
Audit of Selected Hiring Policies and Practices of the Executive Branch of Government

A Report to the
Governor
and the
Legislature of
the State of
Hawai`i

Report No. 05-12
December 2005



THE AUDITOR
STATE OF HAWAII

Office of the Auditor

The missions of the Office of the Auditor are assigned by the Hawai'i 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.

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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.
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7. *Procurement compliance audits* and other *procurement-related monitoring* assist the Legislature in overseeing government procurement practices.
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OVERVIEW

Audit of Selected Hiring Policies and Practices of the Executive Branch of Government

Report No. 05-12, December 2005

Summary

Our audit found that specific criteria are lacking in several areas with regard to the hiring policies and practices in the executive branch. As a result, agencies in the executive branch find ways to circumvent the controls currently in place to regulate hiring. For example, agencies take advantage of the approval process for special, research, and demonstration projects and for exempting employees who work on these projects. We also found that positions are routinely established and filled without legislative approval and that the practice of deploying employees from one agency to another provides questionable benefits. Furthermore, although the governor's budget execution policies attempt to manage spending, in part through the control of vacant positions, the resulting savings, if any, are not tracked or quantified by any agency in the executive branch.

We conducted the audit pursuant to Section 154 of Act 178 of the 2005 legislative session that required the Auditor to examine the implementation of the hiring policies established by the budget execution policies and instructions, to assess the implementation of the policies, and to include estimates of savings realized as a result of these hiring policies as identified by the Department of Budget and Finance.

We reviewed 42 positions exempted under Section 76-16(b)(12), HRS and their associated special, research, or demonstration projects. Because the statute does not provide criteria regarding these projects, the Department of Human Resources Development has developed definitions for the projects but they are broad in scope and result in a subjective approval process. We determined that several of the projects and exempt positions have been on-going for many years and appear to be a regular function of the agency, rather than a project under this section of the statute. These examples contradict the department's definition that a project should have a limited life and not be a normal function of an agency.

Agency heads have the discretion to manage personnel to achieve the agency's objectives and to provide for the most efficient and economical use of their workforce; however, we found that this flexibility is being used to evade formal hiring procedures. To illustrate this, we interviewed 11 employees who had been deployed to work at either the governor or lieutenant governor's office. Deployed positions, as described by the director of finance, are positions whose incumbents have been reassigned to perform work outside the program that funds the position. Six of the employees were interviewed and hired by the governor or lieutenant governor's office and not by the agency paying their wages. In fact, two of the employees were initially paid by the governor's office but after working for four months, one began receiving paychecks from the Department of Transportation and the other from the Department of Public Safety. We also found that some of



the deployed employees were performing duties unrelated to those reflected in their position descriptions. Additionally, most agencies reported the deployments had no impact on them which leads us to question whether this practice is an efficient and effective use of resources and whether the agency paying the wages receives a benefit as a result of the deployment.

The report submitted to the Legislature by the governor regarding unauthorized positions lists 934 positions and \$30,818,479 as expended for these positions in FY2004-05. The director of finance described “unauthorized positions” as those not specifically identified in the budget details, in legislative worksheets, or not authorized in other specific acts. This practice bypasses legislative approval and does not allow an accurate picture of the resources of any agency. In addition, funds used to pay for the unauthorized positions may have been appropriated for other purposes.

Finally, we were unable to find any agency in the state that actively monitors vacant positions to determine whether savings are achieved from position vacancies. According to the Department of Budget and Finance, funds appropriated for vacant positions are discretionary; therefore, they can be used for other purposes by agencies. As a result, we found that savings are not tracked or quantified and may in fact be nonexistent because the funds “saved” by not filling vacant positions can be used for other purposes.

Recommendations and Response

Our recommendations for the Department of Budget and Finance include developing written criteria to review requests to establish and fill exempt positions and discouraging the use of unbudgeted positions in the executive branch. We recommended that the Department of Human Resources Development develop written policies, procedures, and criteria to evaluate the appropriateness of special, research, and demonstration projects and establish a roster of all exempt, deployed, and unauthorized positions by agency. We also recommended that the Legislature require the Departments of Budget and Finance and Human Resources Development to collaborate and report on vacancies and any potential savings. Regarding deployed positions, we included recommendations to executive branch agencies to exercise more discretion when deploying positions and to ensure that the work being done benefits the agency funding the position.

The Department of Budget and Finance provided general comments, emphasizing the importance of flexibility in managing the State’s resources. The Department of Human Resources Development also provided general comments echoing the Department of Budget and Finance’s emphasis on the need for flexibility. The Office of the Governor did not provide a response.

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Submitted by

THE AUDITOR
STATE OF HAWAI`I

Report No. 05-12
December 2005

Foreword

We conducted this audit pursuant to Section 154 of Act 178 of the 2005 legislative session, which required the Office of the Auditor to report on the hiring policies and practices of the executive branch of government.

We wish to express our appreciation for the cooperation and assistance extended to us by the Office of the Governor, the Departments of Human Resources Development and Budget and Finance, and other offices and individuals whom we contacted during the course of our audit.

Marion M. Higa
State Auditor

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Chapter 1

Introduction

Background

Legislators have recently expressed numerous concerns over the management of positions in the executive branch. Concerns have been prompted by the executive branch's use of positions exempt from the civil service and the number of unauthorized and deployed positions in state government.

This report responds to Section 154, Act 178, of the 2005 legislative session that requires the Auditor to describe the hiring policies and practices of the government's executive branch. The State Auditor is to assess the implementation of the hiring policies, established by the budget execution instructions and policies on a sampling of programs. Also, the State Auditor is to include estimates of savings realized as a result of these hiring policies as identified by the Department of Budget and Finance.

This audit examines hiring practices in three categories: exempt positions for special, research and demonstration projects; deployed positions; and unauthorized positions.

Civil service versus exempt positions

The Civil Service Law, Chapter 76, Hawai'i Revised Statutes (HRS), sets the State's policy for systems governing the employment of state workers. Section 76-1, HRS, requires each jurisdiction to establish and maintain a separately administered civil service system based on the merit principle. The statute states the purpose of the civil service law is to build a career service in government, free from coercive political influences, to render impartial service to the public at all times, according to the dictates of ethics and morality and in compliance with all laws.

In addition to civil service positions, the law also discusses positions that are exempted from civil service. Section 76-16, HRS, specifically addresses the use of exempt positions in government service. Section 76-16(b) exempts 27 categories of state positions and also references other county positions exempted under Sections 46-33 and 76-77. This array of exempt positions includes those in pilot or demonstration projects, those needing special expertise, and those requiring higher compensation to attract qualified candidates.

