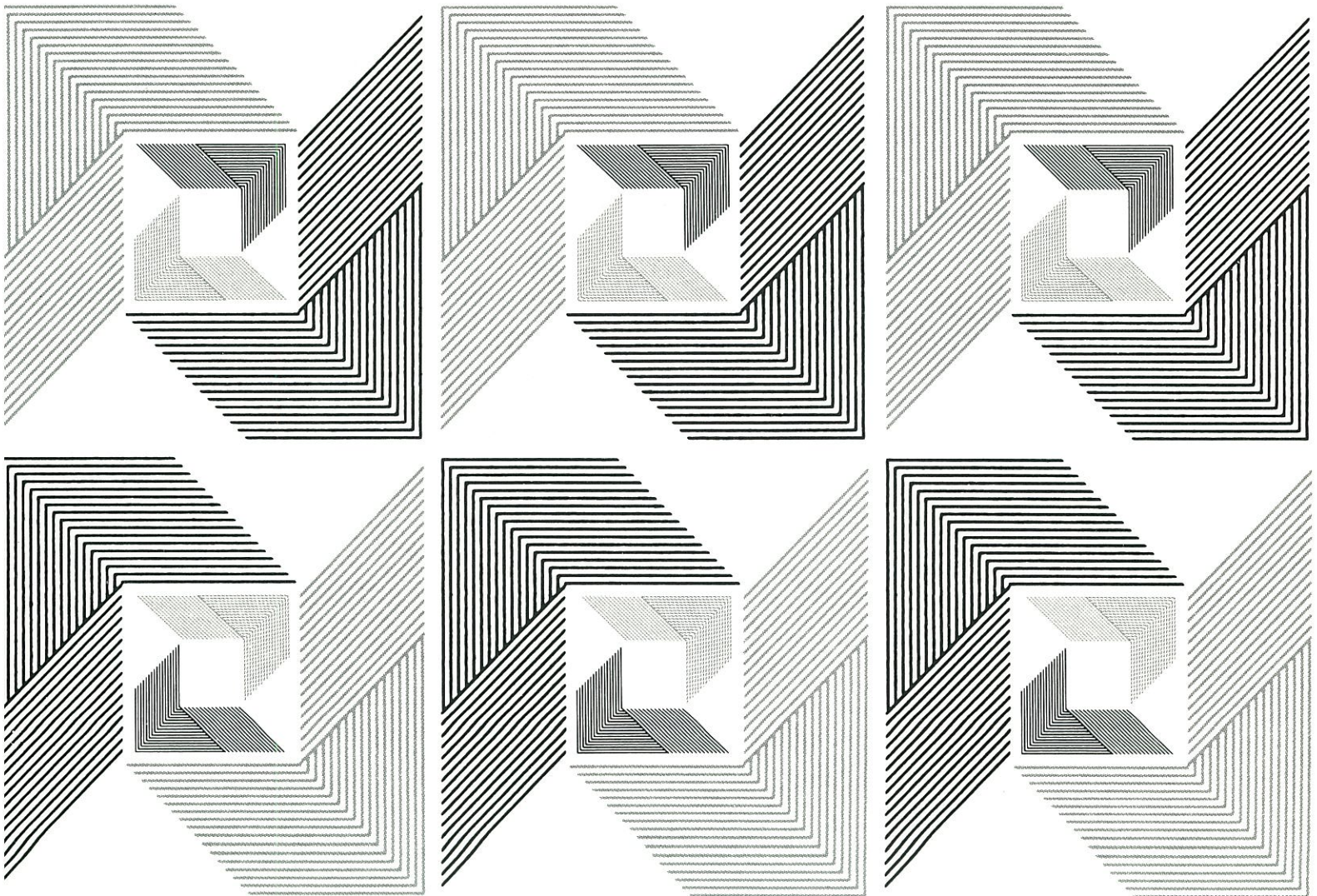


Report No. 89-27  
December 1989

# STUDY OF ADMINISTRATIVE FLEXIBILITY FOR OUT-OF-STATE OFFICES

A REPORT TO THE GOVERNOR AND THE LEGISLATURE OF THE STATE OF HAWAII



SUBMITTED BY THE LEGISLATIVE AUDITOR OF THE STATE OF HAWAII



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## THE OFFICE OF THE LEGISLATIVE AUDITOR

The missions of the Office of the Legislative Auditor are assigned by the Hawaii State Constitution (Article VII, Section 10). The primary mission is to conduct post audits of the transactions, accounts, programs, and performance of public agencies. A supplemental mission is to conduct such other investigations and prepare such additional reports as may be directed by the Legislature.

