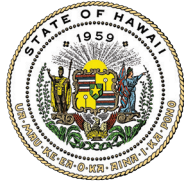

Audit of the Department of Human Services' Child Welfare Services Branch

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

Report No. 24-05
April 2024



OFFICE OF THE AUDITOR
STATE OF HAWAII



OFFICE OF THE AUDITOR STATE OF HAWAII

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Foreword

Our audit of the Department of Human Services' Child Welfare Services Branch was conducted pursuant to Senate Concurrent Resolution No. 102, Senate Draft 1, House Draft 1 (2022 Regular Session) which requested the Auditor to conduct a performance audit examining the department's policies, procedures, and processes to protect children in their own homes and in out-of-home placements, as well as the recruitment and retention of Child Welfare Services Branch staff.

We express our appreciation for the cooperation and assistance of representatives from the Department of Human Services, including its Director; the Social Services Division Administrator and administrators of the division's Child Welfare Services Branch, Program Development Offices, Support Services Office; various Child Welfare Services Branch employees including licensing administrators and unit supervisors, licensing workers, social workers and human services professionals for O'ahu, Maui/Moloka'i/Lāna'i, Hawai'i Island, and Kaua'i; the Hawai'i Child Welfare Continuous Quality Improvement Project Director; and other individuals whom we contacted during the course of our audit.

Leslie H. Kondo
State Auditor

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Audit of the Department of Human Services’ Child Welfare Services Branch

The department’s process to license child-specific homes did not comply with legal requirements. In addition, the department did not monitor or evaluate the performance of Catholic Charities Hawai‘i, the contractor hired to complete documentation necessary for licensing. The question is: Were children at risk?

In FY2022, DHS provided services to 2,322 children who spent some or all of that year in foster care, including 964 children who entered foster care and 1,033 who exited.

Introduction

THE STATE OF HAWAI‘I’S Department of Human Services (DHS) provides child welfare services for children who have been abused, neglected, or threatened with maltreatment, offering an array of services including foster care placement when circumstances require children to be removed from their homes. Once DHS assumes placement responsibility, it must ensure resource family homes¹ – private homes caring for foster children on the department’s

¹ A resource family home means a home that has met the state licensing requirements “in which minor children are received for temporary substitute supervision, care and maintenance apart from their legal custodians on a twenty-four-hour basis for monetary payment.” Hawai‘i Revised Statutes and Hawai‘i Administrative Rules also refer to resource family homes as “foster family boarding homes,” “foster boarding homes,” and “foster homes.”

“You don’t even place [children] in a home that’s not licensed [or] licensable.”
– CWSB Administrator

behalf – provide a safe, stable, and nurturing environment until the children can be reunited with their families or placed permanently with adoptive parents or legal guardians. State law requires foster homes to have certificates of approval to care for children; accordingly, DHS issues licenses to homes that meet and maintain applicable health, safety, housing, and sanitation standards.

When foster care is deemed necessary, state policy gives placement preference to applicants who have existing relationships with the children they intend to foster and are able to meet licensing requirements. Recognizing that child-specific caregivers may not have time to complete the full licensing process until after children are placed in their homes, DHS has discretion to issue provisional certificates of approval to bridge the gap between placement and licensure as long as certain minimum safety standards are met and “it is reasonable to assume that all licensing requirements will be met within sixty days.” DHS’ Child Welfare Services Branch (CWSB) is responsible for ensuring provisionally certified homes become licensed, as well as removing children from homes that do not meet requirements for licensure within the legal timeframe.

“You don’t even place [children] in a home that’s not licensed [or] licensable,” the CWSB Administrator said.

To qualify for a provisional certificate, a prospective foster family must have an in-person meeting with a CWSB worker in their home; consent to background checks in criminal history, child abuse and neglect, and sexual abuse databases; and begin an application process expected to last no more than 60 days. A license, in contrast, requires more background checks, health clearances, mandatory caregiver training, and a home study that includes a physical assessment of the home and interviews with all household members. If an applicant does not complete all licensing requirements by the time the provisional certificate expires, the law requires that the child be placed in another home that can qualify for licensure. CWSB’s procedures manual specifically directs branch social workers to inform prospective caregivers that provisional certificates are only valid for 60 days and “if ALL the licensing requirements are not met, **that child will be removed from the home.**” (Emphasis in original.)

In practice, however, we found DHS issued multiple provisional certificates to child-specific homes, often retroactively, without the authority to do so and, most importantly, contrary to the legal licensing requirements. This common practice allowed children to remain indefinitely in homes that had not demonstrated the ability or willingness to meet licensing requirements, such as obtaining fingerprint-based FBI clearances or completing home studies. We

found that DHS has adopted licensing procedures that contradict the department’s administrative rules, such as issuing provisional certificates for 90 days – a month longer than allowed in DHS’ administrative rules – and permitting an additional 60-day provisional certificate. By allowing provisional certification to last up to five months – three months longer than allowed in the administrative rules – we question whether the department is fulfilling its mandate to ensure that foster children are placed in safe, stable, and nurturing environments.

Aside from exceptions for two rare circumstances, CWSB’s written procedures do not contemplate issuing more than one provisional certificate. However, a random sample of approximately 10 percent of active foster homes statewide – a total of 103 homes – included 30 child-specific homes that took an average of 314 days to complete the licensing process. Of the 103 homes in our sample, we identified more than *three dozen instances* where “active” homes had neither a provisional certificate nor a license. We also found DHS issued retroactively dated certificates and licenses to cover periods when homes continued to care for children with expired licenses and expired provisional certificates.

Part of the department’s strategy to minimize the time foster children spend in unlicensed homes has been to outsource most of its licensing duties, contracting with organizations to recruit foster families and to work with families to expedite the licensing process. When we began our audit, DHS had existing contracts with Catholic Charities Hawai‘i (Catholic Charities) to conduct home studies, a key certification requirement for potential resource families; provide support services and mandatory training for caregivers; and submit completed application packages to CWSB within 90 days. Assessing private contractors’ performance is beyond our legal authority. However, we did discover that DHS – which does have that authority and, more significantly, that responsibility – did not monitor its contracts to ensure providers were satisfactorily performing the services they were contracted to perform. At the close of the prior contract, also involving Catholic Charities, DHS did not evaluate the extent to which the provider complied with contract terms and conditions and achieved intended outcomes. More to the point, no one we asked at DHS realized state agencies are *legally required* to establish contract monitoring and evaluation procedures when contracting to provide health and human services to Hawai‘i residents.

While it is responsible for licensing foster homes, CWSB has had little involvement in the contracting process or in ensuring performance of the contracted services. Contract-related duties were split between two offices within DHS’ Social Services Division – neither of which had

In practice, however, we found DHS issued multiple provisional certificates to a child-specific home, often retroactively, without the authority to do so and, most importantly, contrary to the legal licensing requirements. This common practice allowed children to remain indefinitely in homes that had not demonstrated the ability or willingness to meet licensing requirements, such as obtaining fingerprint-based FBI clearances or completing home studies.

Hawai'i's Definition of Child Abuse

HAWAI'I LAW defines child abuse or neglect as an act or omission by any person or legal entity related to, residing with, or otherwise responsible for the care of a child that results in physical or psychological harm or "reasonably foreseeable, substantial risk of being harmed" to a child under age 18. Child abuse or neglect can include physical harm resulting in fractures; burns; internal bleeding; poisoning; soft tissue swelling and bruising; psychological abuse manifested as extreme mental distress; medical neglect; inadequate provision of food, clothing, or shelter causing a failure to thrive; provision of harmful drugs to a minor without prescription; sexual abuse; and death.

established a legally-required process for monitoring and evaluating contractors' performance, which resulted in contractors being paid despite contract terms and conditions not being met. According to the CWSB Administrator, who had not read the 2019 and 2021 contracts intended to expedite the licensing of foster homes, the branch's feedback on the contracted services was rarely solicited even though its staff who worked directly with providers may have had valuable insight on lessons learned or issues to avoid in future contracts. "Anything that our contractors are unable to meet and perform will ultimately fall on the department because those things need to be done. So now, the workforce absorbs what the contractor may not be able to do," the CWSB Administrator pointed out.

Licensing-related issues have also very likely cost the State federal funds that would otherwise reimburse the State for certain foster care payments; that federal reimbursement is available for fully licensed foster homes, not those operating with provisional certificates.

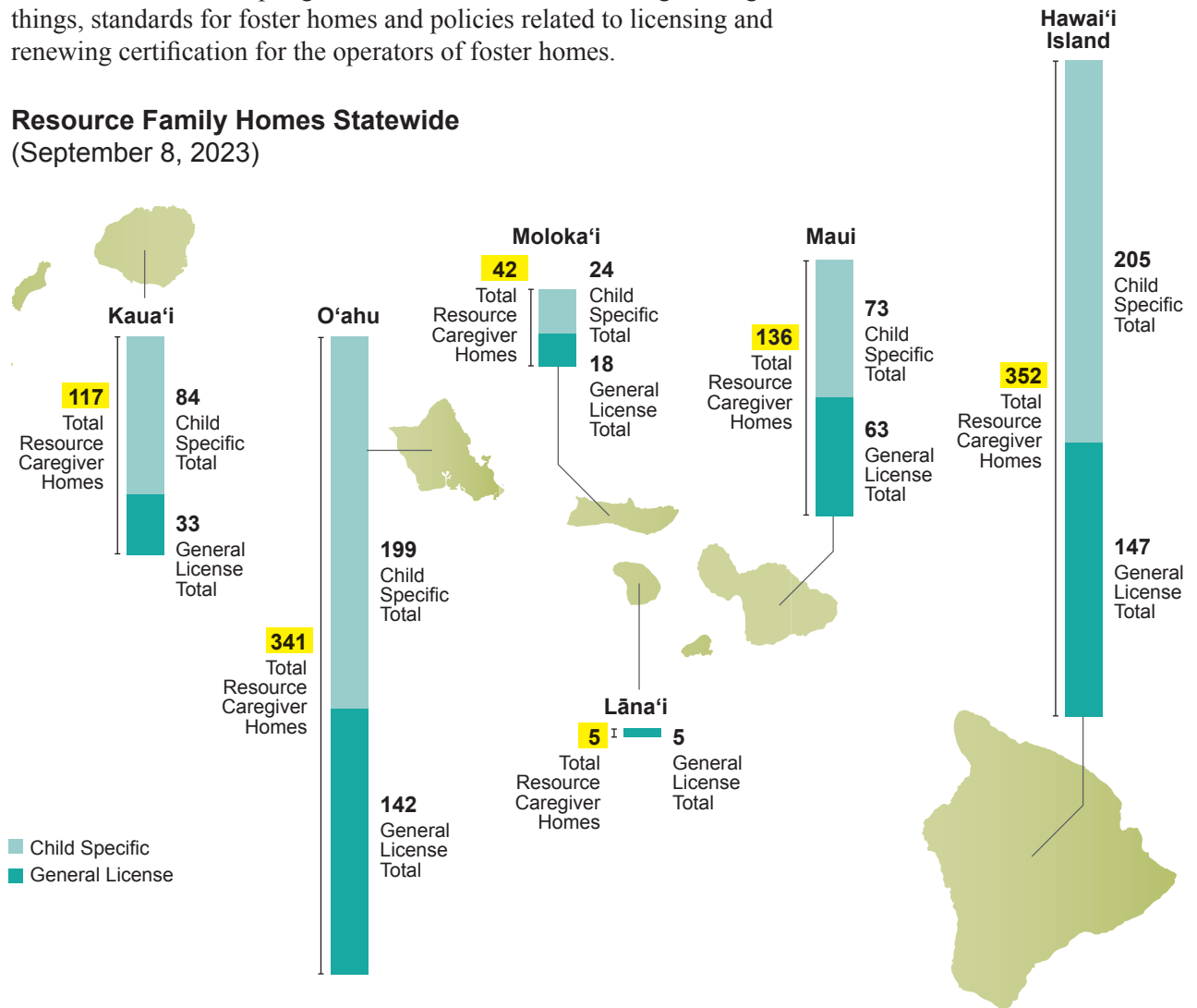
Chapter 1

Background

Department of Human Services

The Department of Human Services (DHS) offers public and private assistance programs, as well as social service programs, for Hawai‘i residents who need access to basic necessities, such as food, clothing, shelter, and medical care. Chapter 346, Hawai‘i Revised Statutes (HRS), lays out duties assigned to DHS, among them a requirement to establish, extend, and strengthen services to children who have been abused or neglected, or are in life circumstances that threaten harm. When necessary, DHS is required to find suitable private home placements for children who have experienced or are threatened with maltreatment. The department’s duties also include adopting administrative rules establishing, among other things, standards for foster homes and policies related to licensing and renewing certification for the operators of foster homes.

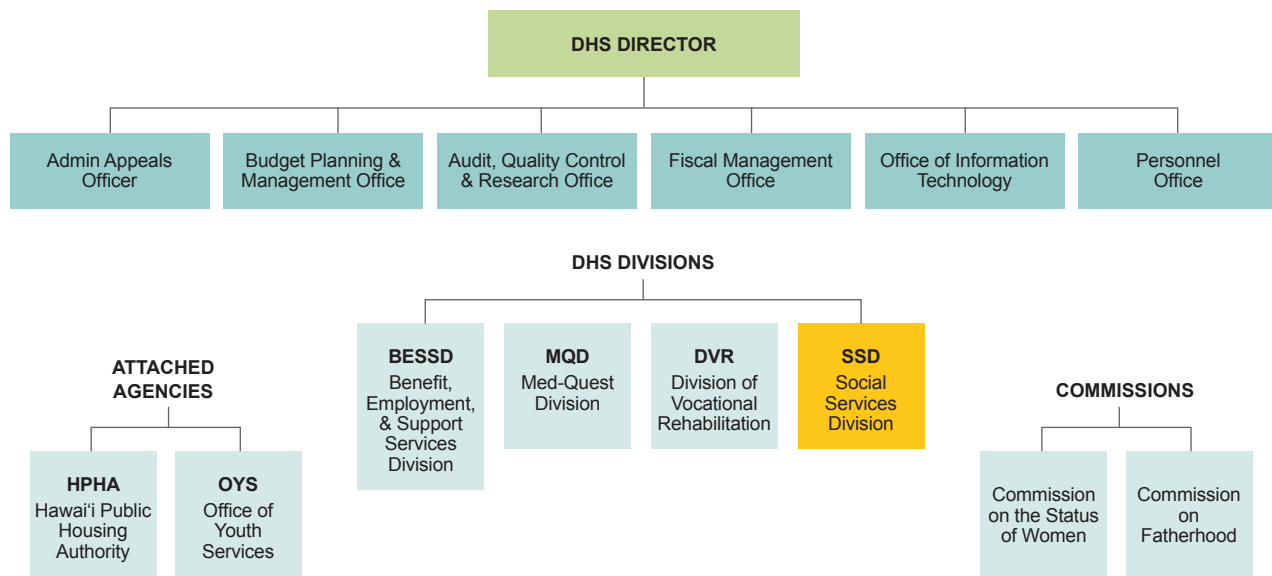
Resource Family Homes Statewide (September 8, 2023)



Source: Department of Human Services
This graphic includes foster homes with licenses and provisional certificates

The department, led by the Director, consists of four divisions, including the Benefit, Employment, and Support Services Division; the Med-QUEST Division; the Division of Vocational Rehabilitation; and the Social Services Division. In addition, two agencies and two commissions are administratively attached to DHS.

**Exhibit 1
Department of Human Services' Organizational Chart**



Source: Department of Human Services
Organizational chart for federal fiscal years 2020 to 2024 (i.e., October 1 through September 30).

Social Services Division

The Social Services Division is headed by an Administrator and includes two Child Welfare Program Development Offices (jointly referred to throughout this report as the Program Development Office), the Support Services Office, and the Child Welfare Services Branch.



Source: Department of Human Services

Child Welfare Program Development Offices

The two Child Welfare Program Development offices, each with its own administrator, are responsible for policy and program development and analysis; policy clarification; research on child welfare best practices; new initiatives; service development for contracting and procurement; management information system/automation; finance, budget, and payment operations; programmatic implementation of federal and state laws and rules; legislative response, clarification, and action; and the Interstate Compact on the Placement of Children. The offices are also responsible for ensuring federal funds awarded to the State are expended appropriately (e.g., contracts for procured services and Title IV-E claims) and for the department's compliance with federal and state reporting requirements (e.g., the Child and Family Service Reviews and the Annual Progress and Services Report).

Support Services Office

The Support Services Office is headed by an administrative officer and consists of the Purchase of Services Office and the Management Information and Compliance Unit. The Support Services Office provides direction in developing, implementing, controlling, and monitoring policies and procedures related to fiscal and program support services for the Social Services Division, including, among other things, procuring services and related contracting. The Support Services Office is also responsible for monitoring the division's budget and contract payments, including ensuring vendor invoices are accurate and processing payment of the invoices, as well as for monitoring the department's eligibility, compliance, and claims for reimbursement from federal funding programs.

The Support Services Office is currently administering nearly 100 contracts supporting the Child Welfare Services Branch with an aggregate value of about \$48.4 million (\$19 million state funds; \$29 million federal funds; and \$400,000 trust funds).

Child Welfare Services Branch (CWSB)

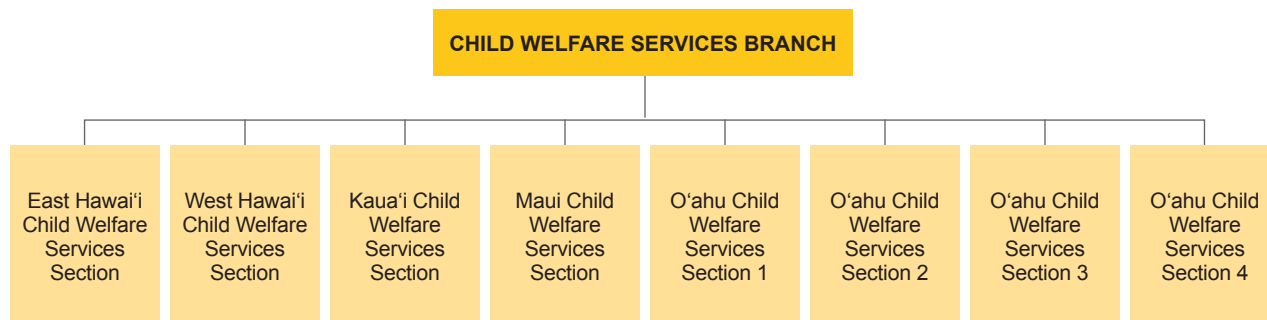
CWSB's mission is "to ensure, in partnership with families and communities, the safety, permanency and well-being of those children and families where child abuse and neglect has occurred or who are at high risk for child abuse and neglect." The branch is responsible for the Child Welfare Services Program, formerly the Child Protective Services Program, one of the Social Services Division's major programs. According to DHS, the Child Welfare Services Program serves children who are exposed to abuse, neglect, or threat of harm through a range of child welfare services to children and their families, such as assessment and crisis intervention, child abuse or neglect investigation, case management, foster care, adoption, independent living, and licensing of foster homes, child placing organizations, and child caring organizations.

The branch is organized by sections on O'ahu, Hawai'i, Kaua'i, and Maui (which includes Moloka'i and Lāna'i) overseen by the CWSB Administrator. As shown on the chart on the next page, those sections include four on O'ahu; two on Hawai'i Island; and one each for Maui and Kaua'i.

The sections, composed of two to four units each, are responsible for planning, organizing, implementing, and evaluating child welfare service activities in their respective region. Each section, led by an administrator, includes:

- Assessment workers who determine the appropriate response to reports of child abuse and neglect and work with local law enforcement to investigate the reports and initiate appropriate intervention;
- Licensing workers who recruit, train, and license resource families; and
- Permanency workers, or case managers, who provide child welfare permanency services to prevent further abuse or neglect of children.

Certain statewide functions are centralized on O‘ahu, such as a unit that specializes in federal fund eligibility and an Intake Unit that operates a 24-hour hotline, staffed by social workers who receive reports about potential child abuse and neglect from all islands, determine the appropriate response using a risk/safety matrix, and disseminate the information to the appropriate section or law enforcement agency for follow-up.



Source: Department of Human Services

Between FY2019 and FY2021, the Intake Unit’s hotline received an average of 20,768 calls a year, with social workers assigning roughly 25 percent of those cases for some level of intervention by CWSB. In FY2022, the hotline received 20,603 calls, 29 percent of which were assigned for intervention. When CWSB intervention is warranted, low-risk cases are assigned to family strengthening services and medium-risk cases are assigned to voluntary case management, which involves regular visits with a case manager and services to address issues that put children at risk of abuse and neglect. According to the

CWSB Administrator, family strengthening services and voluntary case management fall under CWSB's oversight but are managed by contractors who provide community-based interventions designed to support families reported to CWSB for child abuse and/or neglect, with a goal of keeping children safe in their own homes. Services include individual and family counseling; regular home visits; instruction for parenting and practical life skills; role modeling; development of individual program plans; referral to community resources; in-home monitoring, education, and support; and ongoing assessments through monthly in-person contact with the family to ensure appropriate and effective services, and child safety and well-being.

High-risk cases with clear safety concerns are assigned to CWSB investigators for assessment, which may result in a formal police report and/or the child's removal from the home. Reports do not always come in through CWSB's statewide intake line; for instance, children may be removed from their homes by law enforcement before CWSB is notified.

The Intake Unit hotline experienced a slight uptick in calls from FY2018 to FY2022, as well as an increase in the number of calls assigned for intervention during that period – 4,645 in FY2018 to 5,975 in FY2022. Of those 5,975 calls assigned for intervention in FY2022, 3,328 reports (56 percent), some involving more than one child, were assigned to CWSB for investigation. Reports assigned to CWSB require a social worker to contact every child identified in the report within 48 hours (two days) due to concerns for safety.

In FY2022, the Intake Unit received 20,603 calls involving 5,874 children, of which 1,380 children (24 percent) were confirmed as victims of child maltreatment, including abuse, neglect, or threatened harm; however, DHS did not report how many of these children may have entered foster care.

Maintenance payments for foster families

Foster homes that are licensed or issued provisional certificates by DHS to care for children receive monthly foster board reimbursements from the State, a portion of which may be reimbursed by the federal government. As of October 2022, monthly foster board reimbursement rates are \$649 for a child 0-5 years old, \$742 for a child 6-11 years old, and \$776 for a child 12 years and over. Additional reimbursements may also cover basic daily needs and other essentials such as clothing and visitation/services to facilitate reunification. For example, reimbursements for clothing are capped annually at \$810 for children ages 0-5, \$822 for children ages 6-11, and \$1,026 for children 12 and older.

Title IV-E eligibility review

The U.S. Department of Health and Human Services' Administration for Children and Families conducts periodic reviews of states' child and family service programs through the Children's Bureau.²

The Children's Bureau is authorized to review states' child and family services programs for compliance with the requirements of Title IV-E of the Social Security Act. The Title IV-E Foster Care Program permits states to claim federal reimbursement for a portion of foster care expenditures for children who are removed from their homes and placed in licensed foster homes, and who are eligible based on income requirements in the former federal Aid to Families with Dependent Children program. The State of Hawai'i cannot claim Title IV-E reimbursement for foster care payments for children in unlicensed homes, including homes with provisional certificates and expired licenses.

Foster care, by the numbers

IN FY2022, CWSB served 2,322 children in foster care, a roughly 8 percent decline from the previous year; approximately half of those children were in foster homes on O'ahu, according to the Hawai'i Data Booklet accompanying DHS' Annual Progress and Services Report issued on June 30, 2023.

Impetus

This performance audit was performed in response to Senate Concurrent Resolution No. 102, Senate Draft 1, House Draft 1 (2022 Regular Session) that requested the Office of the Auditor to conduct a performance audit of the Department of Human Services, Social Services Division, Child Welfare Services Branch to include:

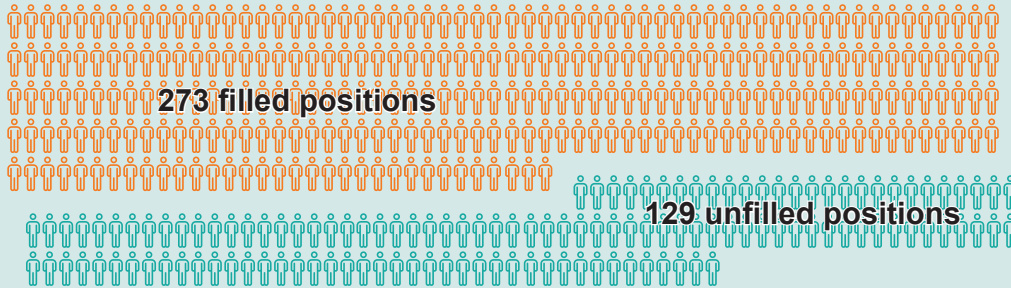
1. Child Welfare Services Branch's policies, procedures, and processes to protect the safety and well-being of children in their own homes and out-of-home placements, including foster care, guardianship, and adoption; and
2. The recruitment and retention of social workers and other staff at the Child Welfare Services Branch.

Prior Audits

In 1997, our *Management Audit of the Department of Human Services*, Report No. 97-18, found that the foster board payment program was being administered with little regard for fiscal constraints. Expenditures for services, other than flat monthly board payments, were made largely at the discretion of individual social workers.

² Hawai'i Child and Family Services Reviews (CFSRs) were conducted in 2003, 2009, and 2017. As noted in Senate Concurrent Resolution No. 102, Senate Draft 1, House Draft 1 (2022 Regular Session), CWSB initially failed to pass the three reviews. However, following all three reviews, CWSB submitted Program Improvement Plans (PIP) that were approved by the Children's Bureau and successfully completed all of the actions required to achieve conformity and avoid any penalties. In other words, the issues intended to be addressed by the 2017 CFSR PIP have been deemed successfully completed.

Child Welfare Services Branch Staffing (as of February 2023)



Source: Office of the Auditor

■ Filled positions
■ Unfilled positions

AS OF FEBRUARY 2023, CWSB had 402 funded positions, 129 of which were unfilled. The 32 percent vacancy rate was the highest in five years according to DHS' Annual Progress and Services Report for federal fiscal year 2024. These positions include 177 caseworkers, 40 percent of which were vacant – nearly twice as high as the previous year – and the branch continues to encounter difficulty in recruiting and retaining staff. In some sections, caseworker vacancies are so high that supervisors had to take on cases, impinging on their ability to manage and support other caseworkers to move their cases quickly and safely toward permanency and case closure.

The vacancy rate has since climbed higher due to staff turnover and challenges recruiting qualified employees. DHS' FY2023 and FY2024 Variance Report dated December 5, 2023, states that 131.5 of CWSB's 389.5 funded positions (34 percent) were unfilled. According to the CWSB Administrator, exit interviews with departing staff indicate that high workload, a lack of support and guidance, and insufficient pay were the top three reasons for leaving the branch. Assessment workers who investigate abuse allegations are the hardest to retain, they said, noting some assessment workers do not pass the six-month probation period.

CWSB struggles to recruit intake workers because of its non-traditional work hours,

which require social workers to receive reports of alleged child abuse and neglect 24 hours a day. During our audit period, CWSB's O'ahu licensing unit had 12 staff workers and 3 support staff who were responsible for 343 resource caregiver homes. Based on the number of homes, O'ahu licensing workers would be responsible for approximately 28 licensing files each. In contrast, there was just one licensing worker in each of the branch offices in Maui, West Hawai'i, and Kaua'i. Since May 2021, the Maui office has had one licensing worker who was responsible for 150 resource caregiver homes during our audit period. The West Hawai'i office has had one licensing worker for several years; that worker was responsible for 110 licensing files during our audit period. In 2023, the Kaua'i office's sole licensing worker was responsible for 117 licensing files.

CWSB established a Specialized Workload Assessment Team (SWAT) designed to be adaptive and provide statewide workforce support, including mentoring, training, and casework services, to sections/units as needed due to conditions such as high work volume and/or reduced staffing. The SWAT unit is located on O'ahu and consists of a supervisor, three caseworkers, and two assistants. SWAT travels where needed and recently assisted offices in West Hawai'i and Maui with intakes and closing of inactive cases.

In 1999, our *Audit of the Child Protective Services System*, Report No. 99-5, assessed the adequacy of decision-making processes and communication from case intake through closure. Our report revealed that DHS did not ensure all child abuse and neglect reports were investigated when appropriate. We also found the department's communication between its Child Welfare Services Branch, the county police, and the Family Court was ineffective. As a result, the department had not ensured that decision-makers had access to necessary information, that criminal proceedings began when warranted, or that the Family Court authority was sought when required. In addition, we found that untimely permanency planning unnecessarily increased foster care costs.

Our 1999 audit also assessed the adequacy of the department's contract management and its oversight of federal Title IV-E funds and foster care payments. We reported the department had not adjusted future contract amounts to account for current low service usage, as allowed in its purchase of service contracts, or ensured that services it paid for were received and effective. Although the department had made progress in increasing Title IV-E reimbursements, we found the timeliness in determining eligibility could be improved. We also identified a lack of management controls to prevent unnecessary foster care and general assistance payments.

In 2003, we conducted a *Follow-Up Audit of the Child Protective Services System*, Report No. 03-12, to ascertain the department's efforts to address the findings and recommendations of our 1999 audit. We found that many of the deficiencies remained, and significant problems persisted, including weak contract management, untimely reviews of contractor performance, and continued waste of state funds. Inadequate contract monitoring resulted in numerous overpayments to service providers. In one case, a service provider was overpaid \$13,000. We also found that welfare families continued to receive assistance benefits after children were placed in foster custody.

We further found that supervisory oversight and review – a critical department control – was inadequate and resulted in inconsistent enforcement of intake and investigation procedures, poor communication with the Family Court and the Honolulu Police Department, and untimely permanency planning.

In addition, we found that the Child Protective Services System, the State's child abuse and neglect database, remained unreliable, resulting in inaccurate, incomplete, and outdated case information for decision-makers. Moreover, the department did not consistently inform Family Court of pending expirations of voluntary foster custody agreements.

We found six instances where children remained in voluntary placement beyond the 90-day statutory limit. In one of these cases, a child was placed in foster custody for five months before the department petitioned the court for authority. Inconsistent communication was further evidenced through the department's failure to comply with Hawai'i's mandated reporting law, which requires all cases of abuse and neglect to be referred to the appropriate county police departments for criminal investigation.

Our 2003 follow-up report also found that the department failed to plan for permanency by the twelfth month of a child's out-of-home care in almost half of the cases reviewed (23 of 49). Moreover, a family's inability to follow through with service plans was repeatedly disregarded in decision-making, leading to additional, similar plans being offered and resulting in permanency planning delays.

The report additionally found that foster families were paid for foster care services without adequate proof of the child being present in the home. In our sample, we found over \$11,000 in questionable payments because of inadequate documentation.

Audit Objectives

1. Determine CWSB's compliance with the following certification requirements for the licensing of resource family homes for children pursuant to Hawai'i Revised Statutes and Hawai'i Administrative Rules, including:
 - Disposition of licensing applications within 120 days;
 - Granting of provisional certificates of approval for no more than 60 days, or, if extended, no more than one additional 60-day extension; and
 - Renewal of unconditional licenses before the expiration date of the existing license;
2. Describe the administration of contracts for services relating to and intended to support CWSB, including the contract monitoring and contract evaluation requirements pursuant to Sections 3-149-401 and 3-149-501, Hawai'i Administrative Rules; and
3. Make recommendations as appropriate.

Audit Scope and Methodology

Our review of DHS' compliance with legal requirements relating to the licensing of child-specific homes and its monitoring of contracts to support its licensing of child-specific homes was conducted from September 2022 through October 2023. When appropriate, we also examined data from prior years and the current calendar year.

We reviewed DHS' applicable statutes and administrative rules – specifically, Chapter 346, HRS, and Title 17, Chapter 1625, Hawai'i Administrative Rules (HAR) – as well as Chapter 103F, HRS, *Purchasing of Health and Human Services*, and the associated administrative rules, Title 3, Chapter 149, HAR, *Contracting*. To address our objective relating to CWSB's compliance with licensing requirements, we also reviewed documents maintained by DHS relating to its licensing of foster homes, including CWSB's policies and procedures related to licensing; relevant DHS internal communication forms (ICFs); Catholic Charities reports; legislative history; and other criteria relating to the department's licensing process for child-specific homes.

To determine the length of time that children were in unlicensed foster homes, meaning in child-specific homes that had only a provisional certificate as well as foster homes whose licenses had expired, we randomly sampled approximately 10 percent of the licensing files from each island that CWSB identified as "active" in its Licensing Resource File database (LRF). We were told the 1,011 active files represented all the resource care homes, including both general license and child-specific homes, in which foster children were placed as of September 8, 2023. However, we found 16 of the 1,011 files identified in LRF were duplicate entries, reducing the number of foster homes to 995.

Of the 103 files that we reviewed, 59 were child-specific homes and 44 were general license homes. We did not have sufficient data to conduct our analysis on 6 of the 59 child-specific homes, and another 4 were closed before being licensed or had been issued a provisional certificate within 60 days of our review; therefore, our analysis is based on 49 child-specific homes, 36 of which were unconditionally licensed. Of the 36 child-specific homes that were unconditionally licensed prior to our file review, we determined that 6 of them were no longer providing care for foster children and, therefore, should have been removed from the list of active resource family homes. For the remaining 30 child-specific homes, we calculated the number of days that each of those homes took to complete DHS' licensing requirements from the date of the home's application. Of the child-specific homes

that did not have unconditional licenses, we determined the length of time each home's application was pending, i.e., the number of days between the date of the application and the date of our file review on September 14, 2023. Because those homes were not licensed as of September 14, 2023, we do not know whether they subsequently completed the licensing requirements or remain unlicensed. However, we did include those homes in calculating the number of child-specific homes in our sample with applications pending longer than 60 days and 90 days.

We also identified a number of general license homes and child-specific homes whose unconditional licenses had expired. We calculated the number of days that those homes were unlicensed while caring for foster children and, for those with an unconditional license as of September 14, 2023, the length of time those homes took to complete the requirements for a new license or to renew their license.

To address our objective relating to DHS' administration, monitoring, and evaluation of licensing support contracts, we reviewed the department's 2019 and 2021 requests for proposals for licensing services; the 2019 and 2021 contract agreements between DHS and licensing providers, which incorporated the provider's proposals; reports prepared by DHS, Partners in Development Foundation, and Catholic Charities, respectively, relating to licensing of foster homes; and program financial information.

We conducted interviews of DHS management and staff, including the Social Services Division Administrator; the Program Development Administrator and Assistant Program Administrators; the Support Services Office Administrator and Purchase of Services Unit Specialists; the Hawai'i Child Welfare Continuous Quality Improvement Project Director; the CWSB Administrator, CWSB Assistant Administrator, Resource Home Licensing Unit Supervisor, administrators and supervisors for the islands of O'ahu, Maui/Moloka'i/Lāna'i, Hawai'i Island, and Kaua'i; and various CWSB licensing workers, social workers, and human services professionals across the state.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our audit findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Summary of Findings

1. CWSB's licensing of foster homes often did not comply with legal requirements, creating risks that foster children were in unsafe or inappropriate homes and causing the State to forgo federal reimbursements.
2. DHS reimbursed contractors' personnel and administrative costs without assessing whether performance goals were met.

Chapter 2

Finding No. 1

CWSB's licensing of foster homes often did not comply with legal requirements, creating risks that foster children were in unsafe or inappropriate homes and causing the State to forgo federal reimbursements.

Both DHS' governing law, Chapter 346, HRS, and its administrative rules, Title 17, Chapter 1625, HAR, are unambiguous in the requirement that foster homes must be licensed by the department in order to care for a child. However, we found DHS struggled to comply with that mandate to place abused and neglected children in licensed foster homes, often allowing children to remain in homes for months – even years – that had not, and sometimes would not, complete the licensing requirements that the department established to ensure the home is safe, stable, and nurturing.

Chapter 346, HRS, creates a broad legal framework for the State's child welfare system, with specific provisions related to foster care services. Among other things, as conditions for licensure, the statute requires foster homes to “[m]eet all standards and requirements established by the department” and all adults residing in foster homes to undergo criminal history record checks as well as child abuse and neglect registry checks. The Legislature delegated policymaking authority to DHS, directing the department to adopt administrative rules to specifically define the conditions and competence required of foster homes to care for and protect minor children. The statute notes that those rules “shall have the force and effect of law.”

DHS promulgated administrative rules relating to the licensing of foster homes: Title 17, Chapter 1625, HAR, *Licensing of Resource Family Homes for Children*, has been in effect since December 9, 2010. Those rules include specific policies and requirements for licensure that the department deemed necessary to achieve its goal to provide temporary foster care placement of children “in a safe, stable and nurturing environment.”

State policy gives placement preference to “child-specific homes,” which may begin caring for foster children before completing licensing requirements.

CWSB recognizes two types of foster homes: homes in which caregivers have no relation to the youth they foster, referred to as general license homes, and homes that become licensed to care for a child where there is an existing relationship, which are called child-

specific homes. DHS policy gives preference to placing a child with a family that has a relationship with the child, which is often a relative but also includes, for instance, parents of a friend, a school teacher, or a neighbor. These child-specific homes satisfy an immediate need to help children maintain some degree of “normalcy” in foster care while the department strives to reunite them with their families.

However, child-specific placements may occur with limited notice, and those prospective foster homes often are unable to complete the department’s licensing requirements in advance of the child’s placement. In those cases, DHS’ administrative rules provide for the issuance of a provisional certificate, which is “a temporary certificate issued at the discretion of the department,” to allow the home time to complete the requirements for licensure while caring for a foster child.

Both general license and child-specific homes must meet the same licensing requirements that include criminal history checks, child abuse and neglect registry checks, and fingerprint-based FBI clearances for all adults residing in the home. In addition, foster families must provide written medical reports certifying that no family member suffers from an illness or disability that would impair the family’s ability to care for children as well as a tuberculosis clearance for all household members. DHS also is required to conduct a “study” of household members to ensure that they have “the ability and personal qualities to care for foster children.” That study involves interviewing every individual in the household, including children, and assessing whether the home meets acceptable State of Hawai‘i standards for housing and sanitation. And, on the basis of the study which helps determine whether the foster home met the licensing requirements, the department is empowered to issue the home an Unconditional Certificate of Approval, signifying the home is licensed to care for foster children.

Provisional certificates may only be issued when it is reasonable to assume all licensing requirements will be met within 60 days.

For child-specific placements, the administrative rules state “[a] provisional certificate of approval, *not to exceed sixty days*, unless otherwise approved by the department may be issued to a [foster] home that is unable to meet all the requirements at the time of the study, if it is reasonable to assume that all licensing requirements will be met within sixty days and that there are no risks to the health, safety, or well-being of a child.” (Emphasis added.) “Provisional certificate of approval” is defined as “a temporary certificate issued at the discretion of the department for a period *usually not exceeding sixty days* to any [foster] home which has met the essential safety requirements but which has not fully met all licensing requirements at the time the certificate is issued.” (Emphasis added.)

A provisional certificate cannot provide the same health and safety assurances as an unconditional license to operate a foster home. Provisional approval indicates only that the relatives (or other persons) wanting to foster a specific child have been deemed by the department to be willing to care for specific children and that no adults in the household are disqualified based on background checks in criminal history databases, child abuse and neglect registries, and sex offender registries. An unconditional license, on the other hand, certifies that the foster home, whether general or child-specific, meets all standards for health, safety, housing, and sanitation required by DHS in its administrative rules.

The administrative rules limit the provisional certificate to 60 days, and as importantly, the department's ability to issue a provisional certificate is further checked by the additional condition: "*if it is reasonable to assume that all licensing requirements will be met within sixty days and that there are no risks to the health, safety, or well-being of a child.*" (Emphasis added.) Those provisions reflect the department's balancing of the risk to a child and the need to provide foster care for a child. That policy also seems to signal DHS' determination that, in balance, 60 days is a reasonable amount of time for a foster family to complete requirements the department deemed necessary to provide an acceptable level of assurance that the child-specific home is safe. While both sections provide some discretion regarding the length of a provisional certificate, neither the statute nor the administrative rules authorize the department to grant an extension or more than one provisional certificate to the same child-specific applicant. Rather, the absence of such authority seems to reflect the department's unwillingness to further risk a child's well-being by extending the period a child is in a home that the department has yet to determine is safe, stable, and nurturing. Irrespective of the department's rationale, the administrative rules are *legal requirements*.

CWSB procedures manual does not align with Hawai'i Revised Statutes and DHS' administrative rules.

DHS has a *Child Welfare Services Procedures Manual* that contains the department's policies with respect to child welfare services as well as sections specific to the procedures for certain of the branch's activities, including assessment, casework services, licensing, and payments. However, we found many of DHS' licensing procedures did not comport with the legal requirements set forth in the statute and the department's administrative rules; they simply overwrote the policies that the department, itself, developed in its rules to ensure that foster children are in safe, stable, and nurturing environments.

The licensing procedures, which are in Part IV of the manual, describe the steps to license foster homes and provisionally certify child-specific caregivers, with the goal “*to unconditionally approve all homes and to minimize the time a home is provisionally licensed.*” (Emphasis added.) That goal correlates to DHS’ overarching mandate “to make paramount the safety and health of children who have been harmed or are in life circumstances that threaten harm.” The procedures also emphasize that DHS is not able to claim federal reimbursement for either support payments to foster families or administrative costs for eligible children in provisionally certified homes.

Unconditional License vs. Provisional Certificate

GENERAL LICENSE HOMES must complete all licensing requirements before caring for any foster children. Child-specific homes that qualify for a provisional certificate can complete many of those requirements after children are placed in the home. The requirements for a license and a provisional certificate are listed below for comparison.

REQUIREMENTS FOR A 1- OR 2-YEAR UNCONDITIONAL LICENSE	REQUIREMENTS FOR A 60-DAY PROVISIONAL CERTIFICATE
<ul style="list-style-type: none"> ✓ Background Checks - Child Abuse and Neglect Registry, Hawai'i Criminal Justice Information System, Hawai'i Sex Offender Registry, and National Sex Offender Registry 	<ul style="list-style-type: none"> ✓ Background Checks - Child Abuse and Neglect Registry, Hawai'i Criminal Justice Information System, Hawai'i Sex Offender Registry, and National Sex Offender Registry
<ul style="list-style-type: none"> ✓ Federal Bureau of Investigations (FBI) Clearances - Fingerprint-based FBI clearances for adult household members 	<p style="text-align: center;">Not required</p>
<ul style="list-style-type: none"> ✓ Home Visit by CWSB 	<ul style="list-style-type: none"> ