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# Management Audit of the Department of Education's School Bus Transportation Services

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

Report No. 12-07  
August 2012



**THE AUDITOR**  
STATE OF HAWAII

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## 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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State of Hawai'i

**“Everything’s on  
auto-pilot.”**

*—Response of a specialist  
in the DOE’s Procurement  
and Contracts Branch  
when asked about  
contract management  
responsibilities once a  
contract is awarded.*

Recommendations

Responses

Previous Audits

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# Management Audit of the Department of Education’s School Bus Transportation Services

Report No. 12-07, August 2012

*Ineffective and unsystematic management of student bus services  
has resulted in spiraling costs*

## **Route costs, safety are not evaluated**

Bus costs have risen dramatically in the past several years, with general funds spent on student transportation statewide nearly tripling, to \$72.4 million, since 2006. The Department of Education’s (DOE) response has included raising bus fares and reducing services by increasing the distances students must live from schools to qualify for bus service. Despite years of rising costs, the DOE has failed to adopt systematic planning that continuously evaluates routes to maximize ridership, maintains bus efficiency and ensures compliance with safety guidelines. Some bus routes rarely change, while changes that are made are not tracked, and bus stops are not evaluated for safety. Such inadequate planning has resulted in wasted state resources and potential liability exposure from the use of unauthorized bus stops.

The DOE also lacks data needed to evaluate routes for cost efficiencies, and has no system for ensuring such evaluations are routinely conducted. In several instances, according to department statistics, about 100 children are allocated to an individual route, when the maximum capacity for a large school bus is 72 passengers. The transportation branch also lacks other key planning data such as up to date bus route mileages. Further, responsibility for creating and monitoring routes to meet ridership needs resides with transportation officers who are ill-equipped and under-qualified for the amount and scope of work they are expected to perform. In addition, they have not been provided with comprehensive training, guidelines, or criteria for planning safe and efficient bus routes.

## **No accountability for escalating costs**

The department recognizes it has not received competitive bus services bids in years and that follow-on bids for existing contracts have unjustifiably risen by as much as 259 percent. Despite this, the DOE has not established a systematic approach to monitoring contractor performance and ensuring competitive pricing for school bus services. It also has failed to flag potentially anticompetitive actions that may have contributed to rising costs. For instance, the DOE received multiple bids on only one of 48 groups of solicited routes that we reviewed. Further, the DOE has undermined public confidence in the procurement process by failing to adequately justify that eight out of ten contracts awarded to sole bidders were fair and reasonable. We found no justification at all for three of those awards, and justifications for the remaining five were cursory and lacked support.

The DOE has also failed to coordinate oversight of school bus service contracts between its procurement and transportation branches and has not instilled a responsibility for public resources among its employees. We found that nine of the ten contracts we reviewed included a provision for the department to compensate contractors for their general excise taxes (GET). The State is not liable for GET and it is illogical for the State to pay itself taxes. However, the DOE estimates it will pay more than \$2 million in school year 2012 for contractors’ GET. The department was unable to explain why it pays GET on most contracts.

## **Agency response**

The department acknowledged that past practices relating to procurement, delivery, and oversight of student transportation services may not have been consistent with nationally recognized best practices and that much more work needs to be done to protect public transportation funds and improve public confidence. The department assured us it is working with a consultant to identify and implement corrective measures, many of which are outlined in our report. The department agreed that most of our recommendations are reasonable and prudent but disputed some of our conclusions. The board of education expressed its appreciation for our work and stated that examining bus transportation costs remains a high priority, and that it intends to review the report with the department at its next meeting.

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Submitted by

**THE AUDITOR**  
STATE OF HAWAI'I

Report No. 12-07  
August 2012

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## Foreword

This is a report on our management audit of the Department of Education's school bus transportation services. We initiated the audit pursuant to Section 23-4, Hawai'i Revised Statutes, which requires the Auditor to conduct postaudits of the transactions, accounts, programs, and performance of all departments, offices, and agencies of the State and its political subdivisions.

We wish to express our appreciation for the cooperation and assistance extended to us by staff of the Department of Education, its Student Transportation Services Branch as well as its Procurement and Contracts Branch, and by others whom we contacted during the course of the audit.

Marion M. Higa  
State Auditor

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# Chapter 1

## Introduction

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The Auditor initiated this audit pursuant to Section 23-4, Hawai‘i Revised Statutes (HRS), in recognition of rising student transportation costs and previously identified problems at the Department of Education involving contract monitoring, fiscal controls, and adherence to procurement rules. Bus costs have been rising dramatically in recent years: since 2006, the amount of general funds spent on bus services statewide has nearly tripled to about \$72.4 million. One response to this increase has been to raise fares; over the past three years, a one-way fare has risen from \$0.35 to \$1.25. Another response has been to increase the qualifying distance for bus service from one to 1.5 miles for students in grades six through 12. In January 2010, concerns about the competitiveness of bus contracts surfaced in discussions at a Board of Education meeting. Meanwhile, the Legislature has recently asked the Department of Education to identify ways to reduce its bus services costs.

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### **Background**

The Department of Education manages Hawai‘i’s statewide systems of public schools and libraries. State general funds, special funds, federal funds, and grants to support public schools and libraries are administered by the department on a statewide basis and are subject to executive branch expenditure restrictions. As provided by law, the department must also comply with executive branch policies and controls relating to state education functional planning, financial administration, administrative rulemaking, collective bargaining negotiations, and acquisition and disposition of school land.

### **Organization**

The Department of Education is administered by the Board of Education. The board consists of nine voting members plus a public high school student who is selected by the Hawai‘i State Student Council and serves as a non-voting member. The board formulates statewide educational policy, adopts student performance standards and assessment models, monitors school success, and appoints the superintendent of education as the chief executive officer of the public school system, and the state librarian as the chief executive officer of the public library system. Board responsibilities include adopting policies relating to the statewide systems of public schools and public libraries. The board is also responsible for establishing goals and priorities for the development and implementation of the department’s program and financial plans as provided by Chapter 37, HRS, and approving the department’s budget requests.

## **Superintendent of education**

The superintendent of education is responsible for administering the public school system in accordance with the law and with educational policies adopted by the board. The superintendent oversees five division-level staff offices, each headed by an assistant superintendent, which provide systemwide administrative, professional, and technical support services and programs to public schools statewide. Among the division-level offices are the Office of School Facilities and Support Services (OSFSS), which provides technical staff oversight of business, construction and maintenance of facilities, food services, and transportation support for the public school system; and the Office of Fiscal Services, which provides system-wide accounting, budget, and procurement services and programs.

Among other things, the superintendent is responsible for recommending to the board the public school system's program goals, objectives, plans, performance standards, capital improvement plans, and budget. The superintendent also develops and establishes, with the board's approval, a comprehensive accountability and assessment program for the public school system.

Exhibit 1.1 provides an organizational chart of the department showing relationships among the Board of Education, superintendent, and offices and branches relevant to our audit. The relevant offices and branches are described in greater detail below.

## **Office of Fiscal Services**

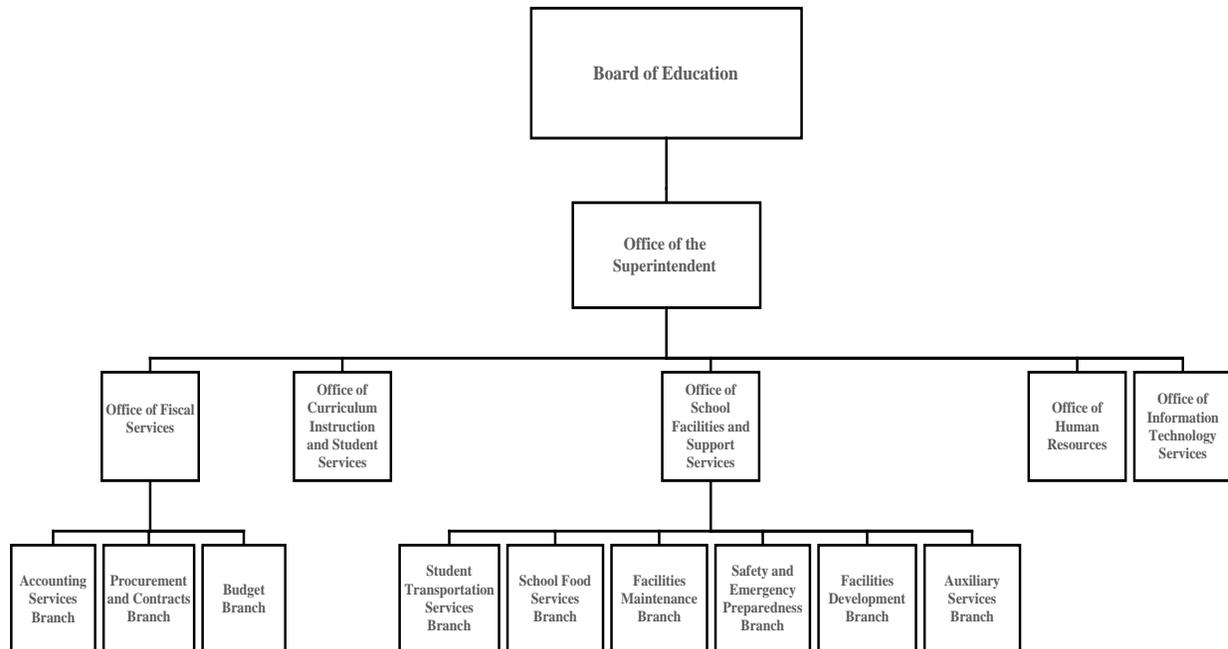
The Office of Fiscal Services manages the department's accounting, budget, and procurement activities and systems serving schools, school complexes, complex areas, and the state central office. Within the Office of Fiscal Services is the Procurement and Contracts Branch (PCB).

## **Procurement and Contracts Branch**

The Procurement and Contracts Branch serves all schools and offices by:

- performing periodic reviews of procurement practices;
- providing assistance, advice, guidance, and training in matters relating to procurement and contracting;
- developing and revising procurement and contracting policies and procedures; and
- issuing formal solicitations and awards in compliance with applicable laws and regulations.

## Exhibit 1.1 Department of Education Organizational Chart



Source: Office of the Auditor chart based on Department of Education information

### Office of School Facilities and Support Services

The Office of School Facilities and Support Services exercises technical staff oversight of business, construction and maintenance of facilities, food services, and transportation support for public schools. The business branches of the OSFSS directly provide schools, as well as state and district administrative offices, with centralized support services, such as managing statewide programs for school food and bus transportation services; developing, managing, and maintaining a statewide school construction program; and managing central facilities' inspection and repair/maintenance programs. Within the Office of School Facilities and Support Services is the Student Transportation Services Branch.

### Student Transportation Services Branch

The Student Transportation Services Branch is responsible for planning, budgeting, implementing, enforcing, and evaluating student transportation services for eligible public school students statewide in accordance with Section 302-406, HRS. The branch is tasked with providing safe, timely, and efficient student transportation services to eligible students to attend schools, designated programs, and other services statewide.

The transportation branch coordinated transport for 38,958 regular education students statewide in school year 2009–2010 (SY2010) from the vicinity of home to school and back. Another 3,587 special education students were transported with curb-to-curb service statewide in SY2010. The student transportation program manages numerous school bus contracts that include more than 500 general education and 300 special education school buses statewide. The program must also ensure compliance with federal and state pupil transportation laws and policies.

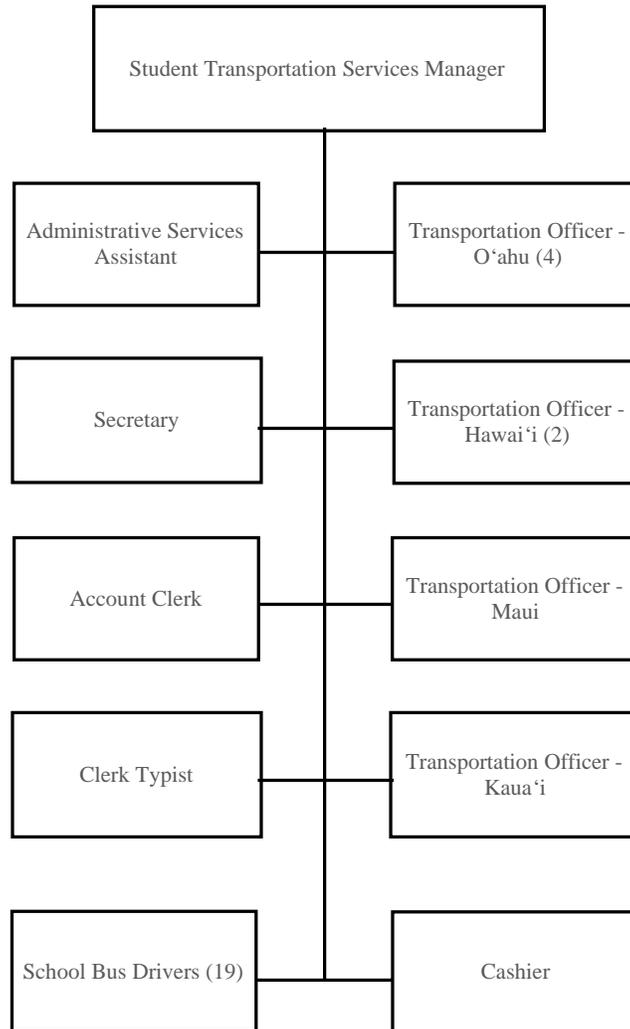
The branch also coordinates services for five bus routes in the Kailua-Kona area of Hawai‘i Island. This service began in 2005 when the department was unable to secure private contractor services for 12 routes in West Hawai‘i. The department leased 14 school buses for a period of seven years, to terminate on June 30, 2012; and created 19 half-time equivalent school bus driver positions of which six were filled. Since 2005, the department has contracted out portions of the 12 routes; the branch now operates only five of the initial routes, using six school bus drivers. With terminations pending on the leased buses, the department recently issued an invitation for bids to provide services for the remaining five routes.

***Procurement and monitoring of school bus service contracts***

The Student Transportation Services Branch also has primary responsibility for planning and monitoring school bus service contracts. For SY2012, there were 107 active school bus service contracts statewide. These contracts, and their value, are listed at Appendix 1. The contracts were procured via the competitive sealed bidding process and provide school bus transportation to eligible students, including special education students. Contracts cover transportation for eligible regular education students and curb-to-curb transportation for special education students and are intentionally staggered to expire at different intervals for scheduling purposes. Existing contracts are a mix of six- or ten-year base contracts, with optional two-year extensions. Bus services for extracurricular activities, such as athletic events, are procured and managed at the school level using the small purchase method of procurement.

Exhibit 1.2 shows the organizational chart for the Student Transportation Services Branch.

**Exhibit 1.2**  
**Student Transportation Services Branch Organizational Chart**



Note: All school bus driver positions are .50 FTE positions.

Source: Office of the Auditor chart based on Department of Education information

The Student Transportation Services manager’s primary role is to plan, organize, direct, and coordinate the procurement of transportation services including administering those contracts. The manager oversees the development of contract terms, specifications, and requirements to secure bus services through competitive bidding. The branch manager is also responsible for overseeing the monitoring of school bus routes and investigating complaints regarding bus services, violations of laws, contractor requirements, and rules.

Transportation officers supervise and coordinate enforcing the contractual requirements of the student transportation services program. They are responsible for monitoring and inspecting school bus activities within their assigned districts; providing advice to bus operators; and for developing program budget reports, operational and expenditure plans, measures of effectiveness, and an effective public relations and information program. Additionally, although the STS Branch organization chart (Exhibit 1.2, previous page) indicates that school bus drivers report directly to the branch manager, the West Hawai'i transportation officer informed us she is responsible for the daily administrative oversight of department school bus drivers, including collecting their timesheets and pre-trip inspection sheets, and providing them with rider manifest details.

According to the branch manager, planning for bus routes is primarily done manually. As contracts expire, if an option to extend is available, it is first offered to the existing contractor. If that contractor opts not to extend, or an extension is not available, then the branch develops specifications for a new contract. The branch manager remits those new contract specifications to the Procurement and Contracts Branch, which announces an invitation for bids, monitors responses, and makes an award based on the requirements of the Hawai'i Public Procurement Code (Chapter 103D, HRS). Once a new contract is executed, the transportation branch is responsible for monitoring contractors to ensure services are delivered.

## **Funding**

In FY2012 the bulk of funding for school bus services came from the State's general fund. The general fund appropriation rose from \$25.5 million in FY2006 to \$73.2 million in FY2012 in response to the rising costs of bus contracts. Special fund, or fare box, revenue makes up only a small fraction of the revenue needed to offset total bus contract costs (that is, an estimated \$2.6 million compared with an estimated at \$74 million in contract costs for SY2012). Federal funds, in the form of Impact Aid and Department of Defense grants, also help to partially offset the cost of bus services.

The number of free bus riders has also gone up by 13 percent since SY2010, and lost fare revenue due to those riders has risen 147 percent. The primary cost increase to the student transportation services program has been in general education transportation. Other major program costs include the department's Kona bus operations, city bus passes, parent mileage reimbursements, and administrative costs; but these have remained relatively stable or have fallen compared to general education transportation costs.

Neighbor island bus costs for general education students slightly exceed O‘ahu costs. However, special education bus costs on O‘ahu are significantly higher than those on neighbor islands. Overall, special education bus costs totaled \$27.7 million per 180 school days, compared with general education bus costs of \$39.3 million in SY2012. Exhibit 1.3 shows student transportation services expenditures from SY2006 through SY2012.

**Exhibit 1.3**  
**Student Transportation Services Means of Financing, SY2006–SY2012**

Funding source	SY2006	SY2007	SY2008	SY2009	SY2010	SY2011	SY2012
General fund	\$25,548,596	\$35,373,993	\$47,349,486	\$70,923,665	\$17,005,000	\$67,405,000	\$72,380,000
Federal fund	2,833,906	-	-	2,379,216	40,117,000	9,762,000	1,629,000
Special fund	565,183	707,700	1,920,044	2,304,726	801,000	2,431,000	3,000,000
Other funds	32,873	-	-	-	-	-	-
<b>Total</b>	<b>\$28,980,558</b>	<b>\$36,081,693</b>	<b>\$49,269,530</b>	<b>\$75,607,607</b>	<b>\$57,923,000</b>	<b>\$79,598,000</b>	<b>\$77,009,000</b>
Percent change over prior year		25%	37%	53%	-23%	37%	-3%

Note: 2012 figures are estimates.

Source: Office of the Auditor analysis of Department of Education data

## Prior Audits

Since 1999, we have conducted four audits relevant to school bus transportation services and the Department of Education’s procurement practices. Report No. 99-1, *Audit of Student Transportation Services*, was produced in response to Section 46 of Act 116, Session Laws of Hawai‘i (SLH) 1998 (the Supplemental Appropriations Act), which asked us to conduct an audit of the student transportation services program. We found problems with the Department of Accounting and General Services’ (DAGS) rate setting, contract monitoring, and financial controls (at the time, student transportation services was housed within DAGS). We also found the Department of Education failed to exercise adequate guidance and controls in several areas. We recommended DAGS revise its base fare methodology, conduct a formal legal analysis of the “50 percent rule” (affecting choice of contractors used) and improve fiscal accountability by improving procedures for monitoring contracts. We also recommended that the Department of Education improve controls over its pre-paid bus pass program, improve procedures for reporting service problems, develop projections of needed special education services, and improve controls to process bus passes and determine whether students were eligible for transportation subsidies.

In our *Procurement Audit of the Department of Education: Part 1*, Report No. 09-03, we examined procurement processes, policies, and transactions of the department to assess the department's compliance with state procurement laws and regulations. We also evaluated the department's legal compliance controls concerning transactions involving the procurement of goods and services greater than \$25,000 (the department's small purchase threshold). We found that a lack of leadership and controls had permitted a culture of indifference toward procurement rules, which in turn had caused numerous instances of non-compliance. We recommended that the Board of Education develop a code of ethics, a fraud prevention program, and a stronger internal audit branch. We recommended the superintendent establish better internal control systems, periodic procurement reports approved by senior managers, formal procurement guidelines, training for employees and managers, and more planning and budgeting.

In our *Procurement Audit of the Department of Education: Part 2*, Report No. 09-04, we continued our examination of procurement processes to assess the department's compliance with state procurement laws and regulations. We found widespread problems in the Office of School Facilities' management of its \$170 million budget for capital improvement, repair and maintenance, and other project-related funds. Specifically, a lack of emphasis on compliance had fueled inappropriate procurement practices in the office; outsourcing of management services had led to waste, abuse, and improper consultant relationships; and a lax environment and leadership void had provided opportunity and incentive for procurement abuses. We recommended the superintendent of education conduct investigations regarding several professional services contracts, the practice of "holding checks" within the Office of School Facilities, and the use and structure of construction management contracts. Finally, we recommended that the superintendent provide procurement training to relevant staff and ensure that the office regularly produced procurement reports so that management and staff could monitor procurement practices.

In our Report No. 11-04, *Review of Revolving Funds, Trust Funds, and Trust Accounts of the Office of the Governor, Office of the Lieutenant Governor, Department of Education and Hawai'i Public Library System, and Office of Hawaiian Affairs*, we reviewed the revolving funds, trust funds, and trust accounts of several executive departments and offices, including the Department of Education, and the Office of Hawaiian Affairs, as required by Section 23-12, HRS. The purpose of the review was to determine whether the Legislature should continue, modify, or repeal each fund. We found the School Bus Fare Revolving Fund was not self-sustaining because it received general fund appropriations in 2007 through 2011; we therefore concluded the fund did not meet all of the criteria of a revolving fund. The Department of Education agreed

with our conclusion and planned to propose reclassifying the fund as a special fund.

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## Objectives of the Audit

1. Assess the Department of Education's planning efforts for school transportation services.
2. Assess the department's effectiveness in procuring and monitoring school bus services.
3. Make recommendations as appropriate.

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## Scope and Methodology

This audit focused on the planning, execution, and monitoring of the Department of Education's school bus services contracts. We examined relevant activities from July 1, 2008 through June 30, 2011.

We conducted interviews with department managers, staff, and legislators. We reviewed documents and conducted site visits to district transportation offices. We reviewed planning documentation applicable to bus contracts. We tested procurement and expenditure items on a sample basis for compliance with applicable laws, regulations, and contract provisions. We assessed whether the department's system of planning for invitations for bid, procurement, and contract execution and management had sufficient oversight, was conducted and managed efficiently and effectively, and was in compliance with applicable state and federal laws and rules.

Our audit was performed from January 2012 through May 2012 and conducted according to the Office of the Auditor's *Manual of Guides* and generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence we obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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# Chapter 2

## Ineffective and Unsystematic Management of Student Bus Services Has Resulted in Spiraling Costs

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Under state law and administrative rules, the Department of Education may provide student transportation for most children and must provide transportation to disabled children. The way in which the department operates its transportation network is fundamentally flawed. Specifically, the department has placed bus service oversight and planning responsibilities on district transportation officers who are ill-equipped to fulfill their duties. Further, the department's uncoordinated oversight of bus service procurement and management has resulted in neither the procurement branch nor the transportation branch taking responsibility for protecting the State's interests. Failure to establish a system for managing student transportation services has allowed program costs to unjustifiably spiral beyond the agency's resources and forced the department to reexamine the State's options for providing bus services.

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### Summary of Findings

1. Ineffective planning for bus services has resulted in routes that are not evaluated for cost, efficiency, or adherence to safety guidelines.
2. Unsystematic oversight of bus service contracts has resulted in escalating costs and a lack of accountability.

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### Ineffective Planning Results in Bus Routes That Are Not Evaluated for Cost, Efficiency, or Adherence to Safety Guidelines

The Department of Education's planning for student transportation needs is insufficient, and evaluations of routes for efficiency and safety are inadequate. The department lacks data needed to properly plan and analyze routes. It then entrusts route planning and contractor oversight responsibilities to transportation officers who are ill-equipped to perform their duties, as they have been provided with neither the training nor the guidelines needed to plan safe and efficient routes. Without a systematic approach to planning, the department has misjudged transportation needs and wasted state resources. The department also has failed to evaluate and track bus stop locations for adherence to safety standards, instead allowing its contractors to choose locations based on where children congregate.

***The department inadequately plans for school transportation needs***

The Department of Education lacks a systematic approach to planning for student transportation needs, which has led to ineffective planning and wasted state resources. The agency does not reliably collect data critical to ensuring system efficiency such as ridership loads, bus mileage, or route descriptions. This has left the department without a basis for evaluating system efficiency. Further, department personnel tasked with planning routes and monitoring contractors have not been provided with comprehensive training, guidelines on how to perform their duties, or criteria for planning safe and efficient routes. As a result, transportation officers are ill-equipped to fulfill their duties and evaluations of bus routes for cost efficiencies are inadequate.

**The department does not have a system for evaluating routes for efficiencies relating to costs**

More than 830 buses provide morning and afternoon service to and from Hawai'i public schools. About 530 of those serve general education students; the remaining buses provide curb-to-curb transportation for students with special needs. The priority of buses is to serve children who live within a school's attendance area but reside a specified distance from that school.

Bus routes are the arteries of a student transportation system network. Routes are comprised of specific directions dictating where buses turn and which roads they travel. Careful route planning is critical to establishing an effective, cost-efficient, and safe student transportation system. The hallmarks of efficient bus routes are high average bus occupancy and low cost-per-rider and cost-per-mile.

At the department, responsibility for creating and monitoring routes to meet existing and future ridership needs resides with district transportation officers, who are required to ensure routes are safe and efficient, and cost the State a minimum amount of money. Transportation officers are further directed to develop and maintain records of school bus routes, student ridership, cost of operation, schedules, and operating statistics. However, of the State's eight transportation officers, none of the five whom we interviewed said they reviewed costs, and there was no systematic evaluation of routes within the department. Route evaluations that were conducted did not consider costs, were cursory in nature, and lacked supporting documentation. Further, no analyses of route efficiency were done at the branch level, and the branch manager could not provide assurance that bus routes were efficient.

Lack of route evaluation appears to result from the wide latitude given to transportation officers to create and oversee routes coupled with little oversight from the Student Transportation Services Branch. The department has failed to provide transportation officers with guidance

and oversight, leaving them without a system for evaluating routes for cost efficiency. The lack of a systematic approach to route evaluation has led to ineffective planning and wasted state resources.

One contract we reviewed exemplified how the department's poor planning and lack of a serious consideration of needs led to the contracting of an unneeded bus service. That contract, with Robert's Hawai'i School Bus, was valued at \$16.8 million over ten years, excluding annual adjustments for rising inflation and fuel costs. Just prior to the planned execution of that contract in Summer 2009, the then-acting transportation branch manager discovered that three of the contract's 16 West Hawai'i routes were no longer needed due to redistricting of Waikoloa area school services. The acting branch manager raised concern about the mistake one day before the contract was to be approved by the procurement branch; the assistant superintendent responded that it would be "irresponsible" to sign the contract. Despite the error, the department executed the contract without deleting the routes in question after claiming a need for more buses in the North Kona area. The contract, which had an effective date of July 1, 2009, was not signed until September 14, 2009. The acting transportation branch manager summed up the situation in a July 22, 2009 email to the procurement branch as follows:

... although we may have included more bus routes in the original IFB [invitation for bids] than was thought necessary, it's apparent that there is a true identifiable need for at least two of the three routes that were declared unnecessary by me earlier, meaning that we would have to "idle" only one bus route versus three—at least for the foreseeable future.

Other route changes also appeared to be reactive and dictated by current events as opposed to resulting from a planning process. Three transportation officers said changes were made as overcrowded buses and other ridership changes mandated. In one instance, route changes were made after it became apparent a contractor was running four fewer buses than required under a Leeward O'ahu contract. That discovery was based on a tip, as opposed to an evaluation of needs. A subsequent route consolidation resulted in the idling of four buses beginning August 2011, only three years after the original contract took effect in July 2008. Although idling buses saves some money, the department still plans to compensate the contractor up to \$100 a day per idled bus for 180 days for three school years until the contract expires on June 30, 2014.

Overall, the department estimates it saved \$1.35 million in SY2012 by idling 22 buses. However, that figure includes \$412,574 in accompanying fees paid to contractors to compensate for idled buses. While idling underutilized routes via route consolidation is an appropriate reaction, the department would be better served by

implementing a system for evaluating routes that could prevent the contracting of unneeded buses in the first place.

### **The department does not consolidate routes**

In another instance, the department passed up an opportunity to consolidate routes. One transportation officer allowed a contractor to withhold buses from underutilized central O‘ahu routes to fill gaps in service on other routes created by driver illness, mechanical breakdowns, and traffic incidents. A comparison of contracted routes versus routes contained in an October 2011 driver and bus roster indicated that eight routes were operating with fewer trips than contracted, while two routes were operating with more trips than contracted. This practice indicates there are opportunities for route consolidation and is contrary to contract terms that require contractors to have enough buses and drivers to provide uninterrupted services. Further analysis of that contract’s routes was hampered because the transportation officer did not have up-to-date route descriptions. However, in SY2012, the department paid \$383 a day per bus for 27 buses. Idling one of those buses could have saved \$68,940 a year, which when \$18,000 in idled bus costs are factored in, would have resulted in potential net savings of \$50,940 a year.

### **Routes are rarely changed, and changes that are made are not tracked**

Based on interviews we conducted with transportation officers and the branch manager, there is no routine effort to ensure the efficiency of routes. In the absence of systematic evaluation, some routes rarely changed, and changes that were made were not tracked. Although one transportation officer said his routes are “tweaked” every year, he added that basic route descriptions “go back to the start of time.” However, the extent of changes and when they occurred were difficult to determine because of a total lack of documentation of route changes. None of the transportation officers interviewed had a record of how routes changed over time or of the age of bus route descriptions contained in contracts they administered. Without such information, it is unclear whether routes have changed to meet community needs over time.

The department’s lack of systematic planning runs counter to suggested student transportation best practices calling for continuous route evaluation and change to maximize bus ridership and maintain bus efficiency and student safety. For example, the Idaho Department of Education Division of School Transportation attempts to achieve this by requiring transportation staff to annually review routing configurations within the context of educational importance, budget constraints, and cost effectiveness. By not evaluating routes or reviewing costs, Hawai‘i transportation officers are failing to look out for the State’s financial

interests, and the department may have spent more money than necessary on student transportation.

Furthermore, the department's route planning efforts are hampered by a reliance on a manual design process for the more than 830 school buses operated statewide. Computerized route planning could allow for timely analysis of route data. The transportation branch manager said the agency attempted to adopt a computerized route planning solution about six years ago. That system was meant to optimize routes, but was a failure because the software could not automatically import all student address data from existing department files. The branch manager said he is now considering acquiring software that promises to automatically accept 90 percent of student addresses, which would minimize manual data input.

### **The department lacks data to evaluate routes for cost savings**

Proper planning for student bus services hinges on the availability of accurate data including ridership, route mileage, route descriptions, and costs. Careful route planning is critical to establishing an effective, cost-efficient, and safe student transportation system. Features of efficient bus routes include high average bus occupancy and low cost-per-rider and cost-per-mile. Also, efficient routes may use fewer bus stops serving a relatively large number of students. Thus, sound planning starts with the collection of accurate and relevant data that allows performance to be measured regularly and compared against established benchmarks.

We found that the transportation branch lacks critical data needed to evaluate routes for cost savings. Department data are inaccurate, inconsistent, and not based on actual ridership. Rather than rely on actual passenger counts to inform planning, transportation officers rely on ridership data entered by schools, which represent the number of children assigned to a route. Data are also sometimes entered erroneously, resulting in inflated ridership figures for some routes and diminished figures for others.

There were several instances where department statistics showed close to or just over 100 passengers allocated to individual routes. The maximum capacity for a school bus often is 72 passengers. Despite this limitation, the transportation branch ridership database showed 109 students on a route in Central O'ahu, while a route in West Hawai'i had 96 riders. There were 98 children designated to ride a route in Leeward O'ahu. In contrast, other routes showed zero riders: there were no students allocated to either of two routes in Central O'ahu and West Hawai'i.

Additionally, it is nearly impossible to compare ridership data using route designations because the nomenclature is inconsistent. For example, we

were told that an “A,” “B,” or “C” suffix to a route number generally, but not always, indicates there is a corresponding number of trips on a route in the morning and afternoon. For instance, Route LW25 A, B, and C means the LW25 route has three trips in both the morning and afternoon. However, we were also told that letter designations sometimes indicate the number of intermediate and high school students on one trip (although the methodology for this was not explained); and furthermore that a single route with an A, B or C suffix could involve two bus trips. The lack of uniformity in this nomenclature makes analysis of the department’s flawed data even more problematic.

Transportation officers we interviewed acknowledged that department-maintained ridership data were inaccurate. One transportation officer said he “wouldn’t trust those figures,” while another stated that the figures are never accurate. This data quality issue was identified as early as May 2011 during a mandatory transportation branch meeting. According to that meeting’s agenda, inaccurate route data “diluted and trivialized” the program’s credibility. A lack of accurate, consistent ridership statistics leaves the department without data critical to ensuring system efficiency. According to a Transportation and Efficiency and Effectiveness guide published by transportation management systems provider Transfinder Corporation, a key to efficiency is maintaining maximum ridership loads. The number of runs, routes, and drivers is directly related to loading efficiency based on bus capacity. At least one week’s ridership data should be used to determine maximum actual riders. Actual ridership should be sampled on a routine basis to determine patterns and fluctuations. Without accurate ridership data, transportation officers have no basis for evaluating the efficiency of routes because it is not evident from the data they have whether buses are overcrowded or underutilized.

### **Key planning data are not recorded**

The branch also lacks other key planning data, including bus route mileages. The branch was missing some bus route mileage reports or had out-of-date mileage statistics, which further hampers its ability to evaluate routes. Contractors are required to file reports to transportation officers that include route mileages and actual passenger counts. Contrary to contractual requirements, contractors are not required to file actual ridership data or annual bus mileage reports, and mileage and ridership are not tracked. For example, contracts require contractors to annually file a form that discloses average actual ridership at the start of the school year. According to the transportation branch manager, the form was originally meant as a control when bus drivers collected fares, but is no longer required because bus drivers no longer collect fares. By failing to require contractors to continue to file forms that track actual ridership, the department is forgoing a source of ridership data that could significantly aid in planning.

Even with accurate ridership data the department's planning efforts will continue to suffer because the branch does not track the routes buses follow. Department contracts generally have clear, but outdated, descriptions of the routes buses must track. However, transportation officers did not have current route descriptions for three of the six contracts we tested. For example, Kamaile Elementary is listed on the only route descriptions provided to us relating to one Leeward O'ahu bus contract. However, Kamaile, which is now a conversion charter school, no longer receives school bus service from the department. A current description for that route, along with 11 other routes within that Leeward O'ahu contract, were unavailable. The Leeward transportation officer told us that only the contractor had current route descriptions. Other contracts also lacked up-to-date route descriptions. For example, the transportation officer overseeing one contract we reviewed did not have current route descriptions for any of that contract's 27 routes. A lack of accurate route descriptions hurts the department's ability to evaluate routes for efficiency and to monitor contractor performance.

### **Department does not even monitor its own bus service**

Furthermore, the department has failed to use operational data from its own Kailua-Kona bus operation to provide a benchmark for evaluating its contracted bus services. The department launched its Kailua-Kona operation in 2005 after failing to secure an agreement with a private contractor. The state-owned school bus operation could provide a basis for evaluating the fairness of contractor costs elsewhere. Although the branch has gathered some information based on a short time period, it has not done a long-term study of the true operating costs of the Kailua-Kona bus operation. According to department officials, the branch's current study of the Kailua-Kona operation also fails to account for health insurance and other costs, and costs would need to be based on a longer time period, such as two years, for the data to be a useful benchmark for contracting purposes.

By not enforcing contract terms to ensure that transportation officers have accurate data, and in failing to use its own bus operations as a benchmark, the department is forgoing data needed for effective planning. As a result, transportation officers lack knowledge of what routes buses take, how far they travel, how many children they carry, and how contracted service costs compare against state-owned student bus service costs. That leaves transportation officers without a basis for evaluating routes; as a result, routes may not reflect potential efficiency savings or changes that could affect safety.

### **Transportation officers are ill-equipped and under-qualified for the scope and amount of work they are expected to perform**

Based on their position descriptions, transportation officers have a wide range of responsibilities. They are expected to plan and evaluate bus needs and enforce contracts; develop and maintain records of bus routes, student ridership, and costs of operation; check and maintain records of contractor compliance in terms of vehicles used and drivers employed; plan school bus transportation needs based on data from school superintendents, land developers and the like; reroute buses to account for population shifts; and prepare budgets and expenditure plans. They are expected to review route ridership needs, establish safe and efficient routes, and determine the best pick-up and drop-off points. They also are expected to prepare operational and expenditure plans for school bus transportation services within their district and maintain current data needed to measure the transportation program's effectiveness. In practice, they are also responsible for addressing complaints in relation to the 107 active contracts.

We found that transportation officers are fulfilling only a fraction of their responsibilities. They do not review bus operation costs and have no systematic approach to route analysis. They lack up-to-date route descriptions, accurate ridership and bus mileage data, and other information necessary to gauge effectiveness of bus operations. Likewise they do not prepare budgets or operational plans; nor do they actively monitor school bus contractors to ensure school bus services are being properly and adequately delivered. In fact, much of the responsibility for day-to-day monitoring of the State's more than \$74 million worth in bus contracts falls to the transportation officers.

However, we also found that transportation officers are both ill-equipped and under-qualified to be performing such a scope of work. First, the branch manager has failed to ensure that transportation officers have received adequate training and guidance on the tasks they are expected to perform. Transportation officers have not been provided with comprehensive training, guidelines, or criteria for planning safe and efficient bus routes. There are no written procedures related to planning bus routes, procuring bus services, drafting contracts, or monitoring contractor performance. According to best practices, route descriptions should follow the safest path possible, reduce liability, and provide efficiency. Bus routes should be designed according to an area's geography, locations of students to be served, and other factors.

However, transportation officers are given no training regarding bus route creation, bus stop locations, or distances between bus stops; instead, they are expected to use "common sense" principles in route design, such as not transporting children in the opposite direction from

their destination, for safety reasons. Although three transportation officers we interviewed reported having manuals that explain their duties and tasks, these were mostly procedures on how to complete forms, and two were between eight and ten years old. One transportation officer has created her own handbook based on her understanding of her duties and tasks, but the manual primarily contains procedures for completing forms, handling complaints, and a list of contractors for her district.

We found that the transportation branch manager, who is responsible for training and developing transportation officers, has not placed an emphasis on formalizing a training program. Rather, he said he conducts training “by the seat of [his] pants.” The branch manager has neither a plan nor policy for a training program. Training that was provided was administrative, such as how to handle complaints or which documents to keep in files, and did not cover route planning or contract monitoring. According to best practices, only staff trained in best practices for safety, efficiency, and service should schedule bus routes. Agencies should view employee training as a dynamic process made up of four major components: 1) planning and support; 2) needs assessment; 3) methods and activities; and 4) evaluation and feedback. To maximize the benefits of employee training, agencies should continuously plan for and support training that is linked with their mission, goals, and objectives; assess current and future training needs of their employees; ensure appropriate training activities are provided; and evaluate the results.

Transportation positions are classified as salary range (SR) 18, which means they earn between \$36,072 and \$55,524 annually, and belong to a bargaining unit for non-supervisory, white-collar workers. Minimum qualifications include a high school diploma and one year of work experience demonstrating knowledge of techniques for inspecting for compliance with laws and regulations; basic mathematics; an ability to read and understand regulations; an ability to deal tactfully with others; and other basic office skills.

Based on our test work, and using national standards as a guide, we found that Hawai‘i’s transportation officers are under-qualified for the scope and amount of work they are expected to perform. For example, the duties and responsibilities for transportation officers described above far exceed the national model outlined in the 15<sup>th</sup> National Congress on School Transportation, *National School Transportation Specifications and Procedures*. Unlike a transportation specialist position in the national model, Hawai‘i transportation officers are responsible for maintaining data to measure program effectiveness, receiving concerns and complaints involving school bus operations, and preparing budget requirements for the program in the district relative to personnel services, cost of contracts, bus routes, mileage reimbursements, safety needs, and other operating requirements.

At the same time, the minimum qualifications for Hawai‘i’s transportation officers are lower than the national standards. For example, the minimum education requirement for a school bus transportation officer is a high school diploma. The national model suggests two years of college, equivalent experience, or industry certification. It is unrealistic to expect SR18 workers to have the knowledge and expertise necessary to successfully administer multimillion dollar contracts; particularly when the work involves planning, overseeing, budgeting, and constantly amending an elaborate system of bus routes that employs drivers and equipment, which also must be monitored for regulatory compliance.

The combination of a lack of policies, procedures, guidelines, and training leaves transportation officers ill-equipped to fulfill their duties and results in inadequate planning and evaluation of bus routes as well as monitoring of contractors.

***The department does not formally evaluate routes to ensure safety***

There is no process within the Department of Education for evaluating the safety of stops where buses pick up children. Instead, bus stops evolve where children congregate. Safety evaluations of bus stops are subjective and do not adhere to set standards.

Although the department requires contractors to use department-approved bus stops, there is neither a list of approved stops nor a list of bus stops generally. Rather than evaluate and select where buses should stop, the department allows contractors and drivers to decide where to place bus stops. The department’s failure to evaluate and track bus stop locations means it is unclear whether bus stops are safe. Further, it is unknown whether buses are operating with ridership loads that do not exceed contract and vehicle specifications.

**Bus route best practices and safety guidelines are not used**

Bus stops are an integral part of route development and deciding where to place stops requires balancing a variety of factors including children’s safety, parental convenience, and system efficiency. Accident statistics suggest children are more at risk at bus stops than when riding a bus. However, there is no easy formula for choosing where to place a stop. According to a school bus stop safety guide created by the Pupil Transportation Safety Institute, a non-profit school bus safety organization, the most critical element in bus stop safety is the process by which bus stop decisions are made. Sound judgment about where to place a stop depends on a deliberate investigation conducted by qualified staff, including a first-hand cataloging of potential hazards in the area. The department has no such process for evaluating where to place bus stops. Rather, the department employs a passive, ad hoc approach to

bus route safety that lacks any formal process or criteria for deciding where to place stops. Transportation officers responsible for route planning are not provided with formal guidance on bus stop creation. Absent guidelines or criteria, bus stop locations are determined based on personal discretion regarding safety and the number of riders on a particular street. Without a formal evaluation process in place there is no accountability for bus stop safety factors, which could help ensure the prevention of accidents and reduce potential liability.

The transportation branch manager told us that the department's bus stop selection process is unregulated and that bus route best practices and safety guidelines are not used. Rather, he told us, transportation officers are supposed to use "common sense" in route design. Bus stop locations are primarily based on where students gather along a route. Bus stops might move in response to neighbor complaints or shifts in student populations. Because of their transient nature and a lack of an evaluation process, the department does not know where all of its bus stops are located or whether they meet any kind of safety standard.

Decisions about bus stop locations are made based on subjective opinions of safety. One transportation officer interviewed said safe stops were "not close to curves [and] well lit." Another said safe stops take into consideration "blind spots" and "wear and tear" on buses. A third transportation officer said she uses her own sense of what is safe, including, for example, whether guard rails are present for children to stand behind. According to best practices, among the physical roadway features that should be identified when evaluating stops are view obstructions, the nature of adjoining property, the presence or lack of sidewalks, traffic speed and volume, and traffic controls. Other factors of increasing concern to planners are child abductions, the proximity of sexual predators, and other types of nearby criminal activity. We were told the department typically does not conduct checks for the proximity of registered sex offenders to student bus stops.

### **Absent an approval process, contractors and school children often decide where to place bus stops**

Student bus service providers are required to use department-approved bus stop locations under contract terms. However, the contracts we reviewed either did not specify where buses should stop, or described a stop as generally being located somewhere along a certain street. A lack of specific stop locations gives contractors wide leeway to place bus stops along routes.

By abdicating bus stop location decisions to contractors and failing to track the location of bus stops, the department is unable to ensure bus stop safety. This practice also raises liability concerns. According to

the Pupil Transportation Safety Institute's school bus stop safety guide, unauthorized bus stop and route changes by drivers can expose students to greater danger, and school districts and transporters to greater liability.

### **It is unknown whether buses are operating with loads that exceed contract and vehicle specifications**

Under Hawai'i Administrative Rules, bus passenger capacity is limited to the number of students who can safely be seated against a seat back and within seat confines. School bus drivers may not transport more passengers than can be safely seated. In turn, bus contracts define seating capacity as the capacity rated by the vehicle manufacturer. For many buses that capacity is 72 passengers.

In practice, a 72-passenger capacity represents three children per bus seat and is an upper limit; it allows a mere 13 inches of seat space per rider. Typically a bus with intermediate or high school students can seat a maximum of 60 students. Transportation branch data show several routes with more than 72 children assigned. However, department ridership data are inaccurate, inconsistent, and not based on actual riders. The department's reliance on inaccurate ridership data result in uncertainty about whether buses are operating with ridership loads that are within specifications; as a result, compliance with passenger safety rules cannot be assured.

Accountability for meeting bus capacity rules is lax. Transportation officers generally assume contractors provide required bus services in accordance with the contract terms unless complaints are received. One transportation officer told us that schools were his "eyes and ears." In two instances, concerns were raised by schools about there being more than 70 riders on buses. A January 2011 email from a vice principal at Keonepoko Elementary School to the East Hawai'i transportation officer stated, "We feel that this is unsafe and was [sic] wondering what the protocol is to help the situation. This bus currently has been having major behavior problems." In a follow-up email the transportation officer was told by the contractor that ridership on the bus in question was typically 54 to 58 students and had not reached the 72 passenger count. However, by relying on contractor-provided information, the department cannot ensure nor document what the true position was regarding ridership.

In another instance that occurred this year, Hau'ula Elementary School raised concerns that a bus had 76 riders in the morning and 74 in the afternoon. The district's transportation officer responded that a count conducted on one afternoon found 58 riders on the bus in question, all of whom were "safely seated" with room for additional students. However,

the transportation officer noted that ridership counts may vary on a daily basis. In the absence of routine, systematic monitoring of bus ridership, the department is unaware what its true ridership statistics are and cannot be assured that buses are operating in compliance with passenger safety rules aimed at preventing overcrowding.

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## **Unsystematic Oversight Has Permitted Escalating Costs and a Lack of Accountability**

We found that the department has failed to coordinate oversight of school bus service contracts between its procurement and transportation branches. Each branch works in a silo and abdicates responsibility to the other, resulting in reactive and subordinate rather than proactive and authoritative management. This lack of a systematic management approach may have contributed to driving up contract costs because procurement practices that violate the spirit of the law and fail to flag potential anti-competitive behavior among contractors have been allowed to flourish. In failing to embrace responsibility for public resources, the department has fostered an environment where school bus providers garner contracts with virtually no competition. Although the State is exempt from general excise tax, the department has also adopted the questionable practice of reimbursing contractors for excise tax costs. These procurement deficiencies are exacerbated by the department's nearly non-existent monitoring of student transportation services contracts.

### ***The department's practices violate spirit of the procurement law***

The department's lax procurement practices impede its efforts to procure school bus services at fair and reasonable prices. In 2009, the department recognized that "[h]istorically, the DOE has not been successful at all in attracting bids from new companies." The department also recognized that this trend is increasing and that for the past several years, prices offered have been significantly higher than existing services—as much as 259 percent over the previous contract for the same routes—and are difficult to justify. Furthermore, the department is aware that companies tend not to bid against each other. Despite this, the department has no systematic way to address the issue. Of the 48 route groups put out to bid in our review, the department received offers from multiple bidders on only one.

As acknowledged by personnel from both branches, responsibility for procuring school bus services is split between the procurement and transportation branches. Although this arrangement is common for the department, we found that the department has not established a systematic approach to ensure competitive pricing for school bus services. Failure to respond to bidding patterns that should have alerted the department to potentially anticompetitive actions may have contributed to rising contract costs.

The State's procurement code, Chapter 103D, HRS, was enacted to promote economy, efficiency, and effectiveness in public procurement. However, these hallmarks were scarce in our review of school bus contracts. The procurement code was also enacted to foster broad-based competition so that the State and counties would benefit from lowered costs. Goods, services, and construction are to be purchased at fair and reasonable prices. However, the department's haphazard oversight of school bus contracts has resulted in a lack of competition among bidders, spiraling bus services contract costs, and questionable accountability among the department's branches and its contractors.

We found only cursory explanations and no supporting analysis for why the department found offers from sole bidders to be fair and reasonable. Additionally, there was a lack of meaningful attention paid to suspected anticompetitive practices, and no mechanism in place to report such practices.

**Documentation justifying acceptance of single-bid offers is cursory; “determination” justifying acceptance of single-bid offers is perfunctory at best**

Administrative rules require that a procurement officer determine in writing that an award made to a single bidder is fair and reasonable. Although the contract files we reviewed contained a document addressing this rule, explanations for determinations lacked substance. The procurement officer who approves determinations does not analyze and conclude why prices are deemed fair and reasonable. Documentation justifying that offers awarded to single bidders were fair and reasonable was lacking, and stems from the department's unsystematic program oversight. The director of the procurement branch, who signs off on determinations, said she relies on the transportation branch manager to conduct such analysis; and the transportation branch manager said that typically there is no documented analysis if a sole offer is determined to be fair and reasonable. Moreover, the procurement branch director said she perfunctorily approves such determinations.

Section 3-122-35, HAR, addresses situations in which there is only a single responsive, responsible bidder for an invitation for bids (IFB). When there is only one responsive, responsible bidder, an award may be made to a single bidder provided the procurement officer determines in writing that the price submitted is fair and reasonable, *and* either a) other prospective bidders had reasonable opportunity to respond, or b) there is not adequate time for re-solicitation; or the bid exceeds available funds as certified by the appropriate fiscal officer and the price is negotiated pursuant to Section 103D-302(h), HRS.

According to the procurement branch director, a memo regarding acceptance of a single responsive offer sufficiently constitutes the written

determination required by the procurement code. The transportation branch manager is responsible for the supporting analysis, according to the procurement branch director. However, the transportation branch manager downplayed his procurement responsibilities: he said he evaluates bid results and compares numbers to previous contracts to determine whether bids are “fair and equitable or out in left field.” However, he said there is no documentation when the branch determines a bid is fair and reasonable; such rationale is only described when the branch finds a single bid unreasonable, in which case there is a record outlining the rationale behind the decision. The manager said he makes a recommendation to the assistant superintendent, Office of School Facilities and Support Services, who sends the recommendation up the hierarchy. The transportation branch manager said he is “only a conduit,” and that the superintendent of education is the transportation branch’s chief procurement officer who ultimately decides whether offers are fair and reasonable.

From these explanations it is unclear who if anyone actually analyzes single responsive offers to ensure offers are in fact fair and reasonable. Both the transportation branch manager and procurement branch director should be involved in such analyses since the procurement code defines a procurement officer as any person authorized to enter into and administer contracts and make written determinations with respect thereto.

We found the department’s determinations of fair and reasonable were perfunctory at best and completely lacked documented analysis. For example, we reviewed ten contracts; in the eight contracts awarded to a sole bidder, two contained the following justification, in its entirety: “The Student Transportation Services Branch compared bids against current contract prices and determined that the bid prices submitted are fair and reasonable.” Exhibit 2.1 shows an example of this.

In another three cases, the entire justification was: “Prices reflect continual increases in fuel costs, employee benefits, and lack of qualified bus operators.” Another three contracts we reviewed did not contain any written determination at all as to why the contract was awarded to the sole bidder. Compared to another analysis, which was done when the department received an offer it did *not* consider fair and reasonable, these justifications completely lack meaningful analysis. In that case, the department specifically compared current costs for identical services and concluded that the offer was 259 percent higher. The department said that it would be hard to justify an increase of even 100 percent, but bidders would defend their “exorbitant” offers. However, we did not find any other similar analyses regarding fair and reasonable determinations. Such cursory determinations, and the way they are compiled, undermine one of the purposes of the state procurement law—to increase public confidence in the public procurement process.

Exhibit 2.1  
“Fair and Reasonable” Justification

DEPARTMENT OF EDUCATION  
OFFICE OF FISCAL SERVICES

Date: May 7, 2009

To: Procurement Administrator, Procurement and Contracts Branch

From: Student Transportation Services Branch  
(Name of School/Office or Program)

Subject: **Award of Single Responsive Offer**  
IFB/RFP No. D09-068 D09-068 Groups RE-3, RE-4, RE-5, RE-6, RE-7, RE-8, RV-2, RW-3, RW-4, and SM-1 (Robert's)

Pursuant to 103D, HRS: §3-122-35 (a) (1), HAR §3-122-59 (a) (1), HAR §3-122-66 (1), HAR      103F, HRS: §3-143-609 (c), HAR

concurrency to award to the single responsive offeror is requested based on the following determination:

The price submitted is fair and reasonable; **AND**  
Explanation The Student Transportation Services Branch compared bids against current contract prices and determined that the bid prices submitted are fair and reasonable.

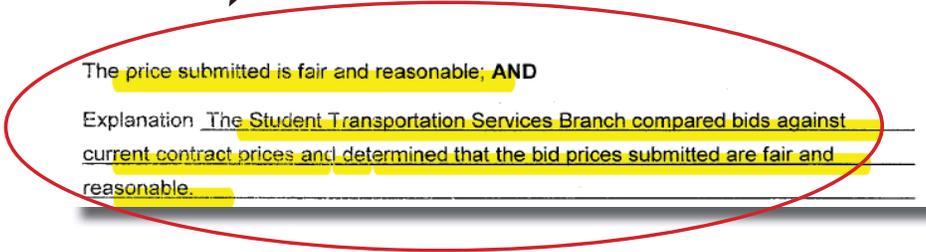
Other prospective offerors had reasonable opportunity to respond to the subject solicitation;  
Explanation Bid notices were publicly advertised on the State of Hawaii's Procurement Notices System on January 9, 2009 and the deadline to submit bids was February 13, 2009. Other companies had ample opportunity to participate in the bid process.

OR  
 There is not adequate time for resolicitation;  
Explanation \_\_\_\_\_

Concur       Does Not Concur

Arden Pope      MAY 08 2009  
Procurement Administrator      Date

Single Offer (Rev. 1/2002, 10/2007, 4/2008)



Source: Department of Education

**No meaningful analysis of “fair and reasonable” is conducted**

Procurement rules also state that the procurement officer must determine that either 1) other prospective bidders had reasonable opportunity to respond, or 2) there was not adequate time for re-solicitation. For the IFBs for which we found written determinations, the department made either one or both of those assertions. In those instances, the department may have been forced to accept the offers submitted due to time constraints. The department knows from past experience that a certain amount of lead time is required if a contractor needs to order buses to fulfill a contract, namely, a contractor may need five to six months to obtain buses.

In one case we reviewed, a contractor forfeited its award because it could not acquire buses in time to start the contract. For that IFB, the bids were opened on April 18, 2007, and the contract was to start July 1, 2007. The contractor notified the department on April 25, 2007 that the earliest date it could obtain the necessary buses would be five to six months. By the time the contractor could receive the buses, it would have been well past the starting date of the contract. In that case, there happened to be a second bidder, who was awarded the contract. For three other IFBs where we found written determinations, the department did not have the luxury of awarding the contract to a second bidder, as it received only single bids for each route. Despite this, awards were made to those single bidders. By opening bids less than six months before services were to start, the department prevented itself from having time to re-solicit bids.

The enactment of Hawai‘i’s procurement code was meant to increase public confidence in the public procurement process. However, the department’s practices engender the opposite effect, as it is not clear that single responsive offers are analyzed to ensure offers are in fact fair and reasonable. The assistant superintendent who oversees the transportation branch defers responsibility for analyzing single responsible offers for fairness and reasonableness to the transportation branch manager and the procurement branch director. Yet we found that there is no meaningful analysis documented by either of them.

Contract terms stipulate that the department may audit the books of school bus contractors to obtain cost or pricing data. The transportation branch manager acknowledged that having accurate, effective data of per-mile costs would serve the department well when determining whether an offer is reasonable. However, the department does not have records of any such audits having been made. According to the transportation branch manager, the competitive market was supposed to have worked to keep costs down; and it worked for a while, but no longer.

### **No one has drawn meaningful attention to suspected anticompetitive practices**

We also found that although the department knows it has not been receiving competitive offers for school bus services, it has failed to draw meaningful attention to highly suspicious anticompetitive practices among bidders and does not have a system in place to address such suspicions.

The department solicits bus contracts by inviting contractors to bid via an IFB on groups of routes. Contracts are then awarded to the lowest responsive, responsible bidder per route group. A bidder does not need to bid on all routes within an IFB, but does need to bid on all routes within

a route group. For example, one of the IFBs we reviewed included nine route groups, and each group contained between two and nine routes. Of the ten contracts we reviewed, eight were awarded to the sole bidder for a route group. Exhibit 2.2 details the contracts in our sample that were awarded to sole bidders.

**Exhibit 2.2  
Contracts Awarded to Sole Bidders**

Contract and route group No.	Contract awarded to	Total sum bid price (year 1)	Contract period
CO-60176, 1	Yamaguchi Bus Service, Inc.	\$1,594,080	July 1, 2006 to June 30, 2012
CO-70327, 1	Robert’s Hawaii School Bus, Inc.	\$675,426	July 1, 2007 to June 30, 2013
CO-70337, 1	Robert’s Hawaii School Bus, Inc.	\$644,168	July 1, 2007 to June 30, 2013
CO-80114, 4	Robert’s Hawaii School Bus, Inc.	\$629,218	July 1, 2008 to June 30, 2014
CO-80136, 3	Robert’s Hawaii School Bus, Inc.	\$1,437,120	July 1, 2008 to June 30, 2014
CO-80138, 5	Robert’s Hawaii School Bus, Inc.	\$359,280	July 1, 2008 to June 30, 2014
CO-90123, RE-6	Robert’s Hawaii School Bus, Inc.	\$420,480	July 1, 2009 to June 30, 2019
CO-90126, RW-2	Robert’s Hawaii School Bus, Inc.	\$1,681,920	July 1, 2009 to June 30, 2019

Source: Office of the Auditor analysis of DOE procurement data

In one of the IFBs we reviewed, the department wanted to use an alternative method of procurement because the price offered was not fair and reasonable. Instead of accepting the bid, the department wanted to negotiate directly with the sole offeror. In its *Request to Use an Alternative Procurement Method* dated November 30, 2009, the Office of School Facilities and Support Services assistant superintendent stated:

Historically, the DOE has not been successful at all in attracting bids from new companies.... Generally, the State’s IFB procurement process was supposed to stimulate “competition” among service providers. However, bid results have shown that bidders tend to not bid against each other but rather bid “away” from each other, as evidenced by the fact that only one “competitive” bid offer was submitted per group in this IFB (even though there are many competitors out there). This has been a growing trend over the past decade, which in turn has caused the State’s cost for such services to grow exponentially.

We found that bidders were not bidding against each other in eight of the ten IFBs we reviewed. Those eight IFBs included 48 route groups. Of those 48 route groups, 47 groups (98 percent) received only a single bid, supporting the assistant superintendent’s assertion that bidders were avoiding bidding against each other. The most extreme example of this is an IFB with 19 route groups and only a single bidder for each group. The total IFB had four bidders, yet none bid against each other for any single route group. The chance of this being coincidental is

highly unlikely. Exhibit 2.3 shows the route groups for each IFB and the number of bids for each.

**Exhibit 2.3  
Responses to Route Group Bid Solicitations**

IFB number	IFB date	Total number of groups in IFB	Number of groups with a single bid	Percent of route groups with single bid
D06-085	November 8, 2005	1	1	100%
D07-139	March 15, 2007	2	2	100%
D07-140	March 15, 2007	3	2	67%
D07-152	March 15, 2007	3	3	100%
D08-128	February 25, 2008	9	9	100%
D08-149	April 14, 2008	8	8	100%
D09-068	January 9, 2009	19	19	100%
D10-069	October 1, 2009	3	3	100%
	<b>Total</b>	<b>48</b>	<b>47</b>	<b>98%</b>

Note: Invitation for bids (IFB)

Source: Office of the Auditor analysis of DOE procurement data

According to the assistant superintendent, such a pattern of single bids could have resulted from collusion among bidders or from smaller contractors simply deciding not to expand and thus declining to bid when contracts other than their own came up for renewal; but either case, the assistant superintendent said, would be hard to prove or disprove. Despite the difficulty of proving collusion, administrative rules related to procurement address how procurement officers should report anticompetitive practices even if they are only suspected and not proved. Section 3-122-196, HAR, states that the chief procurement officer in consultation with the attorney general may develop procedures, including forms, for reporting suspected anticompetitive practices. However, according to personnel from both the transportation branch and the procurement branch, the department does not have procedures or a form to report suspected anticompetitive practices. We confirmed the department’s *Guidelines for Procurement and Contracting* manual does not have procedures related to reporting anticompetitive practices either.

Administrative rules define an anticompetitive practice as a practice among bidders or offerors that reduces or eliminates competition or restrains trade. An anticompetitive practice can result from an agreement or understanding among competitors to restrain trade. Examples of anticompetitive practices include but are not limited to:

- identical bidding and price fixing;
- sharing of the business, or market allocation;
- bid suppression; and
- group boycott.

*Identical bidding* means submission by offerors of the same total price or the same price on a particular line item. Submission of identical offers may or may not signify the existence of collusion. *Sharing of the business* or *market allocation* occurs when competitors agree to divide the market among themselves on the basis of customers, territories, or products. A potential offeror may not participate in a bid because a particular agency or territory has not been allocated to the offeror by the producer or manufacturer of the goods to be provided. *Bid suppression* occurs when a bidder agrees, for whatever reason, not to submit a bid even though the bidder is capable of doing the job. *Group boycott* is the result of an agreement between competitors not to deal with another competitor or to participate in, for instance, a certain bid or type of bids until the competitors' conditions are met.

The practices described by the assistant superintendent could well be construed as suspected anticompetitive practices. Administrative rules state that procurement officers should be alert and sensitive to conditions in the marketplace and may need to conduct, as appropriate, studies such as pricing histories over a period of time or reviews of similar state contracts. However, the department has not conducted any such studies or reviews to support its suspicions. Without formal procedures for handling suspected anticompetitive practices, the department is failing to fulfill the goal of the State's procurement law, which was to foster broad-based competition and lower costs.

***The department is not protecting the State's interests***

While legal requirements dictate the proper course of action department officials must take in administering school bus contracts, skill and judgment are often required to protect the public's interest. We found the department is exercising questionable judgment by paying some contractors' general excise tax (GET) and by passively waiting for contractors to express their renewal intentions in a timely manner. By failing to take a proactive approach to administering its school bus services contracts, the department has been unsuccessful at protecting the State's financial interests in procuring school bus services at fair and reasonable prices.

### **The department reimburses contractors for GET**

Chapter 237, HRS, the General Excise Tax (GET) law, imposes a tax on a wide range of specified businesses and activities in the state, but, pertinently, not the State itself. The tax is on the gross receipts or income that individuals, corporations, partnerships, and other entities derive from their business activities in the state unless otherwise exempted by statute. We found that although the State is not a named entity and therefore not liable to pay GE tax—and furthermore it is illogical for the State to pay itself taxes—the department has agreed to compensate school bus companies for their GET costs in a number of school bus contracts. The department estimated it would pay more than \$2 million in SY2012 for contractors' GE taxes.

We found that nine of the ten contracts we reviewed included a provision promising that the department will pay contractors' GE tax. The provision is buried within the contracts' definition of "price per day per vehicle," which states:

The Hawai'i general excise tax payable by the contractor will be added to the bid price. For example, if the bid price is \$300 per vehicle, and the Hawai'i general excise tax is 4 percent, the department will pay the contractor \$300 plus the Hawai'i general excise tax factor, or a total of \$312.50.

Exhibit 2.4 illustrates that, for SY2012, of 107 contracts, 75 contracts (70 per cent) contain a provision that the State will reimburse the contractor for GET. The amount to be reimbursed, currently \$2.28 million, increases each year as contracts allow for annual inflationary adjustments.

The department was unable to explain why it pays GET for most contracts. The director of the procurement branch told us she did not know why such a provision was added to the contracts, and that the department generally does not pay GET for contractors. The director said the provision must have come from the transportation branch, which prepares the terms for bids and contracts, which the procurement branch then executes. However, the manager of the transportation branch also claimed he did not know how the provision got into the contracts, and surmised that the language was probably added by his predecessor in or around 2007. We confirmed that a contract solicited in 2005 did not have such a provision but that nine subsequent contracts we reviewed all contained an agreement to pay contractors' GET.

Even the department's advising deputy attorney general could not explain how the GET provision came to be included in the contracts. The deputy appeared unaware that such a provision existed, but told us that the attorney general usually reviews contracts as to form, not business

**Exhibit 2.4**

**Contracts Which Include a General Excise Tax Reimbursement Provision, SY2012**

Contract No.	Contractor	General Excise Tax	Contract No.	Contractor	General Excise Tax
1) 70232	Ground Transport	\$49,610	39) 90121	Robert's Hawaii School Bus	\$3,953
2) 70233	Ground Transport	\$13,531	40) 90122	Robert's Hawaii School Bus	\$6,405
3) 70234	Gomes School Bus Service	\$38,734	41) 90123	Robert's Hawaii School Bus	\$17,877
4) 70235	Ground Transport	\$21,013	42) 90124	Robert's Hawaii School Bus	\$13,407
5) 70236	Gomes School Bus Service	\$17,633	43) 90125	Robert's Hawaii School Bus	\$26,812
6) 70237	Gomes School Bus Service	\$40,024	44) 90126	Robert's Hawaii School Bus	\$71,472
7) 80111	Gomes School Bus Service	\$30,101	45) 90127	Robert's Hawaii School Bus	\$8,943
8) 80134	Robert's Hawaii School Bus	\$79,376	46) 90128	Robert's Hawaii School Bus	\$8,928
9) 80135	Robert's Hawaii School Bus	\$94,158	47) 10081	Akina	\$10,220
10) 80136	Robert's Hawaii School Bus	\$57,439	48) 70325	Robert's Hawaii School Bus	\$22,801
11) 80137	Robert's Hawaii School Bus	\$88,894	49) 70326	Yamaguchi Bus Service	\$20,539
12) 80138	Robert's Hawaii School Bus	\$18,016	50) 70327	Robert's Hawaii School Bus	\$25,251
13) 80139	Robert's Hawaii School Bus	\$59,443	51) 70328	Ground Transport	\$105,944
14) 90130	Tomasas's Bus Company	\$15,002	52) 70329	Tomasas's Bus Company	\$14,253
15) 90131	Tomasas's Bus Company	\$45,064	53) 70330	Gomes School Bus Service	\$55,436
16) 90132	Tomasas's Bus Company	\$24,904	54) 70331	Gomes School Bus Service	\$51,475
17) 10088	Ground Transport	\$13,904	55) 80114	Robert's Hawaii School Bus	\$27,797
18) 70032	Akita Enterprises	\$3,679	56) 80115	Tomasas's Bus Company	\$25,414
19) 70238	Robert's Hawaii School Bus	\$9,182	57) 80126	Tomasas's Bus Company	\$35,368
20) 70239	Yamaguchi Bus Service	\$3,088	58) 90118	Ground Transport	\$102,608
21) 70240	Robert's Hawaii School Bus	\$4,480	59) 90119	Ground Transport	\$158,195
22) 70241	Robert's Hawaii School Bus	\$8,478	60) 70332	Robert's Hawaii School Bus	\$44,186
23) 70242	Akina	\$7,717	61) 70333	Robert's Hawaii School Bus	\$45,334
24) 70243	Robert's Hawaii School Bus	\$14,898	62) 70334	Robert's Hawaii School Bus	\$49,037
25) 70244	Robert's Hawaii School Bus	\$18,492	63) 70335	Robert's Hawaii School Bus	\$10,230
26) 70245	Robert's Hawaii School Bus	\$11,456	64) 70336	Robert's Hawaii School Bus	\$34,428
27) 70246	Robert's Hawaii School Bus	\$9,061	65) 70337	Robert's Hawaii School Bus	\$24,042
28) 70247	Robert's Hawaii School Bus	\$9,061	66) 70338	Robert's Hawaii School Bus	\$35,052
29) 70248	Robert's Hawaii School Bus	\$4,941	67) 70339	Robert's Hawaii School Bus	\$30,642
30) 70249	MTA	\$9,990	68) 70340	Spencer	\$13,184
31) 80112	Akita Enterprises	\$18,409	69) 70341	Dudoit	\$13,368
32) 80113	Yamaguchi Bus Service	\$53,651	70) 80116	Akita Enterprises	\$5,636
33) 80123	Akita Enterprises	\$8,299	71) 80124	Akita Enterprises	\$9,365
34) 80125	Robert's Hawaii School Bus	\$27,907	72) 80141	Robert's Hawaii School Bus	\$27,250
35) 80140	Robert's Hawaii School Bus	\$80,746	73) 90116	Akita Enterprises	\$16,435
36) 90114	Akita Enterprises	\$14,806	74) 90117	Akita Enterprises	\$31,070
37) 90115	Akita Enterprises	\$11,830	75) 90129	Robert's Hawaii School Bus	\$32,138
38) 90120	Robert's Hawaii School Bus	\$8,944		<b>Total:</b>	<b>\$ 2,280,456</b>

Source: Office of the Auditor analysis of DOE data

decisions. The deputy asserted that the term is not one that she or anyone from her department would have added to the contract, and confirmed it is unusual for a contract to specifically require a state department to pay a contractor's general excise tax.

By agreeing to pay contractors' general excise tax liability, the department has added another price burden to school bus service contracts which now amounts to several millions of dollars per year and in doing so has failed to protect the State's interest.

### **Transportation branch allows contractors to delay extension process, to State's detriment**

The department already does not receive competitive offers for school bus services. However, the transportation branch has compounded the situation by not renewing or re-soliciting current contracts in a timely manner. Instead, it has allowed contractors to delay confirmation of renewals, which means if the contractor chooses not to renew—and they often have—the State is forced to put bids out with timeframes that leave little leeway for new bidders to competitively apply, according to the transportation branch manager. The result is that the existing contractor, despite having chosen not to renew its contract, is likely to again become the only offeror on the subsequent bid. Absent competition for such contracts, the department cannot ensure that offers made by sole bidders are fair.

The contracts we reviewed had durations of either six or ten years. Ten-year contracts could be extended for an additional two-year period upon mutual written agreement of the parties, to be executed at least 12 months prior to expiration of the original contract. Six-year contracts could be extended for two additional two-year periods; some required extensions to be executed at least 15 months prior to original expiration, and others within 12 months prior to original expiration. Thus, the onus is on the contract administrator to initiate the extension process, which in this case means the transportation branch manager. As stipulated in school bus contracts, the contract administrator is responsible for the terms, conditions, and all decisions relating to contracts. Additionally, the department's *Guidelines for Procurement and Contracting* state that contractual requirements should be supplemented with the exercise of skill and judgment in order to protect the public interest.

Despite stated renewal timeframes and the clear onus on the transportation branch manager, as contract administrator, to address contract renewals in a timely fashion, we found this does not occur. The transportation branch manager admitted that the branch has often played a relatively passive role, merely informing contractors via letter of the need to exercise their contract renewal option before their contracts

expire. Contractors often have been allowed to stall for months before exercising their option to renew or decline the contract. According to the manager, contractors frequently decide not to renew at the last minute—just prior to contract completion—rather than at least one year prior, as specified in the contract. The department reacts by issuing a request for bids with a short timeframe, which leaves other potential bidders unable to organize the necessary bus equipment in time to be able to deliver on the contract. For example, on May 5, 2011, the transportation manager sent an email to the procurement branch stating there were ten contracts set to expire on June 30, 2012. Notices were also sent to the various contractors requesting an extension with a response date by May 31, 2011. However, Robert’s Hawai‘i School Bus, Inc., which had three of the contracts, did not respond until August 3, 2011.

The transportation branch manager acknowledged that untimely re-solicitations have affected the department’s ability to encourage competition.

### **Transportation branch is at least two years behind in calculating annual fuel adjustments**

School bus contracts stipulate that the price of a contract will be readjusted yearly based on annual fuel prices. However, only two of the ten contracts we reviewed contained evidence that such adjustments have been made; these were dated May 2011 for adjustments applicable to SY2009. The transportation branch manager told us that adjustments have not been calculated annually as required because the formulas are complicated and vary by contract; and that, in addition, fuel cost adjustments are low on the branch’s list of priorities.

We found that because of the delays in calculating fuel cost adjustments, the department will have to spend about \$400,000 this year to catch up with all the outstanding fuel adjustment costs owed to contractors for SY2010–SY2012. According to one contract,

...the department shall pay the contractor the difference between the applicable Hawai‘i Average price of \$4.00 per gallon as reported on June 15, 2009 utilizing “AAA’s Fuel Gauge Report” and the actual average fuel price for the year (determined as the twelve-month average) on or before August 31 of the succeeding year, if the actual price is above the assumed price. If the assumed price is above the actual price, the contractor shall reimburse the department the difference by reducing contractor invoice payments during the succeeding year.

In the example above, the required adjustment is straightforward. It assumes average fuel price is \$4.00 per gallon and the actual average fuel price is \$4.12 per gallon. The difference, in favor of the contractor, is 12 cents per gallon, calculated as:

Total route miles per day	100
Multiplied by 180 school days	<u>x 180</u>
	18,000
Divided by the bus factor (5 for a Type I bus, 6.5 for a Type II bus)	<u>÷ 5</u>
	3,600
Multiplied by the difference per gallon	<u>x \$ 0.12</u>
Equals adjustment payable to the contractor	<u>\$ 432.00</u>

We confirmed that fuel cost adjustments vary by contract. Nevertheless, the transportation branch manager is responsible for defining bid specifications, which become incorporated into school bus contracts; as such, he could change the formula if it is deemed too complicated. By failing to calculate annual adjustments in a timely manner, the State cannot ensure it is getting best value for its money or that contractors are properly compensated. Further, the State’s untimely fuel adjustments contribute to the myriad elements causing school bus contract costs to skyrocket.

**No coordinated oversight of school bus services is in place**

The department has allowed the two branches responsible for overseeing school transportation services, the procurement branch and the transportation branch, to operate unsystematically. The procurement branch is primarily responsible for the technical processes related to procurement such as posting public notices, accepting bids, and awarding contracts. The transportation branch is responsible for more substantive aspects of procurement—that is, researching, analyzing, and preparing bid specifications—as well as contract administration. Administration includes monitoring contractors’ work, assuring services are delivered as required in a contract, and notifying the procurement branch in the event of any change in contract terms. We found that although each branch has some responsibility over awarding and administering school bus contracts, neither branch has accepted overall responsibility for both. Nowhere did we find complete contract files, and both branches play a passive, reactive role towards contract administration. Further, much of the responsibility for day-to-day contract monitoring falls to the transportation branch’s transportation officers, who are ill-equipped to administer multi-million dollar contracts.

**Complete contract files do not exist**

According to the department’s *Guidelines for Procurement and Contracting*, contract administrators are to maintain files containing complete contracts and all related documents, including contract modifications, internal and external correspondence, and summaries of meetings and telephone conversations. We found the transportation branch has failed to fulfill its contract administration role by not

maintaining contract files according to the department's guidelines. This has diminished the transportation branch's ability to hold school bus operators accountable to the performance terms of their contracts.

We examined ten contracts statewide and requested relevant documentation from the procurement branch, the transportation branch's central headquarters, and each of the relevant regional district transportation offices. The files at the transportation branch headquarters held little or no required documentation; although there were appropriately tabbed sections within the relevant files, the sections were empty. Transportation branch staff initially told us the files were complete, but later stated that many related documents were located elsewhere. Staff indicated that correspondence from the contractor was kept by the branch secretary who was unavailable at the time. The transportation branch manager said he would provide us with the correspondence but never did. Staff gave us copies of contract modifications that were kept on a computer. However, the copies given to us were not related to the contracts under review. Subsequently, the transportation branch manager provided us with the applicable modifications; however, some modifications were missing, and most of the ones provided lacked signatures from department and contractor representatives.

At O'ahu, Maui, and Hawai'i Island district offices we found similar results: seven contracts contained no correspondence with the contractor. Only two files contained vendor correspondence; in a third case, the transportation officer produced correspondence with one of the vendors upon request. Likewise, in eight of ten instances, contract files contained no summaries of conversations or meetings with contractors. One transportation officer told us he used to keep a telephone log but does not do so anymore.

Required annual reports were also kept inconsistently. No later than August 30 each year, contractors must provide transportation officers with an inventory of all buses to be used, which includes vehicle identification numbers, license plate numbers, and date of each vehicle's last safety inspection. Two of the ten contracts we reviewed did not contain any inventories, and the transportation officer could not produce them upon request. In a third case, most of the required information was missing. In a fourth case, the report did not have a date to determine if the report was current. The six remaining contracts contained reports that lacked the date of the last safety inspection.

Of concern is the fact that even where inventories were present, there was no documentation that transportation officers had verified the information. In one case, the transportation officer said he did not even know the reports were required until 2011 and that, as of April 2012,

reports due August 30, 2011 were “trickling in piecemeal.” Another transportation officer told us he would normally corroborate the inventory information but had not done so for the past two years. No explanation was given as to why this was the case.

Contractors are also required to submit bus driver rosters. Due annually on August 30, rosters must include driver names, license numbers, and expiration date of criminal clearances, which parallels the school bus driver qualifications in Section 19-143-6, HAR, and Sections 302A-601.5 and 846-2.7, HRS, pertaining to criminal background checks. Most of the files we tested did not contain a driver roster and none contained a complete roster. In one case, the file contained a roster of driver names and other information but was missing most of the other required information. In six other cases, transportation officers produced rosters upon request, but in two of those instances the rosters were not complete. There was no roster at all in the three remaining cases. In cases where there was a driver roster, there was no indication that transportation officers had verified the accuracy of the information. One transportation officer admitted that driver rosters could be inaccurate.

Failure to maintain contract files is the result of poor coordination between the transportation branch manager and transportation officers in charge of monitoring. The transportation branch manager told us he focuses on “global issues” dealing with bus company executives while transportation officers monitor contracts more closely. However, the manager has failed to create procedures for the transportation officers to follow. In doing so, the transportation branch manager has effectively given transportation officers a major responsibility, but not the tools to fulfill it. Failure to maintain adequate contract files means the department has limited documentation related to each contract, including documentation to justify spiraling bus service costs. As a result, the department cannot ensure contractors are performing in accordance with contract terms and that the State is receiving full value for its dollar.

### **Monitoring of bus services is almost non-existent**

Passivity is the hallmark of the approach that the procurement and transportation branches have taken toward contract monitoring. The procurement branch involves itself almost exclusively with the technical process of procurement and considers that the once a contract is awarded, “[e]verything’s on auto-pilot.” The transportation branch, which administers contracts, relies on transportation officers to monitor contracts on a day-to-day basis. For their part, transportation officers assume contractors have fulfilled contract terms as long as there are no complaints from parents, students, or schools. One transportation officer told us the department simply relies too much on an “honor system.” This passive approach has made it difficult for the department to assess, and unable to quantify, how well contractors are fulfilling contract terms.

Contract monitoring is the backbone of responsible contract administration, and serves to ensure that vendors comply with contract terms, performance expectations are achieved and problems are identified and solved, according to the National State Auditors Association's *Best Practices for Contracting Services* guide. Without a sound monitoring process, a contracting agency cannot adequately ensure it is receiving contracted services. To properly monitor a contract, an agency should ensure that deliverables are received on time and document the acceptance or rejection of deliverables.

However, we found that contract monitoring of bus services contracts is sparse. According to the transportation branch manager, the branch does not currently have policies or procedures regarding contract monitoring. Although contracts specify regular reporting requirements, the branch manager admitted to being inconsistent in following these up with contractors. In January 2012, the branch's administrative services assistant was newly tasked with coordinating all reporting requirements to ensure contractor compliance.

We found that monitoring is conducted only via annual reports, investigation of complaints, and on-site visits. Contract files often lack significant information related to monitoring: for example, annual reports are often missing or inadequate, files on complaints are sparse, and transportation officers rarely perform on-site inspections. Contract modifications and notifications also are often missing or lack signatures. Furthermore, transportation officers maintain no records that bus services are actually delivered on time as promised. In brief, the department is not fulfilling its responsibility to protect the State's interest by effectively monitoring school bus contracts.

Transportation officers do not actively monitor contractors to ensure they are meeting contract terms. Transportation officers rarely conduct site inspections. Failure to document the proper delivery of services means the department is unable to ensure contractors are providing services in accordance with contract terms. Contracts stipulate that buses may be inspected to ensure vehicles meet technical requirements and that buses comply with requirements for age, safety, and cleanliness. Transportation officers are supposed to use a monitoring report form during such on-site inspections, but we found this was rarely done. The transportation branch manager told us the monitoring form is new and he has only recently instructed his transportation officers to use it; however, we found that at least one transportation officer used an almost identical form in 2009, indicating that such a form has existed for years but has not been used consistently. Another variation of the form was used as long ago as 2006.

None of the contract files we reviewed contained inspection reports. In one instance, the transportation officer produced a separate binder containing inspection reports, but the file was not indexed by contract, which made it difficult to monitor contractor performance. In addition, the most recent report was dated 2009. In another instance, the transportation officer had some reports related to other contracts but not the contract in our sample. According to the transportation branch manager, transportation officers should conduct field inspections about eight times per week but are not yet doing so. Transportation officers we interviewed said they infrequently conducted field visits and one transportation officer told us field inspections have fallen off since 2008 because there is no time to do them.

Likewise, transportation officers do not maintain records on whether bus services are actually delivered on time. The department's *Guidelines for Procurement and Contracting* requires a contract administrator to formally accept and verify that services are delivered on time and in accordance with contract terms. If formal acceptance is delayed, acceptance is implied. The contract files we reviewed contained no records documenting the timely (or otherwise) delivery of services, nor written documentation of acceptance or rejection of services. Transportation officers confirmed with us that they have no system in place for documenting proper delivery or acceptance of services. Instead, they rely on contractors to report their own failures to deliver services. One transportation officer said that schools and parents were his only sources of information concerning problems with service. "If they don't inform me," he said, "I don't know."

Finally, we found that documentation on complaints is sparse. Transportation officers rely on complaints from schools and parents to alert them to poor performance by contractors; in the absence of such complaints, officers assume bus services have been delivered as required. Only one of ten contract files we reviewed contained information on complaints; in one other case, the transportation officer was able to produce some documentation, but this was located elsewhere. In a third case a transportation officer said she had logged complaints into the transportation branch's LotusNotes system. However, the transportation branch did not fulfill its promise to provide us with copies of those, nor other complaints related to contracts we examined. Furthermore, such documentation rarely recorded the disposition or resolution of the complaint. This approach to monitoring is passive, reactive, and inadequate. Without such documentation, the branch is in no position to support whether a contractor's services are adequate or inadequate—information that would assist in analyzing subsequent bids from the contractor in the event of contract renewal or re-bid.

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## Conclusion

The Department of Education has lost control of its student transportation program. We found that the department has failed to identify and address anticompetitive behavior among contractors and allowed costs for school bus services to escalate unjustifiably. The increasingly oversized school bus budget has overwhelmed the department and forced a re-examination of how transportation services are delivered to students in grades kindergarten through 12 statewide.

There are no easy fixes for the department's problems. However, the department would benefit by adopting a systematic approach to managing student transportation service contracts that results in better coordination between the purchasers of those services (procurement branch and transportation branch) and those responsible for overseeing their delivery (transportation branch and transportation officers). The department also must stress the proper stewardship of state resources to those overseeing the school bus program and better equip transportation officers to oversee contractors who have become adept market participants.

Even with such changes, the department will likely continue to grapple with an inefficient and uneven market in which competition for contracts is constrained. However, a systematic approach to program management would put the department in a better position to determine whether rising school bus costs are justified or result from anticompetitive behavior that warrant further investigation.

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## Recommendations

1. The Student Transportation Services Branch (STSB) manager should:
  - a. Properly plan for school bus services statewide by:
    - i. Establishing short- and long-range plans for ensuring the safety and efficiency of bus routes and services;
    - ii. Creating guidelines, policies, and procedures governing school bus routes and stops;
    - iii. Ensuring that the department has up-to-date and accurate route descriptions, ridership numbers, and route mileage statistics;
    - iv. Acquiring and implementing bus route planning software;

- v. Establishing and implementing a system for analyzing route efficiency, and creating an inventory of bus stops and evaluating them for safety;
  - vi. Reviewing contracts on a regular basis and revising them where necessary, including both routes and terms; and
  - vii. Taking a proactive role in assisting the Procurement and Contracts Branch (PCB) with securing bus service contracts by actively reviewing contract terms and conducting meaningful analyses regarding the fairness of single responsive offers.
- b. Properly administer school bus service contracts by:
- i. Ensuring the branch maintains a complete contract file which includes, but is not limited to:
    - 1. The executed contract;
    - 2. All contract modifications;
    - 3. Contractor contact information;
    - 4. All correspondence with and regarding the contractor;
    - 5. All complaints regarding the contractor, including disposition and resolution; and
    - 6. All other relevant information regarding the contractor, including previous contracts awarded to that contractor and any relevant bids from that contractor.
  - ii. Monitoring contractors' performance. This includes:
    - 1. Ensuring contractors provide reports as required in their contracts, and that these are maintained within the contract file;
    - 2. Evaluating contractors' performance requirements and, where necessary, restructuring contracts to include specific performance requirements. Data to be

- collected should be sufficient to allow reasonable analysis of the fairness of future bus service contract bids;
  - 3. Implementing annual price adjustments for fuel costs as required by contract terms;
  - 4. Conducting spot checks to ensure contractors are providing services and equipment as required; and
  - 5. Verifying the accuracy of information provided by contractors such as vehicle inventories, vehicle ages, and driver background checks.
- iii. Ensuring that all complaints are logged in a central repository, with disposition and resolutions noted.
- c. Develop a manual delineating district transportation officers' (DTOs) tasks and how to perform them, and train DTOs regarding the same. This may require reevaluating DTOs' roles and responsibilities.
2. The Department of Education should:
- a. Develop and implement a policy concerning procurement training for all employees who have procurement responsibilities. The training should highlight indicators of potential anticompetitive practices and identify what staff are expected to do in response; and
  - b. Develop and implement procedures, including forms, for reporting suspected anticompetitive practices as envisioned by the Hawai'i Administrative Rules.
3. The Procurement and Contracts Branch (PCB) should:
- a. Ensure that the Student Transportation Services Branch (STSB) conducts an analysis determining the fairness of single responsive offers before accepting such offers. Analyses should be documented and retained within contract files; and
  - b. Ensure that the department solicits bids for expiring contracts with sufficient time to attract competitive offers.

4. The Legislature should consider amending the General Excise Tax law (Chapter 237, HRS) to explicitly prohibit the State from paying or reimbursing contractors for general excise taxes.

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**Appendix A**  
**Statewide School Bus Services Contracts, SY2012**

	<u>Contract No.</u>	<u>Contractor</u>	<u>Service area</u>	<u>SY2012 contract value</u>
1)	02024	Robert's Hawaii School Bus	West O'ahu	\$1,098,891
2)	50059	Dudoit	Maui	\$406,616
3)	50059	Dudoit	Maui	\$58,688
4)	50065	Akita Enterprises	Maui	\$182,202
5)	50066	Yamaguchi Bus Service	Kaua'i	\$59,369
6)	50068	Yamaguchi Bus Service	Kaua'i	\$117,508
7)	50070	Yamaguchi Bus Service	Kaua'i	\$111,817
8)	50070	Yamaguchi Bus Service	Kaua'i	\$56,104
9)	50071	Akita Enterprises	Kaua'i	\$590,501
10)	50071	Akita Enterprises	Kaua'i	\$177,828
11)	50072	Akita Enterprises	Kaua'i	\$58,979
12)	50073	Akita Enterprises	Kaua'i	\$779,210
13)	50073	Akita Enterprises	Kaua'i	\$60,515
14)	60135	Ground Transport	Honolulu	\$101,588
15)	60136	Ground Transport	Central O'ahu	\$643,621
16)	60137	Ground Transport	Central O'ahu	\$409,742
17)	60174	Akita Enterprises	East O'ahu	\$129,258
18)	60175	Akita Enterprises	Maui	\$404,436
19)	60176	Yamaguchi Bus Service	Central O'ahu	\$1,862,471
20)	10183	Robert's Hawaii School Bus	East O'ahu	\$667,800
21)	10184	Robert's Hawaii School Bus	Maui	\$3,485,700
22)	10185	Robert's Hawaii School Bus	Kaua'i	\$593,000
23)	10186	Spencer	Maui	\$378,000
24)	10182	Robert's Hawaii School Bus	Honolulu	\$58,500
25)	70232	Ground Transport	Central O'ahu	\$1,102,446
26)	70233	Ground Transport	Central O'ahu	\$300,698
27)	70234	Gomes School Bus Service	Central O'ahu	\$860,762
28)	70235	Ground Transport	Leeward O'ahu	\$466,939
29)	70236	Gomes School Bus Service	Windward O'ahu	\$391,844
30)	70237	Gomes School Bus Service	Windward O'ahu	\$889,426
31)	80111	Gomes School Bus Service	Windward O'ahu	\$668,915
32)	80134	Robert's Hawaii School Bus	Leeward O'ahu	\$1,763,919
33)	80135	Robert's Hawaii School Bus	Leeward O'ahu	\$2,092,414
34)	80136	Robert's Hawaii School Bus	Leeward O'ahu	\$1,276,417
35)	80137	Robert's Hawaii School Bus	Central O'ahu	\$1,975,439
36)	80138	Robert's Hawaii School Bus	Central O'ahu	\$400,366
37)	80139	Robert's Hawaii School Bus	Windward O'ahu	\$1,320,968
38)	90130	Tomasa's Bus Company	Central O'ahu	\$333,383

	<u>Contract No.</u>	<u>Contractor</u>	<u>Service area</u>	<u>SY2012 contract value</u>
39)	90131	Tomasa's Bus Company	Leeward O'ahu	\$1,001,441
40)	90132	Tomasa's Bus Company	Leeward O'ahu	\$553,423
41)	10088	Ground Transport	Honolulu	\$308,980
42)	70032	Akita Enterprises	Kaua'i	\$ 91,958
43)	70238	Robert's Hawaii School Bus	East O'ahu	\$229,530
44)	70239	Yamaguchi Bus Service	Kaua'i	\$77,191
45)	70240	Robert's Hawaii School Bus	Maui	\$112,003
46)	70241	Robert's Hawaii School Bus	Maui	\$211,937
47)	70242	Akina Bus Service	Maui	\$192,898
48)	70243	Robert's Hawaii School Bus	Maui	\$372,419
49)	70244	Robert's Hawaii School Bus	Maui	\$462,275
50)	70245	Robert's Hawaii School Bus	Maui	\$286,377
51)	70246	Robert's Hawaii School Bus	Maui	\$226,512
52)	70247	Robert's Hawaii School Bus	Maui	\$226,512
53)	70248	Robert's Hawaii School Bus	Maui	\$123,504
54)	70249	MTA	Maui	\$249,720
55)	80112	Akita Enterprises	East O'ahu	\$460,196
56)	80113	Yamaguchi Bus Service	West O'ahu	\$1,341,171
57)	80123	Akita Enterprises	East O'ahu	\$207,455
58)	80125	Robert's Hawaii School Bus	West O'ahu	\$597,966
59)	80140	Robert's Hawaii School Bus	East O'ahu	\$2,018,484
60)	90114	Akita Enterprises	East O'ahu	\$370,119
61)	90115	Akita Enterprises	East O'ahu	\$295,726
62)	90120	Robert's Hawaii School Bus	East O'ahu	\$223,594
63)	90121	Robert's Hawaii School Bus	East O'ahu	\$98,814
64)	90122	Robert's Hawaii School Bus	East O'ahu	\$160,108
65)	90123	Robert's Hawaii School Bus	East O'ahu	\$446,887
66)	90124	Robert's Hawaii School Bus	East O'ahu	\$335,157
67)	90125	Robert's Hawaii School Bus	East O'ahu	\$670,241
68)	90126	Robert's Hawaii School Bus	West O'ahu	\$1,786,665
69)	90127	Robert's Hawaii School Bus	West O'ahu	\$223,553
70)	90128	Robert's Hawaii School Bus	West O'ahu	\$223,188
71)	10081	Akina Bus Service	Maui	\$255,489
72)	02027	Robert's Hawaii School Bus	West O'ahu	\$500,885
73)	50077	Akita Enterprises	Kauai	\$429,576
74)	60134	Akita Enterprises	West O'ahu	\$351,483
75)	60138	Robert's Hawaii School Bus	Honolulu	\$1,269,463

	<u>Contract No.</u>	<u>Contractor</u>	<u>Service area</u>	<u>SY2012 contract value</u>
76)	60138AC	Robert's Hawaii School Bus	Honolulu	\$153,302
77)	60139	Robert's Hawaii School Bus	Honolulu	\$1,377,804
78)	60140	Robert's Hawaii School Bus	Central O'ahu	\$1,917,072
79)	10181	Robert's Hawaii School Bus	Maui	\$1,652,570
80)	70325	Robert's Hawaii School Bus	Central O'ahu	\$506,687
81)	70326	Yamaguchi Bus Service	Central O'ahu	\$456,427
82)	70327	Robert's Hawaii School Bus	Leeward O'ahu	\$561,142
83)	70328	Ground Transport	Leeward O'ahu	\$2,354,342
84)	70329	Tomasa's Bus Company	Windward O'ahu	\$316,747
85)	70330	Gomes School Bus Service	Windward O'ahu	\$1,231,931
86)	70331	Gomes School Bus Service	Windward O'ahu	\$1,143,901
87)	80114	Robert's Hawaii School Bus	Central O'ahu	\$617,719
88)	80115	Tomasa's Bus Company	Windward O'ahu	\$564,763
89)	80126	Tomasa's Bus Company	Leeward O'ahu	\$785,964
90)	90118	Ground Transport	Central O'ahu	\$2,280,190
91)	90119	Ground Transport	Leeward O'ahu	\$3,515,478
92)	70332	Robert's Hawaii School Bus	East O'ahu	\$1,104,564
93)	70333	Robert's Hawaii School Bus	East O'ahu	\$1,133,270
94)	70334	Robert's Hawaii School Bus	East O'ahu	\$1,225,827
95)	70335	Robert's Hawaii School Bus	East O'ahu	\$255,730
96)	70336	Robert's Hawaii School Bus	West O'ahu	\$860,628
97)	70337	Robert's Hawaii School Bus	Maui	\$601,014
98)	70338	Robert's Hawaii School Bus	Maui	\$876,231
99)	70339	Robert's Hawaii School Bus	Maui	\$766,003
100)	70340	Spencer	Maui	\$329,583
101)	70341	Dudoit	Maui	\$334,172
102)	80116	Akita Enterprises	Maui	\$140,899
103)	80124	Akita Enterprises	West O'ahu	\$234,109
104)	80141	Robert's Hawaii School Bus	West O'ahu	\$681,199
105)	90116	Akita Enterprises	East O'ahu	\$410,854
106)	90117	Akita Enterprises	Kaua'i	\$776,690
107)	90129	Robert's Hawaii School Bus	Maui	\$803,391
			<b>Total:</b>	<b>\$ 74,299,383</b>

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## Responses of the Affected Agencies

### Comments on Agency Responses

We transmitted a draft of this report to the Board of Education and the superintendent of education on August 8, 2012. A copy of the transmittal letter to the board is included as Attachment 1. The board's response, received on August 23, 2012, is included as Attachment 2; the department's response, received on August 20, 2012, is included as Attachment 3.

The board expressed its appreciation for our work on what it called a comprehensive and thorough report. It stated that examining bus transportation costs remains a high priority, and that it intends to review the report with the department at its next meeting.

The department acknowledged that past practices relating to the procurement, delivery and oversight of student transportation services may not have been consistent with nationally recognized best practices and that much more work needs to be done to protect public transportation funds and improve public confidence. The department reports it has entered into an agreement with a consultant to assess its current business model, compare its practices to similar school districts, evaluate the current organizational infrastructure of the department and its transportation branch, and make recommendations for improvement. Many of these items are addressed in our report.

The department agreed with most of our recommendations but disputes several of our conclusions. For example, the department disagreed that it does not consolidate routes. Here, the department missed our broader point that the department's lack of systematic, routine evaluation of routes resulted in instances where underutilized routes were not consolidated. We also found the department lacked basic mileage, route description, and ridership data needed to conduct such route evaluations.

The department disagreed that the transportation branch allows contractors to delay the contract extension process to State's detriment, stating that contractors have forced delays in the contract extension process despite the department's efforts to maintain deadlines. However, this explanation supports our assertion that the department has allowed school bus contractors to dictate the timing of contract extensions. As stipulated in school bus contracts, the contract administrator is responsible for terms, conditions, and all decisions relating to contracts. However, the transportation branch manager told us the branch has often played a relatively passive role in the contract renewal process and

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that untimely re-solicitations have affected the department's ability to encourage competition.

The department also disagreed that unsystematic oversight has permitted escalating costs, contending the cost of student transportation services is market-controlled. Again, the department misunderstands our point that it has failed to take adequate measures to monitor and bolster competition and flag suspected anti-competitive practices. Furthermore, the transportation branch manager acknowledged to us that the competitive market, which was supposed to have kept costs down, is no longer working.

Finally, the department disagrees that no one has drawn meaningful attention to suspected anti-competitive practices. The department says it has cooperated with a federal investigation into possible anti-trust violations by school bus contractors. However, the department's participation in that investigation does not absolve it from its responsibility to report suspected anticompetitive practices encountered during the bid solicitation process. Although the department was cognizant of persistent patterns of single bidders for route group solicitations, it failed to adopt procedures or a form to report suspected anticompetitive practices. Accordingly, we stand by our findings.

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

August 8, 2012

The Honorable Donald G. Horner  
Chairperson, At Large  
Board of Education  
Queen Lili'uokalani Building  
1390 Miller Street  
Honolulu, Hawaii 96813

Dear Chair Horner:

Enclosed for your information are 11 copies, numbered 9 to 19, of our confidential draft report, *Management Audit of the Department of Education's School Bus Transportation Services*. We ask that you telephone us by Friday, August 10, 2012, on whether or not you intend to comment on our recommendations. Please distribute the copies to the members of the board. If you wish your comments to be included in the report, please submit them no later than Monday, August 20, 2012.

The Department of Education, Governor, 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 that reads "Marion M. Higa".

Marion M. Higa  
State Auditor

Enclosures

NEIL ABERCROMBIE  
GOVERNOR

DONALD G. HORNER  
CHAIRPERSON



STATE OF HAWAII  
BOARD OF EDUCATION  
P.O. BOX 2360  
HONOLULU, HAWAII 96804

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OFC. OF THE AUDITOR  
STATE OF HAWAII

August 21, 2012

Ms. Marion M. Higa  
State Auditor  
465 South King Street, Room 500  
Honolulu, Hawaii 96813-2917

RE: Management Audit of the Department of Education's School Bus Transportation Services

Dear Ms. Higa:

The Board of Education (the "**Board**") is in receipt of the Management Audit of the Department of Education's School Bus Transportation Services (the "**Report**"). We appreciate the work that you and your office have done to review the Department of Education's (the "**Department**") student transportation operations and to recommend improvements.

Examining bus transportation costs remains a high priority for the Board and the Department. The Board will review the Report with the Department at its next scheduled Board meeting and we would like to invite you or a deputy auditor to the meeting to discuss the matter with the Board.

We appreciate your work on this comprehensive and thorough Report.

Sincerely yours,

A handwritten signature in black ink, appearing to read "D. G. Horner".

Donald G. Horner

DH:lye



STATE OF HAWAII  
DEPARTMENT OF EDUCATION  
P.O. BOX 2360  
HONOLULU, HAWAII 96804

OFFICE OF THE SUPERINTENDENT

August 20, 2012

Marion M. Higa  
State Auditor  
Office of the Auditor  
465 South King Street, Room 500  
Honolulu, HI 96813-2917

RE: Management Audit of the Department of Education's School Bus Transportation Services

Dear Ms. Higa:

Independent audits are a key component of accountability and public transparency. The Department of Education (DOE) thanks the State Auditor for this evaluation of the internal policies and procedures of the Department's Student Transportation Services program.

The DOE acknowledges that some of its past practices relating to the procurement, delivery and oversight of pupil transportation services may not have been consistent with nationally recognized best practices. The DOE inherited many of those practices when the Governor reassigned the pupil transportation program from the Department of Accounting and General Services (DAGS) to the DOE in July 2000. In any event, the DOE has already entered into a professional services agreement with school bus industry-leading consultant firm, Management Partnership Services Inc. to assess the DOE's current business model, compare its practices to similar school districts, evaluate the current organizational infrastructure of the DOE and its transportation branch, and make recommendations for improvement. The DOE will work with this consultant to review the corrective measures that the Auditor's report outlines. The DOE will also work with the consultant to implement the following measures:

- Stimulating competition by redesigning the contract model in such a way that will enable non school bus entities to enter the market.
- Modernizing the way school bus routes are designed by acquiring and implementing bus route planning software that uses real time student information data.
- Developing a GPS-locator framework for school bus vehicles in order to collect, track and maintain bus route mileage and student ridership information.
- With the assistance of the DOE's consultant, implement measures to strengthen the cost effectiveness of school bus contracts such as outsourcing only the labor component of bussing services.
- Incorporating the Request for Proposal approach to procuring school bus management contracts in order to give the DOE maximum ability to evaluate offers before award.

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STATE OF HAWAII

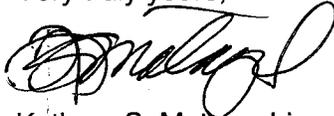
- Improving contractor activity monitoring by providing clerical support to our transportation officers, which will enable more frequent and meaningful field inspections.
- Taking full advantage of the State Procurement Office's anti-trust training opportunities and making full use of the Attorney General's office to investigate anti-competitive practices if "red-flags" appear during the procurement process.

The DOE acknowledges that there is much more work to be done to protect public transportation funds and improve public confidence. Although most of the audit recommendations to strengthen the DOE's student transportation program are reasonable and prudent, some statements and conclusions are not correct, such as the following statements:

- "The department does not consolidate routes" – For fiscal year 2012, the Department consolidated 23 bus routes for a savings of \$1,372,717.
- "Transportation branch allows contractors to delay extension process to State's detriment" – Contractors have forced delays in the contract extension process despite DOE efforts to maintain strict deadlines.
- "Unsystematic oversight has permitted escalating costs" – The cost of pupil transportation services is market controlled.
- "No one has drawn meaningful attention to suspected anti-competitive practices" – The DOE has cooperated with federal authorities in their investigation into possible antitrust violations by school bus contractors.

The DOE looks forward to moving student transportation into the 21<sup>st</sup> century.

Very truly yours,



Kathryn S. Matayoshi  
Superintendent

KSM:RL