Under its assigned missions, the office conducts the following types of examinations:

1. *Financial audits* attest to the fairness of the financial statements of agencies. They examine the adequacy of the financial records and accounting and internal controls, and they determine the legality and propriety of expenditures.
2. *Management audits*, which are also referred to as *performance audits*, examine the effectiveness of programs or the efficiency of agencies or both. These audits are also called *program audits*, when they focus on whether programs are attaining the objectives and results expected of them, and *operations audits*, when they examine how well agencies are organized and managed and how efficiently they acquire and utilize resources.
3. *Sunset evaluations* are conducted of professional and occupational licensing programs to determine whether the programs should be terminated, continued, or modified. These evaluations are conducted in accordance with a schedule and criteria established by statute.
4. *Sunrise analyses* are similar to sunset evaluations, but they apply to proposed rather than existing regulatory programs. Before a new professional and occupational licensing program can be enacted, the statutes require that the measure be analyzed by the Office of the Legislative Auditor as to its probable effects.

5. *Health insurance analyses* are conducted on bills which propose to mandate certain health insurance benefits. Such bills cannot be enacted unless they are referred to the Office of the Legislative Auditor for an assessment of the social and financial impact of the proposed measures.

6. *Special studies* are conducted when they are requested by both houses of the Legislature. The studies usually address specific problems for which the Legislature is seeking solutions.

Hawaii's laws provide the Legislative Auditor with broad powers to examine all books, records, files, papers, and documents and all financial affairs of every agency. The Auditor also has the authority to summon persons to produce records and to question persons under oath. However, the Office of the Legislative Auditor exercises no control function, and its authority is limited to reviewing, evaluating, and reporting on its findings and recommendations to the Legislature and the Governor.



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# **STUDY OF ADMINISTRATIVE FLEXIBILITY FOR OUT-OF-STATE OFFICES**

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**A Report to the Governor and the Legislature of the State of Hawaii**

**Submitted by**

**Legislative Auditor of the State of Hawaii  
Honolulu, Hawaii**

**Report No. 89-27  
December 1989**

## FOREWORD

Act 366, *Session Laws of Hawaii 1988*, requested the Legislative Auditor to evaluate the use made of the administrative flexibility granted to the Department of Business and Economic Development under this same act with regard to the establishment and operation of out-of-state offices. The Legislative Auditor was further requested to recommend to the 1990 session of the Legislature whether this administrative flexibility should be continued, modified, or discontinued.

This report examines the implementation of Act 366 by the affected departments and the use that has been made of the granted administrative flexibility relative to the three out-of-state offices now operating in Tokyo, Hong Kong, and Washington, D.C. It also contains our recommendations regarding the continuation, modification, or termination of Act 366.

We wish to acknowledge the cooperation and assistance extended to our staff by officials and personnel of the Department of Business and Economic Development, the Department of Budget and Finance, the Honolulu Chamber of Commerce, the Hawaii Visitors Bureau, and other public and private individuals contacted during the course of this study.

Newton Sue  
Acting Legislative Auditor  
State of Hawaii

December 1989



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## Chapter 1

### INTRODUCTION

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The Legislature in Act 366, *Session Laws of Hawaii 1988*, granted administrative flexibility to the Department of Business and Economic Development to facilitate the operation of the department's out-of-state offices. In the same act, the Legislature also requested the auditor to review the department's use of this flexibility and to recommend to the 1990 session of the Legislature whether this use should be continued, modified, or discontinued.

#### **Nature of the Grant of Administrative Flexibility**

Like numerous other states, the State of Hawaii has determined that it would be advantageous to establish out-of-state offices to promote Hawaii's economic development and to represent the state's interests in places where decisions are made that vitally affect Hawaii. Thus, at the time Act 366 was being acted upon in 1988, DBED was already in the process of establishing out-of-state offices in Tokyo, Hong Kong, and Washington, D.C.

Prior to the passage of Act 366, Hawaii's laws governing the administrative management and fiscal operations of the state government did not provide for conducting government business at locations far removed from the islands where conditions might be quite different. The purpose of Act 366 was to give the department sufficient flexibility to conduct business in far off and diverse places. At the same time, the act placed some restraints on the department's exercise of this increased authority.

The administrative flexibility granted under Act 366 took two forms: (1) exemption from various statutory requirements and restrictions relating to fiscal operations and personnel

management, and (2) authorization to establish a special fund to handle the operation of out-of-state offices. The exemptions were subject to the approval of the Director of Budget and Finance and were to be exercised "only to the extent necessary for the conduct of . . . business in operating out-of-state offices." Besides receiving legislative appropriations for out-of-state offices, the special fund could also be used to deposit money from other sources of income or revenue.

The statutory provisions from which exemptions were allowed under this legislation specifically included the following:

- (1) Sections 36-27 and 36-30, relating to special fund transfers and reimbursements to the general fund;
- (2) Section 103, relating to advertising for bids and purchases to be made in Hawaii whenever public moneys are expended;
- (3) Chapter 36, relating to management of state funds;
- (4) Chapter 38, relating to deposits of public funds;
- (5) Chapter 40, relating to audit and accounting, except that the department shall comply with Section 40-81;
- (6) Chapter 76, relating to civil service;
- (7) Chapter 77, relating to compensation;
- (8) Section 78-1, relating to public employment, except when expressly hiring personnel subject to Section 78-1; and



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- (9) Section 171-30, relating to acquisition of real property.

### **Objectives of the Evaluation**

Pursuant to the legislative directives set forth in the administrative flexibility legislation, the objectives of this study were as follows:

1. To assess the use of, need for, and value of administrative flexibility in the establishment and operation of out-of-state offices, including compliance with the provisions of Act 366, SLH 1988, by the Department of Business and Economic Development and the Department of Budget and Finance.

2. To make recommendations as to whether the administrative flexibility granted under Act 366 should be continued, modified, or terminated.

### **Scope of the Evaluation**

The study focused on the administrative and management aspects of setting up and

operating Hawaii's three out-of-state offices. Our primary concern was the need for and use of flexibility for these offices relative to the regular administrative controls imposed upon DBED.

Inasmuch as action to set up the three out-of-state offices preceded the passage of Act 366, the time frame for this study was from December 1986 through mid-November 1989.

### **Organization of the Report**

This report is divided into three chapters. Chapter 1 is this introduction. Chapter 2 provides some background on DBED's program for out-of-state representation and sets forth the framework for this study. Chapter 3 summarizes what has been done by DBED and the Department of Budget and Finance to implement and utilize the administrative flexibility legislation and contains our review of these actions and of the question of whether Act 366 should be continued, modified, or discontinued.

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## Chapter 2

### BACKGROUND AND FRAMEWORK

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This chapter provides background on the establishment of out-of-state offices by the Department of Business and Economic Development (DBED) and sets forth the framework of the study of administrative flexibility granted to the department under Act 366, *Session Laws of Hawaii 1988*.

#### Background

Hawaii's establishment of out-of-state offices parallels similar action by many other states and represents a major investment of state resources for business development.

**Broad trend toward out-of-state representation.** In today's increasingly interdependent and competitive world, state governments are becoming active in representing their interests in areas outside their own borders. This is reflected in the promotional efforts of many states reported by the National Governors' Association in April 1989:

- . Forty-one states maintained offices in 24 countries.
- . More states have offices in Japan (39) than in Washington, D.C. (38).
- . Twenty-five states promote joint ventures between state and foreign firms.
- . Thirty-two states have governors' international trade advisory committees.
- . Twenty-one states have export finance programs. Others help exporters identify sources of financing outside the state.

- . Every state conducts seminars for its business community on topics ranging from the "how-to's" of trade to more technical information. All states sponsor trade missions abroad and display their products at overseas trade shows. Most states provide individual counseling for exporters, offer referrals to services, and disseminate specific trade leads.
- . States encourage foreign tourists to visit the U.S. through state advertising campaigns and tourism missions.
- . States use trade missions to introduce state business people to potential customers abroad. In 1987, governors from 43 states and territories made 87 trips abroad.
- . State governments are catalysts--they encourage firms to export goods, assist overseas investors, and bring together the many individuals involved in trade-related activities.<sup>1</sup>

**Development of Hawaii's out-of-state representation.** The state government of Hawaii is both a pioneer and a recent entry into the field of out-of-state representation.

In the area of tourism, the Hawaii Visitors Bureau has for many years maintained out-of-state offices, both on the U.S. mainland and in foreign countries. Although not directly a part of the state government, the Hawaii Visitors Bureau is recognized as Hawaii's official marketing agency for tourism and receives approximately 80 percent of its funding from state appropriations. It operates under a contract



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with DBED, the state agency charged with tourism development. With origins in the early 1900s, the Hawaii Visitors Bureau is the oldest tourism organization in the Pacific area and has long been in the forefront of efforts to expand tourism.<sup>2</sup>

As for other areas of Hawaii's economy, representation outside the state is a more recent development. In 1986, DBED initiated plans to go beyond the promotion of tourism in Japan by the Hawaii Visitors Bureau. These plans included the establishment in that country of an office under the control of DBED which would provide "direct representation in the Japan market for promotion of Hawaii's products, services and investment opportunities." To carry out this objective, the department included \$0.5 million in its budget request for the 1987-89 biennium.<sup>3</sup>

During the 1987 legislative session, DBED revised its plan and expanded its budget request for out-of-state representation. In addition to the proposed Japan office, the department sought support for a Far East office in Hong Kong and a mainland U.S. office in Washington D.C. The General Appropriations Act of 1987 (Act 216, SLH 1987) included under DBED's budget for the Marketing, Promotions, and Industry Development Program \$155,000 for 1987-88 and \$1,311,000 for 1988-89 to establish these three offices.

With the funds made available, DBED set up its first out-of-state office in Washington, D.C. in October 1987. The establishment of the Tokyo and Hong Kong offices followed in April 1988.

*Hawaii's three out-of-state offices.* As part of DBED's Marketing, Promotions, and Industry Development Program, the out-of-state offices fall under DBED's Business Development and Marketing Division, one of the half-dozen divisions which make up the department. Besides its involvement in trade and industry development, the Business Development and

Marketing Division is also concerned with marketing and business analysis, various special projects, and Hawaii's garment industry. Probably most closely related to the activities of this division are those of the Industry Promotion Division, which has responsibilities pertaining to Hawaii's tourism, ocean resources, and film industries.

*DBED Washington, D.C., Office.* The Washington, D.C., office is an outgrowth of an earlier effort to lobby for and represent Hawaii's interests, particularly those related to energy. The head of this office was hired originally as a contract consultant under DBED's Emergency Energy Preparedness Program through a master contract administered by the Research Corporation of the University of Hawaii. Following the initial focus on energy-related matters, the duties of this job were broadened to include keeping abreast of federal developments affecting Hawaii on international trade and commerce, working with Hawaii's congressional delegation on energy legislation, and seeking out business opportunities for follow-up by the congressional delegation and by the governor's liaison in Washington.

The Washington office has also become a clearinghouse for information on aquaculture, tourism, management services, educational consulting, space industries, the sciences, and product promotions as these may pertain to Hawaii. It is also developing into an East Coast resource center on the business climate in Hawaii and economic opportunities available there.

At the time of our review, the Washington office had a staff of two, the contract consultant and an administrative assistant. The office shares space with the Hawaii Visitors Bureau but is administered separately.

Consultant services were handled by way of the contract with the Research Corporation of the University of Hawaii until June 1989 when a new contract was directly entered into between DBED and the contract consultant.



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*State of Hawaii Japan Office.* Hawaii's out-of-state office in Japan, located in Tokyo, has been given multiple missions. Initially, DBED set up the office to provide it with a marketing presence in Japan for the purpose of attracting new businesses and investments to Hawaii. In June 1988, however, the office was redesignated the State of Hawaii Japan Office, and its director (now executive director) was given the expanded role of representing the governor of Hawaii and other departments of the executive branch.

With this expanded role, the functions of this office now include: (1) identifying Japanese companies that can benefit from Hawaii's geographic location and infrastructure; (2) contacting Japanese companies to apprise them of opportunities which Hawaii may offer; (3) coordinating requests for information and contacts; (4) assisting DBED's promotional activities at trade shows and other events; (5) providing information on policies or actions of the Japanese government that might affect Hawaiian marketing initiatives in Japan; (6) providing guidance on how best to present Hawaii to Japanese business; and (7) acting as a representative of Hawaii.<sup>4</sup>

To facilitate working with Japanese interested in doing business in Hawaii and performing other activities on behalf of the State of Hawaii, one of the executive director's first tasks was to locate suitable office and storage space in Tokyo for both the state office and the Hawaii Visitors Bureau. This the director accomplished by negotiating a sublease with Pan American Airways through at least March 1990. Thus, as in Washington, D.C., the two offices are located together though administered separately.

The executive director of the Japan office is a multi-lingual Japanese national with business experience in the United States, Europe, and Asia. He was hired under a personal services contract with DBED. The executive director has a full-time secretary and at the time of our review was also assisted by an administrative intern from the Japan-America Institute of

Management Sciences, which is headquartered in Hawaii. The intern position has since been converted into a full-time position.

*State of Hawaii Trade Office, Hong Kong.* The director of the Hong Kong office worked for DBED in Hawaii before being contracted to establish the Hong Kong office. Although a native of Hong Kong, he resided for a number of years in Hawaii and received both undergraduate and graduate degrees from the University of Hawaii. While locating a suitable site for an office, he began contacting people who might be interested in investing or otherwise doing business in Hawaii. Other activities include promoting Hawaiian products and services, acting as a liaison between parties in Hong Kong and Hawaii who may have mutual interests, and monitoring governmental policies and regulations which might affect business and economic development in Hawaii.

Space for the Hong Kong office was leased in August 1988 and then redesigned, renovated, and refurbished to accommodate both the trade office and the Hawaii Visitors Bureau. The director opened the new office in October 1988; the newly established Hong Kong field office of the Hawaii Visitors Bureau moved into the premises in March 1989.

The director of the Hong Kong office has been hired under a personal services contract with DBED. He is assisted by an administrative assistant and a secretary.

**Major emphasis of out-of-state office activities.** As already indicated, the State for many years has spent millions of dollars to support the Hawaii Visitors Bureau. During this time, Hawaii's tourist industry has grown phenomenally. In the last several years, however, recognition of the need for a more balanced economy has led to attempts to promote Hawaii as a place in which to invest and do business.

During the 1987 legislative session, in addition to the funds for the three out-of-state offices,



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DBED was appropriated money for a strategic plan for business and industry development. As a result, the department issued in February 1988 a report that set forth 27 major initiatives and priority actions for the 1987-1989 biennium, including one to "establish new business and economic development offices in major world centers."<sup>5</sup>

As part of its efforts in this area, DBED also formed a partnership with the Chamber of Commerce of Hawaii to jointly market Hawaii as a place to do business. A prime goal was to establish Hawaii as a regional center for international corporations. To this end, the two partners commissioned a study showing the advantages that Hawaii (especially Honolulu) enjoys over other Pacific Rim countries and cities.<sup>6</sup>

**Other related state activity.** DBED's offices in Washington, D.C., Tokyo, and Hong Kong do not represent the full extent of the state government's involvement in out-of-state and international activities. As already indicated, promotion of tourism and promotion of other types of economic development are parallel activities handled by separate divisions within DBED. In addition to these activities, the Legislature in Act 168 of 1988 requested the Office of State Planning to "conduct a study on the methods to strengthen Hawaii's participation in international activities and develop a strategic plan." This legislation also established a twelve-member advisory council to help prepare the study and develop the strategic plan. The director of DBED was one of three ex officio members named to the council.

Outcomes of Act 168 included a two-day congress on Hawaii's international role attended by more than 700 delegates, and a January 1989 report by the Office of State Planning. The report recommended expanding Hawaii's international role as a means of maintaining diversified economic growth and enabling Hawaii to help the United States respond effectively to the demands of the "Pacific Century." The

report recommended that the governor's office lead this expanded effort and that in conjunction, DBED should assess the functions and future roles of its out-of-state offices.<sup>7</sup>

**Budgets for out-of-state offices.** Operating the offices in Washington, D.C., Tokyo, and Hong Kong requires a sizeable investment for the State that is reflected in the budget of DBED's Marketing, Promotions, and Industry Development Program.

From an initial \$155,000 for FY 1987-88, the program's budget went up to \$1,311,000 in FY 1988-89, when many start-up costs had to be absorbed. These amounts represent 8 percent and 55 percent respectively of the the \$1.9 million and \$2.4 million budgeted for the entire Business Development and Marketing Division of DBED for FY 1987-88 and FY 1988-89. To maintain these operations, almost \$1 million per year will be required during the 1989-91 fiscal biennium.

The budget breakdown for Hawaii's three out-of-state offices for the 1987-89 and 1989-91 fiscal bienniums is shown in Table 2.1.

### Framework for Study

Act 366, SLH 1988, provides the framework for reviewing the administrative flexibility granted to DBED to establish and operate out-of-state offices.

As previously noted, DBED had received budget authorization under the General Appropriations Act of 1987 to establish offices in Washington, D.C., Tokyo, and Hong Kong. In 1988, DBED went back to the Legislature to request additional legislation to facilitate opening and operating out-of-state offices. This request resulted in the passage of Act 366.

In supporting the legislation, DBED sought two major objectives. The first was to obtain statutory authorization to establish out-of-state



**Table 2.1. Budgets for Out-of-State Offices FY 1987-88 through FY 1990-91.**

Office	1987-88	1988-89	1989-90	1990-91
Hong Kong	\$ 70,000	\$ 380,000	\$ 310,000	\$ 310,000
Tokyo	60,000	750,000	350,000	350,000
Washington, D.C.	<u>25,000</u>	<u>181,000</u>	<u>200,000</u>	<u>200,000</u>
Total	\$ 155,000	\$ 1,311,000	\$ 860,000	\$ 860,000

Source: Hawaii, Department of Business and Economic Development, Administrative Services Office.

offices as a means of competing with other states and countries for economic development opportunities. The second was to remove various statutory barriers (in the form of restrictions on administrative actions of state government agencies) that might hinder the establishment of such offices.<sup>8</sup>

Act 366 helped attain both these objectives, but it also provided for restraints. *First*, it made the exercise of DBED's general powers to operate out-of-state offices subject to the approval of the director of the Department of Budget and Finance. *Second*, it also made the exemptions from statutory requirements subject to the approval of the director of finance. These exemptions were to be granted "only to the extent necessary for the conduct [by DBED] of its business in operating out-of-state offices." *Third*, Act 366 directed the auditor to review DBED's use of the special powers and make recommendations to the Legislature regarding their continuation.

Basically, then, Act 366 calls upon the auditor to say whether there has been a need for the administrative flexibility authorized under Section 2 of Act 366 prior to any utilization of this authority, and whether any exercise of this authority has been appropriate and reasonable in terms of facilitating action while at the same time protecting the public interest.

Our efforts were directed toward: (1) identifying and reviewing the steps taken to set up and operate the three offices; (2) ascertaining where existing laws, requirements, and restrictions may have hindered the establishment and operation of these offices; and (3) examining the conditions and procedures involved in the use of the administrative flexibility granted to both DBED and the Department of Budget and Finance.

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## Chapter 3

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### REVIEW OF THE IMPLEMENTATION OF THE ADMINISTRATIVE FLEXIBILITY LEGISLATION RELATING TO OUT-OF-STATE OFFICES

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In this chapter we review the implementation of the legislation which grants a degree of administrative flexibility to the Department of Business and Economic Development (DBED) in the establishment and operation of out-of-state offices. The review covers the operation of the offices in Tokyo, Hong Kong, and Washington, D.C.

#### *Summary of Findings*

- 1. As of early November 1989, only limited use has been made of the legislation authorizing administrative flexibility, largely because the three out-of-state offices were established before the law was enacted.*
- 2. Implementation of the few activities authorized under the act has been on a case-by-case basis in the absence--until recently--of formal procedures. Some administrative uncertainties remain, particularly with regard to the status of certain staff and the arrangement to share space, equipment, and costs with the Hawaii Visitors Bureau.*

#### **Limited Use of Authorizing Legislation**

Since Act 366 took effect on June 14, 1988, little direct use has been made of the legislation. One reason for this is the fact that the three out-of-state offices were established and functioning before the law was enacted. The new legislation did not have to be invoked for the State to embark upon its program. Whatever

obstacles that may have existed prior to Act 366, they did not prevent the offices from being established. The program for out-of-state representation has continued to evolve and the three offices have continued to function without apparent difficulty.

The first formal step taken to implement Act 366 came on August 4, 1988, when the director of DBED transmitted to the director of the Department of Budget and Finance a memorandum that requested approval of both the general powers and the specific statutory exemptions granted to DBED by this legislation. The memorandum also asked the director of finance to advise DBED concerning any procedures that DBED needed to follow when seeking approval to act. On August 15, 1988, the director of finance advised DBED that the matter was under review and that the budget staff would be contacting DBED to obtain additional information so the review could be completed.

Following this initial exchange of memoranda, the two departments began to handle requests for approval on a case-by-case basis. On August 29, 1988, DBED sent a request to the Department of Budget and Finance for approval to enter into a sublease with the Hawaii Visitors Bureau for office space in Washington, D.C. After a staff review, the director of finance on September 29, 1988, formally approved the request.

On November 21, 1988, DBED requested approval to lease office space in Hong Kong and to sublease space in Tokyo. As of early November 1989, these two matters were still under review and pending. In the meantime, the two out-of-state offices have proceeded to occupy the two sites in question.



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The only other formal action that has been taken to implement the administrative flexibility legislation occurred in the spring of 1989. On April 13, 1989, DBED requested approval to lease property and to hire directors for the three offices without reference to Hawaii's civil service, compensation, and public employment laws (Chapters 76, 77, and 78, HRS). On May 11, the Department of Budget and Finance advised DBED that action was being deferred on the matter of leasing property, but that in the interest of avoiding disruptions in staffing, approval was being granted to enter into personal services contracts for a period of one year. On the basis of this approval, DBED contracted with the directors of the Tokyo and Hong Kong offices on May 24, 1989, and with the director of the Washington, D.C. office on June 1, 1989.

Apart from these instances, all administrative activities relating to the three out-of-state offices have been handled outside the framework of Act 366.

### **Implementation of Authorizing Legislation**

Until this review was nearly completed, there were no formal policies and procedures for handling DBED's requests for approval to take action under the authorizing legislation. As mentioned previously, the number of requests has been small, and the Department of Budget and Finance handled these on an ad hoc basis. In the absence of standards, criteria, or guidelines, the need and justification for these activities were not always clear. Recently drafted procedures should enable decisions to be made more systematically.

**Policies and procedures.** The administrative flexibility authorized under Act 366, SLH 1988, was granted with certain restrictions. The general powers and statutory exemptions allowed DBED are subject to the approval of the director of the Department of Budget and Finance. The exemptions are allowed only as necessary to support the operation of the out-of-state offices.

Responsibility for compliance with these provisions is shared by both departments. For example, to demonstrate that a statutory exemption is needed for an out-of-state office, it should be shown that the exemption is necessary to the conduct of business and that compliance with existing statutory provisions would inhibit DBED from effectively carrying out its mission.

The Department of Budget and Finance has recently outlined procedures for establishing out-of-state offices, which it transmitted to DBED on November 3, 1989. The memorandum stated that the Department of Budget and Finance would implement a review process for those areas where flexibility would appear most appropriate. The areas of executing contracts, operating bank accounts, leasing real property, and hiring of personnel would be handled through a single request. Other areas, such as the selling of real property, would be handled on a case-by-case basis. The DBED is now requested to follow the listed procedures prior to implementing any out-of-state office.

**Administrative loose ends.** In two areas of activity we found administrative uncertainties that should be clarified.

***Employment of staff other than directors.*** The status of employees other than directors is uncertain. Unlike the three directors, they have not entered into personal services contracts with the State of Hawaii. At the same time, they have not been employed under the provisions of Chapters 76, 77, and 78, HRS, relating to civil service, compensation, and public employment. Nevertheless, they work in the out-of-state offices and are paid out of state funds.

The uncertainty of employment status may create problems for both the employees and the State. On their part, employees do not know with certainty what rights and protections they have in such matters as vacation, sick leave, workers' compensation, and other fringe benefits. For its part, the State is left in the dark concerning



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obligations and liabilities it may have assumed when employing these people. It would be in the best interests of both sides to clarify this situation and regularize in some way the employment of office staff. This is particularly true in view of the likelihood that additional personnel will be hired.

*Joint occupancy and use of office space.* As noted earlier in this report, all three offices share facilities with the Hawaii Visitors Bureau. In Washington, D.C., DBED's office has entered into a formal sublease with the Hawaii Visitors Bureau. In Hong Kong and Tokyo, however, arrangements are informal and no sublease agreements have been entered into. In all three offices, there appears to be informal sharing of equipment and services.

Under these conditions, it is difficult to maintain accountability. Disputes can arise. It would be desirable to have rights and obligations clearly delineated. In our interviews with affected parties, there was general agreement that relationships should be placed on a more formal basis.

### **Concluding Observations**

Relatively little use has been made of Act 366 up to the present time. However, it should be recognized that this legislation has been in effect for less than a year and a half. Moreover,

the opening of out-of-state offices represents a new venture for both DBED and the Department of Budget and Finance and to some extent the process will be subject to trial and error.

At the same time, testing should not be allowed to go on indefinitely. Within another year's time, the two departments should be able to work together to determine where added administrative flexibility is really needed, and to devise flexible ways of operating effectively in out-of-state situations while making sure the program performs reasonably and in the public interest.

### **Recommendations**

1. *Act 366, SLH 1988, should be allowed to continue.*
2. *The Department of Business and Economic Development should clarify and regularize the employment status of the staff of the three out-of-state offices. In the Hong Kong and Tokyo offices, the relationship with the Hawaii Visitors Bureau should be formalized with regard to the joint occupancy and use of office space.*



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## NOTES

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### Chapter 2

1. National Governors' Association, "Today's Trade Promotion Efforts in the States," *Governors' Weekly Bulletin*, vol. 23, no. 15, April 14, 1989, p. 1.
2. For a more detailed discussion of the role of the Hawaii Visitors Bureau and its relationship to the Hawaii's state government, see the audit report issued by the Legislative Auditor of the State of Hawaii entitled *Management Audit of the Hawaii Visitors Bureau and the State's Tourism Program*, Report No. 87-14, Honolulu, February 1987.
3. "Priority Preference Appendix (PPA) Report," memorandum to Jensen S. L. Hee, Director of Finance, from Kent M. Keith, Director of the Department of Planning and Economic Development, November 3, 1986.
4. Letter to Yasuo Takashima from Roger A. Ulveling, Director of the Department of Business and Economic Development, December 16, 1987. Also in *Agreement to Head Department of Business and Economic Development's Office in Japan, Scope of Services*, April 1, 1988, pp. 2-3.
5. Hawaii, Department of Business and Economic Development, *Concepts, Goals and Activities in Support of DBED's Strategic Plan for Business and Industry Development*, February 1988.
6. Grant Thornton, Accountants and Management Consultants, *Hawaii As a Pacific Regional Headquarters*, Honolulu, August 1988.
7. Hawaii, Office of State Planning, *Hawaii's International Role: Recommendations for the Future*, January 1989.
8. Testimony on House Bill No. 3563 presented by Roger A. Ulveling, Director of the Department of Business and Economic Development to the House Committee on Water, Land Use, Development and Hawaiian Affairs, February 15, 1988.





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**RESPONSES OF THE AFFECTED AGENCIES**

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## COMMENTS ON AGENCY RESPONSES

We transmitted a preliminary draft of this report to the Department of Business and Economic Development and the Department of Budget and Finance on December 7, 1989. A copy of the transmittal letter to the Department of Business and Economic Development is included as Attachment 1 of this Appendix. A similar letter was sent to the Department of Budget and Finance. The responses from the two departments are included as Attachments 2 and 3.

Both departments concur with the findings and recommendations in this report. The Department of Business and Economic Development reports that it is taking steps to formalize employer/employee relationships and joint use arrangements with the Hawaii Visitors Bureau in its out-of-state offices.

STATE OF HAWAII  
OFFICE OF THE AUDITOR  
465 S. King Street, Room 500  
Honolulu, Hawaii 96813



(808) 548-2450  
FAX: (808) 548-2693

C O P Y

December 7, 1989

Mr. Roger A. Ulveling, Director  
Department of Business and Economic Development  
Kamamalu Building  
250 South King St.  
Honolulu, Hawaii 96813

Dear Mr. Ulveling:

Enclosed are 3 copies, Nos. 4 to 6 of our preliminary report, *Study of Administrative Flexibility for Out-of-State Offices*.

Should you wish to comment on the recommendations in the study, please telephone us by December 11, 1989. If you decide to submit written comments, we ask that you submit them by December 21, 1989, so that it can be included in the published report.

Since the report is not in final form, access to it should be restricted to those persons in your department whom you might wish to call upon to assist in reviewing the report. The only other parties who have been provided with copies of this draft report are the Governor, the presiding officers of the Legislature, and the Director of the Department of Budget and Finance. Public release of the report will be made solely by our office and only after the report is published in its final form and submitted to the Legislature.

We appreciate the assistance and cooperation extended to us during the course of the study.

Sincerely,

  
Newton Sue  
Acting Legislative Auditor

Enclosures



## ATTACHMENT 2

# DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT

JOHN WAIHEE  
GOVERNOR

ROGER A. ULVELING  
DIRECTOR

BARBARA KIM STANTON  
DEPUTY DIRECTOR

LESLIE S. MATSUBARA  
DEPUTY DIRECTOR

KAMAMALU BUILDING, 250 SOUTH KING ST., HONOLULU, HAWAII  
MAILING ADDRESS: P.O. BOX 2359, HONOLULU, HAWAII 96804 TELE: 7430250 HIDPED FAX: (808) 548-8156

December 21, 1989

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OFFICE OF THE AUDITOR  
STATE OF HAWAII

Mr. Newton Sue  
Acting Legislative Auditor  
State of Hawaii  
Office of the Auditor  
465 South King Street, Room 500  
Honolulu, Hawaii 96813

Re: Study of Administrative Flexibility for Out-of-State Offices

Dear Mr. Sue:

This is in response to your letter dated December 7, 1989 requesting our review of the above-mentioned study. We believe the study's findings were overall very positive. We would like to address the following issues:

1. Limited use of legislation authorizing administrative flexibility. Although the out-of-state offices were established and functioning prior to the effective date of Act 366, SLH 1988, it was necessary to create legislation which would allow DBED the flexibility to improve the operation of these offices. DBED is continuing to work with the Department of Budget and Finance to streamline the review process required under Act 366 to ensure flexibility while maintaining accountability.

2. Administrative uncertainty with regard to status of staff. Although no formal contracts were signed between the out-of-state offices and their staffs, personnel clearly understand the nature of their job, work hours, holidays, leave, and probation period. DBED's Administrative Services Office will be working with the Departments of Budget and Finance and Personnel Services to formalize the employer/employee relationship in the out-of-state offices.

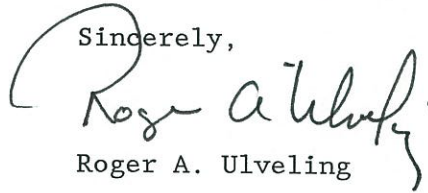


Mr. Newton Sue  
Page 2

3. Administrative uncertainty regarding the arrangement to share space, equipment, and costs with the Hawaii Visitors Bureau. DBED's Administrative Services Office is developing an agreement between the out-of-state offices and the Hawaii Visitors Bureau. The Hong Kong Office has submitted a draft of an agreement they would like to implement, and the Japan Office has submitted a memorandum specifying prorata share of expenses they would like incorporated.

Thank you for the opportunity to comment on this report.

Sincerely,

A handwritten signature in cursive script, appearing to read "Roger A. Ulveling".

Roger A. Ulveling

RAU:LMC:en:L235

JOHN WAIHEE  
GOVERNOR

ATTACHMENT 3



EMPLOYEES' RETIREMENT SYSTEM  
HAWAII PUBLIC EMPLOYEES HEALTH FUND  
OFFICE OF THE PUBLIC DEFENDER  
PUBLIC UTILITIES COMMISSION

STATE OF HAWAII  
DEPARTMENT OF BUDGET AND FINANCE

STATE CAPITOL

P.O. BOX 150

HONOLULU, HAWAII 96810-0150

December 20, 1989

YUKIO TAKEMOTO  
DIRECTOR

ROBERT P. TAKUSHI  
DEPUTY DIRECTOR

THOMAS I. YAMASHIRO  
DEPUTY DIRECTOR

DIVISIONS:

BUDGET, PLANNING AND MANAGEMENT  
ELECTRONIC DATA PROCESSING  
FINANCE  
TELECOMMUNICATIONS

Mr. Newton Sue  
Acting Legislative Auditor  
State of Hawaii  
Office of the Auditor  
465 South King Street, Room 500  
Honolulu, Hawaii 96813

RECEIVED

DEC 21 4 03 PM '89

OFF. OF THE AUDITOR  
STATE OF HAWAII

Dear Mr. Sue:

Thank you for the opportunity to comment on your preliminary report, Study of Administrative Flexibility for Out-of-State Offices.

Please be advised that we are continuing our communications with the Department of Business and Economic Development in developing a review process which attempts to balance the need for accountability in the use of public funds with the need for flexibility in implementing an out-of-state office program.

This department concurs with your findings and will be addressing the issues of the employment status of out-of-state employees and the joint use of out-of-state facilities with the Hawaii Visitors Bureau.

Sincerely,

  
YUKIO TAKEMOTO