Some provisions that apply to civil service positions but not to exempt positions include: a probationary period for new hires, assignment to a salary range within the State's compensation plan, and formal evaluation requirements. Civil service employees can be terminated for cause; exempt employees serve at the pleasure of the appointing authority and

are considered “at will” employees. Finally, civil service employees have certain appeal rights; these rights, under the civil service system, are generally not available to exempt employees.

Exempt employees in the executive branch

The director of human resources development has delegated the authority to approve exemptions under all subsections of Section 76-16(b) except (2), (12), and (15), to the department heads. For these delegated exemptions the department head, or designee, approves the HRD-1 position action form, which is used for various personnel actions including establishing and extending exempt positions. A request for approval is then submitted to the governor for approval through the Department of Budget and Finance.

For the non-delegated exemptions under Section 76-16(b)(2), (12), and (15), the department’s Employee Classification and Compensation Division reviews the HRD-1 form received from executive agencies and recommends approval to the director of human resources. The agencies are also required to submit a request for approval to the governor through the Department of Budget and Finance, unless the position is listed as an exception in the budget execution policies.

In either case, the requesting department is responsible for updating the Human Resource Management System (HRMS) with information regarding the position and all approvals associated with the position.

In the 2004 and the 2005 reports to the Legislature, the Department of Human Resources Development reported on the number of exempt positions in the executive branch according to three basic categories:

1. Positions exempted under Section 76-16(b)(12)—Employees engaged in special, research, or demonstration projects

Totaling 392 positions, this category includes the chief officer for arts, film, and entertainment, the Department of Health’s public health information specialist, the Department of Defense’s state hazard mitigation officer, and the Department of Transportation’s community development specialist.

2. Positions exempted under Section 76-16(b)(17)—Exempt positions established by any other law in the statutes

Consisting of 2,150 positions, this category includes the directors of programs such as the solid waste management coordinator, professional staff such as deputy public defenders, clerical support such as account clerks in various programs, and intermittent staff for events at the stadium.

3. Positions exempted under sections other than Sections 76-16(b)(12) and (17)

Comprising 4,168 positions, this category includes the first deputy and deputy attorneys general; employees in the Offices of the Governor and Lieutenant Governor; and department heads, officers, and any members of any board or commission whose appointments are made by the governor or confirmed by the Senate.

Based on the data above, the total number of exempt positions in the state is 6,710. Exhibit 1.1 provides a breakdown of the 392 exempt positions by agency.

**Department of Human Resources
Development project definitions**

Section 76-16(b)(12) does not provide specific criteria as to what constitutes a “special, research, or demonstration project” nor does it state the maximum period of time a project can remain exempt. As a result, the Department of Human Resources Development deemed it necessary, in its report to the 2005 Legislature, to define what constitutes a project and to further define each type of project.

Before exempt positions can be established or extended, a project to which the positions will be assigned must be approved. The governor has delegated the authority to the director of human resources development to approve projects under this section of the statutes.

The definition of a project states that it should be an undertaking that is not a normal function of an agency and accomplishes a specific purpose, is narrow in scope, and has a limited life. The department also noted that, although not required, the use of exempt positions for a project should be limited to positions that are not suitable to establish and fill via civil service. For example, exempt positions are used when an appropriate civil service class or eligible list is lacking, or as a means to bypass the lengthy civil service process when a project has a quick start-up.

In addition to the absence of a definition for a “project,” the statute does not have criteria to identify a research, demonstration, or special project. The department attempted to define these types of projects.

A *research* project is defined as an undertaking to “investigate a specific subject, plan, method, activity, or item for a defined purpose” and which should have a narrow focus. While its length is contingent upon what the project is investigating, it should have a defined completion date.

Exhibit 1.1
Positions Exempt Under Section 76-16 (b) (12), HRS: Special, Research, or
Demonstration Projects

Department	No. of Projects	No. of Exempt Positions	Source of Funding
Accounting and General Services	4	7 5	General CIP
Agriculture	1	1	General
Attorney General	4	6 2 1	Revolving Federal Federal/General
Budget and Finance	2	4	Investment; Other Funds
Business, Economic Development and Tourism	8	7 23	General Federal
Commerce and Consumer Affairs	1	1	Compliance Resolution Fund
Defense	12	26 7	Federal Federal/General
Education	5	11 2	Federal General
Health	31	129 2 2 17	Federal General Federal/Other Other Funds
Human Resources Development	1	1	General
Human Services	12	4 52 48	General Federal Federal/General
Labor and Industrial Relations	1	1	Federal
Land and Natural Resources	2	5	Federal
Public Safety	9	11 1 1 3	General Federal Special Federal/General
Taxation	1	4	General
Transportation	3	7 1	Federal/Other Special
Total	97	392	

Source: Department of Human Resources Development

A *demonstration* project is an undertaking to “illustrate or exemplify a specific method, technique or principle.” Its length should be easily defined prior to the start of the project.

A *special* project is an undertaking “that meets the characteristics of a project” but does not qualify as a research or demonstration project.

These definitions were established by the department to enable it to review and determine whether existing exempt positions and projects were appropriately classified as such.

Prior Audits

In 1999, our office conducted an *Audit of Temporary and Emergency Staffing of State Agencies*, Report No. 99-23. This audit found that state agencies face challenges in effectively staffing their programs and that temporary and emergency appointments could help with this challenge. However, we noted that:

1. Temporary appointments in state agencies, while useful for certain purposes, can also pose problems for staff recruitment, retention, and productivity, such as the lack of job security and the “right of return”;
2. The State’s use of emergency appointments at times proved questionable, as in situations when people served in emergency appointments for lengthy periods and situations where emergency appointments may have been used for other purposes such as to retain employees, to circumvent non-emergency hiring procedures, and to enable individuals to acquire experience helpful in obtaining a more permanent position.
3. The Department of Human Resources Development needed to more closely examine, monitor, and report on current practices.

In our prior audit, information on the total number of temporary and emergency appointments was missing and made difficult the determination of appropriate and effective staffing.

Objectives

1. Assess the executive branch’s identification and monitoring of its non-federal funded exempt positions for special, research, or demonstration projects.
2. Assess the executive branch’s process for deploying positions between departments.

3. Assess the executive branch’s process for filling positions not authorized by the Legislature.
4. Identify whether the executive branch has determined savings related to vacancies.
5. Make recommendations as appropriate.

Scope and Methodology

Our audit focused on the 392 positions that fall under Section 76-16(b)(12) that are general-funded because the agencies appear to have a large amount of discretion in creating them, especially those positions established as “special projects.”

We reviewed laws, rules, policies, and procedures to establish and fill positions in the executive branch exempted under Section 76-16(b)(12), HRS—special, research, or demonstration projects. We conducted interviews and reviewed documents regarding the coordination of efforts to establish and fill exempt positions among the Departments of Human Resources Development and Budget and Finance and the Office of the Governor. We did not review the establishment and hiring of positions in the civil service system.

We also examined the use of position deployments. These consist of positions whose incumbents have been reassigned to perform work outside the program that funds the position. We studied applicable laws, rules, policies, and procedures related to positions deployed from one department to another. We selected a judgmental sample of executive departments to assess the extent of position deployments.

We reviewed the number of unauthorized positions in the executive branch, as well as applicable laws, rules, policies, and procedures related to the establishment and filling of unauthorized positions and their sources of funding. Unauthorized positions are those positions not specifically identified in the budget details and in legislative worksheets, or not authorized in other specific acts.

Because we encountered some overlap with information required for our audit and information requested by the Department of Budget and Finance from the executive agencies relating to deployed and unauthorized positions, we were unable to obtain the information directly from the agencies. Instead, we obtained data relating to deployed and unauthorized positions from the reports submitted to the Legislature by the budget and finance department and therefore cannot attest to their accuracy.

We assessed the efforts of the Departments of Human Resources Development and Budget and Finance to track vacant positions in the executive branch and determine savings associated with such vacancies.

Our audit was conducted from May 2005 through October 2005 according to generally accepted government auditing standards.

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Chapter 2

The Executive Branch's Hiring Practices Take Advantage of the Flexibility Inherent in the Law

The executive branch has not managed or monitored the use of exempt, deployed or unauthorized positions. Criteria relating to the use of these categories of positions are inadequate and not enforced. The executive branch's laxity in this area is revealed by agencies that take advantage of the approval process for special, research or demonstration projects, exempt employees who work on these projects, and freely deploy positions from one agency to another. Also noticeable is the absence of data, including any data on savings, relating to positions in *all three categories*. In the absence of data, there is no assurance that these types of positions are warranted and effective. Finally, the use of these positions bypasses any meaningful legislative oversight of state personnel resources.

Summary of Findings

1. The executive branch's hiring practices for special, research, and demonstration projects are questionable.
2. The executive branch takes advantage of the flexibility in the statutes and rules to fill and deploy positions.
3. The executive branch does not quantify the savings related to vacant positions.

Hiring Practices for Special, Research, and Demonstration Projects Are Questionable

The lack of objective standards and clear-cut criteria for special, research, and demonstration projects results in questionable hiring practices. In Act 128, SLH 2004, the Legislature directed the Department of Human Resources Development to complete its review of all positions exempted from civil service in accordance with House Concurrent Resolution No. 94, Regular Session of 2003. In response, the department's final report to the 2005 Legislature on December 27, 2004 focused on positions exempted under the provisions of Section 76-16(b)(12), HRS. Exemptions under this section of the statute involve employees engaged in special, research, or demonstration projects. Substantial discretion is required to determine their appropriateness.

In its report, the Department of Human Resources Development reviewed a total of 392 positions that were involved with 97 different projects and concluded that all of the positions should remain exempt and undergo individual review upon their expiration dates. We selected 42 of these positions for further review. The process for filling the positions is arbitrary, and some exempt positions and projects continue for indefinite periods of time. Furthermore, because there is an overall lack of coordination in tracking exempt positions, data regarding the positions is difficult to obtain.

Arbitrary approval process exists for exempt positions

Prior to establishing exempt positions under Section 76-16(b)(12), the project to which the positions will be assigned must be approved as a research, demonstration, or special project. The governor has delegated the authority for project approval to the director of the Department of Human Resources Development. The department receives from the requesting agency a project description and authorization form, referred to as a “project questionnaire,” which requires information relating to the project. This may include where in the organizational structure the project will be placed, the project title and type, the project’s start and planned completion dates, its purpose, the impact on the organization if approval is denied, and a list of positions assigned to the project.

The law does not provide criteria to aid in the project approval process; therefore, the department has developed a general definition for a project and specific definitions for each of the three types of projects—research, demonstration, and special. These definitions are broad in scope and leave room for subjectivity depending on how the project questionnaire is written.

To illustrate this, our file review of 42 positions determined by the human resources department as remaining exempt indicates that the projects associated with the positions are questionable. For example, we examined documents for five exempt positions relating to a “special project” to fulfill the state’s electronic government initiatives in the Information and Communication Services Division of the Department of Accounting and General Services. According to the questionnaire, the project began in 2001. The completion date was dependent on when the electronic government initiative would no longer be a state priority.

This vague ending date leads us to question whether this project meets the definition of a special project or is instead a normal function of the division that, according to its website, is the lead agency for information technology in the executive branch. According to the justification provided on the questionnaire, it appears that a need will always exist for the services provided by the employees working on this special project.

In another case, we reviewed three positions in the Arts, Film, and Entertainment Division of the Department of Business, Economic Development and Tourism. The positions are assigned to a “special project” that supports the television and feature film industry in Hawai‘i and promotes the state as an ideal filming location. The project questionnaire states that without these positions, the State would fail to demonstrate its commitment to supporting and building the local film and television industry. The not-to-exceed date for the project and the positions is June 30, 2007. Two issues arise in this situation: first, whether the project meets the definition of a special project or is a regular function of the Arts, Film, and Entertainment Division; and second, whether establishing the positions as exempt positions inappropriately skirts the civil service system.

Research, demonstration, and special projects can exist indefinitely

We found that many of the 42 exempt positions we reviewed, as well as their associated special, research, or demonstration projects, have existed for extended periods of time. While the majority of the exempt positions and projects were established within the past seven years, 12 will have existed for eight years, three for nine years, and three for 18 years when they reach their current not-to-exceed dates. Although the law pertaining to research, demonstration, and special projects is silent on the length of a project, the Department of Human Resources Development developed guidelines for its own use. The guidelines state that a project should not continue, as a project, after its objective has been accomplished. A policy decision should then be made as to whether the objective should be adopted on a permanent basis.

We reviewed a project with two exempt positions in the Department of Human Services, Office of Youth Services, that began in 1989 as a demonstration project to address the problem of youth gangs. We did not find any documentation in the files from the Department of Human Resources Development questioning the duration of the project or the exempting of the positions. The Office of Youth Services noted on the project questionnaire that a conversion of the positions into civil service was under consideration and that a major reorganization had to first be accomplished. The positions were extended until 2007. It appears that in this instance, the department has been remiss in applying its criteria to define a project as temporary. This demonstration project that began in 1989 should have been questioned years ago.

In another case, the Department of Business, Economic Development, and Tourism’s (DBEDT) planning office established in 1998 a research project and one exempt position to plan, implement, and coordinate a multi-agency, integrated statewide geographic information system. On June 16, 2005, after approving extensions for 17 years, the Department

of Human Resources Development finally expressed concerns that the project no longer appeared to have the characteristics of a research project. The director's letter to the DBEDT director stated that, if the project activities are a normal function of a program or if the project is not temporary, a civil service employee should perform the work. A one-year extension was granted to allow DBEDT sufficient time to review the project and the exempt position, report the findings to the human resources development department by December 31, 2005, and establish a civil service position, if necessary. At the time of our audit, the DBEDT administrative services officer informed us that the department is "under the gun" to convert the exempt position to civil service and complete the conversion by December 2005.

We found that the files of all eight-year-old projects and exempt positions contained similar letters dated July 2005 from the human resources development director, approximately a month after we informed the department's officials of the start of our audit. The department appears to be taking measures to evaluate—rather than simply rubber stamp—requests to extend exemptions. Although we were told that the department began sending letters questioning exemptions in 2003, we believe the department has been remiss in not establishing a system to scrutinize these exemptions at an earlier date. The department has allowed these exemptions, which circumvent the civil service system, to continue for indefinite periods of time.

Data regarding exempt positions is difficult to obtain

We found an overall lack of coordination for tracking exempt positions in the executive branch, resulting in difficulty in obtaining data. Because the Department of Human Resources Development has delegated approval for certain exempt positions to the executive agencies, it does not see all requests. Instead, the department relies on the individual executive agencies to enter all information relating to exempt positions into the department's computer system, the Human Resource Management System (HRMS). This reliance on the executive agencies to self-report exempt positions may lead to inaccurate and incomplete data.

The Department of Budget and Finance may be in a better position to collect data because it reviews requests to fill and extend exempt positions. However, it does not have a system to easily track and report data. Its current system does not contain all relevant information in one location, making the search for data quite onerous. As a result, there is no single agency in the State that can readily provide valid data regarding exempt positions.

Flexibility Is Being Used To Evade Procedures

In order to obtain data from the executive agencies regarding deployed and unauthorized positions, the Legislature included two provisos in Act 178, SLH 2005. Section 164 asked for a report concerning deployed positions. Section 167 required a report identifying unauthorized positions in the executive branch.

Agency heads have the discretion to manage personnel to achieve the agency's objectives and to provide for the most efficient and economical use of their workforce within executive agencies. However, this flexibility is being used to evade formal hiring procedures within executive agencies. The governor's budget execution policies allow agencies to transfer positions within an agency, provided the total number of positions allocated by the Legislature is not exceeded and no change is made in the authorized source of funding. For example, when the source of funding for a position is the general fund, it must remain the funding source if the position is transferred. In addition, transfers cannot conflict with or circumvent other laws.

We found, however, that agencies may be exercising too much discretion in the management of human resources. Employees hired and funded by one agency are deployed to work in another agency with insufficient justification. Further adding to the suspect nature of these assignments, some of these deployed employees are performing duties other than those reflected in their position descriptions. As a result, the funding agency receives no benefits from the deployed employee. This type of arrangement appears to be a means to add staff while bypassing legislative approval.

Obtaining information on deployed and unauthorized positions causes problems

Although we attempted to obtain information directly from each executive agency regarding the extent of deployed and unauthorized positions, we were unable to do so. We encountered an overlap between our request for information and the information requested by the Department of Budget and Finance. In order for the Department of Budget and Finance to respond to Sections 164 and 167 of Act 178, it issued Memos No. 05-05 and No. 05-06 requesting data from the executive agencies on deployed and unauthorized positions respectively. When we requested copies from the agencies of the data submitted in response to these two memos, the director of finance advised the agencies not to respond to our request. The subsequent wait until the department issued its reports to the Legislature caused delays in drafting our report. In addition, because we obtained the data presented in the following sections from the budget and finance department's reports and not directly from the agencies, we cannot attest to their accuracy.

Employees work for one agency, yet are funded by another

In Memo No. 05-05, the director of finance defined the term “deployed positions” as positions whose incumbents have been reassigned to perform work outside the program that funds the position. The subsequent report to the Legislature identifies 133 currently deployed positions. While the majority of these positions are deployed between programs in the same agency, we selected for further review the 15 positions that are funded by one agency but deployed to another. Exhibit 2.1 details these 15 positions, the reason provided for their deployment, and the impact on the funding program as reported by the applicable agency.

One agency reaps benefits at the expense of another

Employees in the positions we reviewed work for an agency that is benefiting from their services while another agency pays their wages. In most cases, the latter receives nothing in return. As detailed in Exhibit 2.1, 10 of the 15 positions have been deployed to work at the Office of the Lieutenant Governor and five to work at the Office of the Governor.

Of the 11 deployed employees we interviewed, only one had worked at the agency that was paying her wages, and only for a brief three months. Six of the employees were interviewed and hired by the Office of the Governor or Lieutenant Governor, although another agency paid their wages. Two of the employees hired by the governor’s office were initially paid by the governor’s office. Four months later one of the employees began receiving paychecks from the Department of Transportation and the other from the Department of Public Safety. Yet, they continue to work for the governor. The remaining five employees, interviewed and hired by the agency paying their wages, learned that they were being hired to work for the lieutenant governor.

It is understandable that the employees we interviewed were unaware of any impact their deployment had on the agency that pays their wages, as they never worked at the agency. The agencies themselves reported that they experienced no impact because of the deployments. While the use of deployed positions in this manner may be legal, we question whether the practice is an efficient and effective use of resources or just a means to circumvent the legislative approval process.

Deployed employees perform duties unrelated to their position descriptions

Some of the deployed employees whom we interviewed are performing duties that differ from their position descriptions. Although the report to the Legislature contains reasons to connect the deployments to the

**Exhibit 2.1
Positions Deployed to Other Departments in the Executive Branch**

Dept	Position Title	Program ID from which salary is drawn	Assigned to	Reason Deployed / Reassigned	Impact to Program Paying for Position Per Exec Branch
DAGS*	Policy Analyst	AGS 901 General Administrative Services	GOV 100	Assist with development and coordination of legislative program.	None - newly established unbudgeted temporary position
DOH*	Admin. Assistant	HTH 460 Child & Adolescent Mental Health	Lt. Gov	Assist with mental health and anti-drug initiatives.	Not applicable - never assigned to original program
	AMHD COSIG Boundary Spanner	HTH 495 Behavioral Health Services Administration	Lt. Gov	Assist with adult mental health programs	Will assist in developing linkages
DHS*	Senior Policy Advisor	HMS 904 General Administration	GOV 100	Coordinate DHS legislative program, strategies	n/a
	QUEST Public Relations Officer	HMS 902 General Support for Health Care Payments	GOV 100	Provide public relations for Hawaii Rx, HIPAA	n/a
	HCDCH System Analyst Program. IV	HMS 229 HCDH Administration	LTG 100	Develop administration's anti-drug initiatives	n/a
	Admin. Assistant I	HMS 904 General Administration	LTG 100	Administrative and clerical support for special project on administration's anti-drug initiatives	n/a
	Admin. Assistant I	HMS 904 General Administration	LTG 100		n/a
	Admin. Assistant I	HMS 904 General Administration	LTG 100		n/a
	Executive Assistant II	HMS 904 General Administration	LTG 100		Administrative support for anti-drug initiatives
	State Drug Control Liaison	HMS 904 General Administration	LTG 100	Undertake special project on research, planning, development, implementation of administration's anti-drug initiatives	n/a
	Drug Control Specialist	HMS 904 General Administration	LTG 100		n/a
	Resources Assessment Specialist	HMS 904 General Administration	LTG 100		n/a
DPS*	Assistant Policy Analyst	PSD 900 General Administration	GOV 100	Enhance legislative and administrative strategies.	Not Applicable
DOT*	Policy Analyst	TRN 995 General Administration	GOV 100	Assist in identifying strategies/impacts to DOT	No impact; new position deployed to Governor's Ofc

*DAGS - Department of Accounting and General Services

*DOH - Department of Health

*DHS - Department of Human Services

*DPS - Department of Public Safety

*DOT - Department of Transportation

Source: Department of Budget and Finance

agency, we found that, at times, the responsibilities assigned to the deployed employee have no connection to the agency funding the position.

Three positions funded by the Department of Human Services illustrate this point.

In one case, an executive assistant was hired by the department specifically to work for the lieutenant governor. According to the job description, the employee is supervised by the department's director and assumes responsibilities such as overseeing the supervisor's calendar and correspondence; maintaining personnel documents such as leave, attendance, and overtime requests; and controlling and issuing purchase orders for staff related to travel costs. The department's reason for the deployment is for the employee to provide administrative support for its anti-drug initiatives. However, the employee spends the majority of her time answering phone calls, dealing with constituents, and scheduling appointments for the lieutenant governor. We question how the duties and responsibilities in the position description can be accomplished when the employee has never worked at the Department of Human Services. In fact, the department reported that the impact resulting from the deployment is not applicable.

The second employee was deployed by the human services department to perform duties in support of the lieutenant governor's information technology needs. This does not correspond with the systems analyst's position description, which calls for providing technical support for the Housing Community and Development Corporation of Hawaii. This arrangement leads us to question the true purpose for this deployment. Again, the department reports that there is no impact resulting from the deployment.

In yet another instance, we found that a senior policy advisor deployed from the human services department to the Office of the Governor to perform duties in support of the department's legislative efforts also assists the Departments of Education and Human Resources Development and the University of Hawai'i. Several agencies appear to benefit from the position, yet only the Department of Human Services pays the analyst's salary.

The process to establish and fund new unauthorized positions circumvents the legislative process

In order to operate effectively, agencies are granted some latitude to transfer funds and hire employees; however, in some cases the legislative approval process appears to be thwarted. With the governor's approval, agencies can transfer funds within the agency and within the appropriated cost category. The cost elements of the operating cost

category consist of personal services, other current expenses, equipment, and motor vehicles. For example, an agency can transfer money authorized for equipment to pay for personnel costs.

Agencies can also establish and fill positions, with the governor's approval, as long as the total number of authorized permanent full-time equivalent positions does not exceed the total number allocated to each department respectively by means of financing. Various means of financing include the general fund, special funds, and other sources from which funds are available. In fact, the governor's supplemental instructions for executing the FY2005-06 budget include an approval form for establishing, filling, or extending unauthorized positions. By providing this approval form, it appears that the administration condones the practice of establishing positions without legislative authorization.

To gain an understanding of the extent of the issues discussed above, the Legislature, in Section 167 of Act 178, required the Department of Budget and Finance to submit a report identifying all executive branch positions that were not authorized by the Legislature. When requesting this data from the executive agencies, the director of finance defined unauthorized positions as those not specifically identified in the budget details, in legislative worksheets, or not authorized in other specific acts.

The report submitted to the Legislature by the governor did not contain a compilation or summary of the agencies' responses. Therefore, in an attempt to gain an understanding of the practice and its potential impact, we totaled the number of positions and resulting expenditures in the report. Our numbers reveal that agencies reported a total of 934 positions as unauthorized by the Legislature. The money expended in FY2004-05 for these positions reportedly totaled \$30,818,479—a rather large amount that was likely legislatively approved for other purposes. This provides a good indication of the extent to which the flexibility granted to agencies is potentially being abused.

While the establishment of unauthorized positions does not technically affect the total number of positions authorized to an agency, this practice bypasses the Legislature. As a result, the Legislature does not have a complete and accurate picture of any agency's resources.

The extent of unauthorized positions is unknown

Our interviews with budget committee staff of the House of Representatives revealed an estimated 1,300 unauthorized positions in the executive branch. The executive agencies' self-reported total in the governor's report to the Legislature is 934.

In Report No. 99-23, *Audit of Temporary and Emergency Staffing of State Agencies*, we noted that different sources of information on position

counts produced discrepant numbers, which raised concerns regarding exactly how many individuals are truly employed by the State and whether staffing practices were appropriate and effective. The Department of Budget and Finance admitted that its information was incomplete. The department produces budget journal tables that list both permanent and temporary positions, but do not show unbudgeted or unauthorized positions. Only budgeted positions are shown; that is, those authorized or funded by the general or supplemental appropriation or other specific legislation. We found that, six years later, the number of unauthorized positions in the executive agencies is still unknown.

Savings Resulting from the Administrations' Hiring Freeze Are Not Quantified

In December 2002, the Office of the Governor issued Executive Memorandum No. 02-07 indicating that projected deficiencies in the State's financial resources throughout fiscal biennium 2003-05 require the controlling of further expenditures. The memorandum ordered that all vacant positions be frozen until further notice except for limited exceptions, generally those positions associated with the provision of social, education, and medical services. On June 23, 2003 Executive Memorandum No. 03-05 continued the freeze on hiring through July 31, 2003. Our review found that there was an apparent misinterpretation of the term "hiring freeze."

An apparent misinterpretation of the term "hiring freeze" still exists

The intent was not to initiate a freeze on hiring but rather a control on manpower. According to the Department of Budget and Finance, the governor initiated the 2002 memorandum because the administration needed to "get a handle on things" at the start of the new administration. The governor's chief of staff agrees with this perspective and added that the \$217 million budget deficit also prompted a memorandum. The chief of staff contends that, while there was never a freeze on positions, directors of executive agencies had to provide a compelling reason to receive approval to fill positions.

In subsequent years, the term "hiring freeze" has been replaced in the budget execution policies with the term "manpower control." In FY2005-06 budget execution policies, the term "workforce control" is used. The policy states that only authorized budgeted positions may be considered for establishment and filling, unless otherwise provided by law. Additionally, each department is required to provide for the most efficient and economical use of its workforce.

Despite the changes in terminology, budget committee staff of the House of Representatives continue to believe that the hiring freeze still exists and that it has gone from being a fiscal tool to a management tool because of the process required to fill positions. They are concerned

about the negative impact on agencies if vacant positions are not filled and want to know the amount of savings resulting from the freeze.

Better tracking is needed of how "savings" are utilized

Presently, no single agency in the State actively monitors vacant positions to determine whether savings are achieved from position vacancies. The governor's chief of staff admits he is unaware of any efforts in the executive branch to quantify savings resulting from not filling vacant positions. The Department of Human Resources Development informed us that it does not compile data regarding vacancies.

The director of finance stated that the department has never had target savings to meet regarding the hiring freeze. Subsequently, the Department of Budget and Finance does not try to quantify or track savings related to the freeze and acknowledged that agencies can keep positions vacant for various reasons. In addition, according to the department, funds appropriated for vacant positions are discretionary; therefore, they can be used for other purposes by agencies. For example, agencies can use their appropriated funds to purchase furniture, instead of for filling positions, if they choose to do so. While using funds in this manner may be legal, it appears to conflict with the legislative intent of the funds. As a result, the Legislature does not know how the funds it appropriated are being spent and for what purposes.

In her message to the 2005 Legislature, the governor expressed the importance of adhering to responsible budgeting practices to improve fiscal accountability. She encouraged that all funding requirements be included in the budget so that total demands on resources could be properly evaluated. In addition, the governor's budget execution policies encourage every department to practice sound management principles and to make responsible fiscal choices. Despite this guidance, it appears that some agencies circumvent the Legislature and achieve their goals by taking advantage of the flexibility in the law with regard to regulating the use of hiring policies and practices.

Conclusion

Although the State of Hawai'i has several controls in place to regulate hiring, agencies have found ways to circumvent the process. Justifications can be written so that projects are classified as special, research, or demonstration, making it possible to hire exempt employees to staff such projects. To help another agency, an agency director can deploy employees to the other agency and yet continue to pay their wages. Agencies are allowed to establish and fill positions neither authorized nor budgeted by the Legislature. At the same time, agencies

do not fill vacant positions and, as a result, may be short-staffed. In fact, savings may be nonexistent because the funds “saved” by not filling vacant positions are used for other purposes.

Currently, data regarding these situations is not collected; the effect of such actions on the agencies, the Legislature, and the State is not evaluated; and the ensuing savings, if any, are not calculated. The Departments of Budget and Finance and Human Resources Development should coordinate efforts to collect, monitor, evaluate, and report information to the Legislature so that the most effective and efficient use of human resources and associated funding is achieved.

Recommendations

1. The Department of Budget and Finance should:
 - a. develop written criteria for use when reviewing requests to establish and fill exempt positions;
 - b. work with the Department of Human Resources Development to limit the length of special, research, and demonstration projects;
 - c. provide information regarding approvals to fill exempt positions to Department of Human Resources Development; and
 - d. direct agencies to request needed positions as a part of their budget requests to the Legislature and discourage the use of unbudgeted positions by the executive branch.
2. The Department of Human Resources Development should:
 - a. develop written policies, procedures, and criteria to evaluate the appropriateness of special, research, and demonstration projects; and
 - b. establish a roster of all exempt, deployed, and unauthorized positions by agency to better track data relating to these positions.
3. The Legislature should require:
 - a. the Departments of Budget and Finance and Human Resources Development to collaborate and annually report the number of vacancies in the executive branch and potential savings from these vacancies; and

- b. the Department of Budget and Finance to regularly report the number of deployed positions in the executive branch and ensure that the report is accurate.
- 4. Executive branch agencies should:
 - a. exercise more discretion in deploying positions to other agencies;
and
 - b. ensure that deployed employees are performing the work described in their position descriptions and benefit the agency funding the position.

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Responses of the Affected Agencies

Comments on Agency Responses

We transmitted drafts of this report to the Office of the Governor, and the Departments of Budget and Finance and Human Resources Development on December 8, 2005. A copy of the transmittal letter to the Office of the Governor is included as Attachment 1. Similar letters were sent to the other two agencies. The responses from the Departments of Budget and Finance and Human Resources Development are included as Attachments 2 and 3, respectively. The Office of the Governor elected not to submit a response.

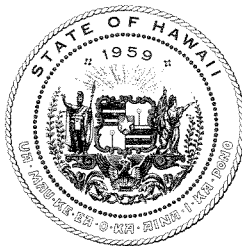
The Department of Budget and Finance provided general comments, emphasizing the importance of flexibility in managing the State's resources. The department concurred with several of our recommendations and stated it will work with the Department of Human Resources Development to conduct a joint review of the length of special, research, and demonstration projects and to ensure that the Human Resources Management System is regularly and accurately updated. The department also noted that it plans to amend the administration's annual budget execution policies to address the issue of deployed positions.

The Department of Human Resources Development also provided general comments echoing the Department of Budget and Finance's emphasis on the importance of flexibility. With regard to our recommendation that the Department of Human Resources Development establish a roster of all exempt, deployed, and unauthorized positions by agency, the department stated it is able to produce this information if required and does not believe there is a need to maintain such a roster. As the department responsible for the State's human resources, we believe that human resources development should take a more proactive role in monitoring these positions.

Based on the responses received, we have made some technical revisions that do not affect the substance of the report. We have also made some editorial changes for purposes of clarity and style.

ATTACHMENT 1

STATE OF HAWAII
OFFICE OF THE AUDITOR
465 S. King Street, Room 500
Honolulu, Hawaii 96813-2917



MARION M. HIGA
State Auditor
(808) 587-0800
FAX: (808) 587-0830

December 8, 2005

COPY

The Honorable Linda Lingle
Governor of the State of Hawai'i
State Capitol, Fifth Floor
Honolulu, Hawai'i 96813

Dear Governor Lingle:

Enclosed for your information are three copies, numbered 1 to 3, of our confidential draft report, *Audit of Selected Hiring Policies and Practices of the Executive Branch of Government*. We ask that you telephone us by Monday, December 12, 2005, on whether or not you intend to comment on our recommendations. If you wish your comments to be included in the report, please submit them no later than Monday, December 19, 2005.

The Department of Human Resources Development, Department of Budget and Finance, and presiding officers of the two houses of the Legislature have also been provided copies of this confidential draft report.

Since this report is not in final form and changes may be made to it, access to the report should be restricted to those assisting you in preparing your response. Public release of the report will be made solely by our office and only after the report is published in its final form.

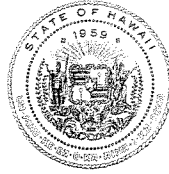
Sincerely,

A handwritten signature in cursive script, appearing to read "Marion M. Higa".

Marion M. Higa
State Auditor

Enclosures

LINDA LINGLE
GOVERNOR



GEORGINA K. KAWAMURA
DIRECTOR

STANLEY SHIRAKI
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER
PUBLIC UTILITIES COMMISSION

December 19, 2005

RECEIVED

2005 DEC 19 PM 2:22

OFFICE OF THE AUDITOR
STATE OF HAWAII

Ms. Marion Higa
State Auditor
Office of the Auditor
465 S. King Street, Room 500
Honolulu, Hawaii 96813

Dear Ms. Higa:

We appreciate the opportunity to review your draft report, Audit of Selected Hiring Policies and Practices of the Executive Branch of Government.

General Comments on Audit Report

Before commenting on your specific recommendations, we have the following general comments on the report.

Executive branch flexibility in filling and transferring positions

Managing Hawaii State government, with an annual operating budget of more than \$9 billion, is a complex task. Budgets are formulated from two to three years ahead of their implementation and conditions invariably change prior to implementation. Flexibility is necessary to ensure that opportunities, as well as problems, can be handled in an efficient manner. Situations arise where additional resources are required to meet court orders, federal mandates, to cope with disasters, social concerns, or to take advantage of economic opportunities. We believe that flexibility in managing resources, including personnel resources, is a critical component of our operations. Because of the foresight and understanding of the Legislature, existing statutes permit the creation of such additional positions (both civil service and exempt). In that sense, while such positions are not specifically identified, they are, in effect, authorized by law.

The Administration's annual budget execution policies require the Governor's approval to create new positions. Therefore, we maintain a management review process and control to make the best use of existing resources.

We would point out that one of the guiding principles of Hawaii's Program Planning Budgeting System (PPBS) is that budgets are developed and appropriated by individual program, such that program administrators are provided with an annual appropriation. Accordingly, flexibility is built into the budgeting system to direct resources to meet program requirements. When sufficient resources are not available, it is the responsibility of program administrators to reevaluate and adjust expenditure plans to meet required goals.

With respect to deployment of positions, within and between departments, it should be noted that such deployments are the exception. Deployments are an effective and efficient means of addressing workload requirements and utilizing in-house skills and knowledge without creating or hiring additional staff.

Savings related to vacant positions

As noted in your draft report, a "hiring freeze" was instituted by the Administration when it took office. The primary purpose of the freeze was to give new cabinet members the opportunity to assess their departmental priorities and staffing levels before making long-term commitments through the hiring of additional staff. Given the State's financial situation at the time, departments were required to restrict all spending for payroll and other operating expenses. Departments were provided targeted restrictions and such savings were lapsed into the general fund at the end of the fiscal year.

Subsequently, the budget execution policies were reexamined and a "workforce control" policy was adopted. The intent of this policy was to institute a review process which had a more long-term outlook, because filling of permanent positions impacts the State's financial plan, with ongoing expenses for salaries and fringe benefits.

When departments cannot fill specific positions, they must find other means to meet their workload requirements. In some instances, they may create efficiencies by amending existing practices, while in other instances they must utilize overtime for their remaining workers or acquire more efficient equipment. In the latter examples, there are no specific "savings" because the department has expended funds for alternatives to hiring. However, in the long term, we have effectively controlled some of our fixed costs. Budgeted turnover savings and lump-sum vacation payouts to retirees must be factored. As previously indicated, the State's PPB System provides for such contingencies.

We therefore do not concur with your assumption that the "workforce control" policy will generate quantifiable savings over the fiscal year.

Specific Comments on Audit Report Recommendations

The following are our comments on your specific recommendations relating to the Department of Budget and Finance and the Administration.

- 1(a). Develop written criteria for use when reviewing requests to establish and fill exempt positions.

In our review of requests to establish new positions, there is no distinction between civil service and exempt positions. Such review focuses on alternatives to creating a new position (i.e., can the function be absorbed by existing staff or can other program activities be deferred so that staff can address the new workload requirements) and whether there are existing funds available. The determination as to whether a position should be exempted from civil service is made by the Department of Human Resources Development (DHRD) pursuant to Chapter 76, Hawaii Revised Statutes.

The Administration's annual budget execution policies address this issue and require the Governor's approval to establish new positions.

- 1(b). Work with the Department of Human Resources Development to limit the length of special, research and demonstration projects.

We concur with this recommendation and will work with DHRD to conduct a joint review.

- 1(c). Provide information regarding approvals to fill exempt positions to Department of Human Resources Development.

DHRD will continue to work with all agencies to ensure that their personnel inventory is regularly and accurately updated on DHRD's Human Resources Management System. All data regarding exempt positions are maintained on this system.

- 1(d). Discourage the use of unbudgeted positions by the executive branch.

Flexibility to establish unbudgeted positions is essential to the effective operations of government. The Administration's budget execution policies provide for thorough review of each request to ensure positions are required.

- 1(e). Direct agencies to request needed positions as part of their budget requests to the Legislature.

We concur with this recommendation and note that the Administration's annual budget preparation policies specifically address this issue.

- 4(a). Exercise more discretion in deploying positions to other agencies.
- 4(b). Ensure that deployed positions are performing the work described in their position descriptions and benefit the agency funding the position.

We concur with these recommendations and will amend the Administration's annual budget execution policies to specifically address these issues. However, to reiterate our prior comments, flexibility to deploy positions is a necessary tool in the overall operations of state government.

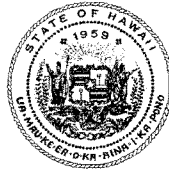
Thank you for the opportunity to review and respond to your report.

Aloha,



GEORGINA K. KAWAMURA
Director of Finance

LINDA LINGLE
GOVERNOR OF HAWAII



MARIE C. LADERA
DIRECTOR

JANICE T. KEMP
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

December 16, 2005

RECEIVED

Ms. Marion M. Higa
State Legislative Auditor
Office of the Auditor
465 S. King Street, Room 500
Honolulu, Hawaii 96813-2917

2005 DEC 19 PM 1:57

OFC. OF THE AUDITOR
STATE OF HAWAII

Dear Ms. Higa:

Thank you for providing the Department of Human Resources Development (HRD) with the opportunity to comment on the draft report, *Audit of Selected Hiring Policies and Practices of the Executive Branch of Government*. Our comments relate to the recommendations regarding HRD and the need for flexibility provided by the use of project exemptions.

Before proceeding with the comments, we would like to point out that there are two factual errors on page 3 of the report. The initial 2004 Exempt Study Report indicated that there were 2,174 positions exempted from the civil service under Section 76-16(b)(17). However, as corrected in the 2004 Supplemental Report, the number is 2,150. Also, the total number of exempt positions in the State should be corrected from 6,734 positions as stated in the report, to 6,710 positions.

The following comments relate to recommendation 2a. *The Department of Human Resources Development should develop written policies, procedures, and criteria to evaluate the appropriateness of special, research, and demonstration projects.*

In 1999 Governor Cayetano delegated authority to the HRD Director to approve projects. Prior to that, projects were approved by the respective Governors and there were no established standards for approval of projects. Today, HRD applies criteria and utilizes a defined approach in determining whether new projects should be approved. One of the criteria applied is that the project is not an existing function of the program. Many existing projects predated the application of the criteria and defined approach, but HRD has not reviewed those projects because once the projects were approved, Section 76-16(b)(12) automatically authorized the establishment of exempt positions assigned to the project until the specified ending date. If an extension of the project ending date is requested, the criteria and defined approach are applied.

- HRD has taken affirmative steps to facilitate the analysis of project requests and requests for extension of projects. For example, HRD has developed a definition of a “project” as well as definitions for each type of project. Another example of HRD’s effort is the October 2004 amendment of the project questionnaire. Five questions were added to require other pertinent information needed to more accurately analyze such requests.
- HRD has also taken affirmative actions to facilitate the replacement of exempt positions with civil service positions by allowing exempt employees to be compensated above the entry rate of the salary range applicable to the replacement civil service position. These efforts have continued through the issuance of a policy and procedure that allows the incumbents of exempt positions to compete on internal recruitments for appointments to replace civil service positions.
- HRD continues to be vigilant in questioning the extension of projects that may no longer be projects. Critical determinations will be made for those projects when additional information is received from the divisions and departments.

The following comments relate to recommendation 2b., The Department of Human Resources Development should establish a roster of all exempt, deployed and unauthorized positions by agency.

While HRD does not maintain nor monitor a roster of exempt positions on an ongoing basis, it has the technical capability to produce one when the need arises. The length of time needed to create a roster is dependent upon the nature and extent of the information required.

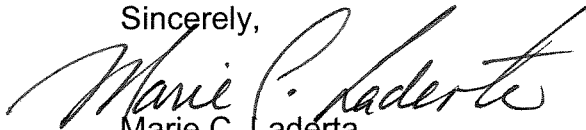
- Information regarding exempt positions exists within the Human Resources Management System (HRMS) and it is possible to identify unauthorized positions. Therefore, a roster can be generated, when necessary.
- HRMS does not contain information regarding deployed positions, but such information can be obtained from departments upon request.
- HRD does not have authority to disallow the establishment of unauthorized positions and pursuant to a 2005 budget proviso, no unauthorized positions may be filled after the current fiscal year.
- Departments, rather than HRD, enter data into HRMS for exempt positions and there are occasions when departments are slow to enter the data. However, this is rarely true for the most meaningful data which involves the initial establishment of the positions. If data regarding the establishment of an exempt position is not entered into HRMS, the department is not able to effectuate an appointment to the position. The delay in entering data primarily involves changes to the positions (i.e. extensions, title changes, changes in full time equivalence, funding, etc.). Departmental Personnel Offices will be urged to be more diligent in inputting data relating to changes, despite staff reductions and prioritization of work.

We believe that the flexibility afforded by the project exemptions is necessary to avoid lost opportunities, respond to unforeseen needs, and make timely use of unforeseen funds. It is likely that such reasons led the Legislature to establish the existing Hawaii Revised Statutes (HRS) provision, Section 76-16(b)(12). It is reasonable to surmise that by the enactment of this section of the statute, the Legislature, in its wisdom, recognized that the use of exempt positions for projects is appropriate under certain circumstances. Such flexibility is critical in the management of any large organization in order to maintain fiscal discipline and to allow for the most efficient use of limited resources.

The flexibility to utilize project exemptions is a long standing practice. It has been recognized as a critical tool whose elimination would profoundly hamper the state government's ability to respond to federal local and legislative mandates as well as unanticipated public needs that arise. The Legislature and prior Administrations have long recognized this and have utilized exempt positions accordingly. To question their efficacy at this juncture is inappropriate. Rather, it is important to ensure use of these positions is in keeping with the original intent. HRD is more than willing to work with the Legislature to resolve any concerns that may exist.

Again, we appreciate the opportunity to provide comments regarding the draft report.

Sincerely,

A handwritten signature in cursive script that reads "Marie C. Laderta". The signature is written in black ink and is positioned above the printed name and title.

Marie C. Laderta
Director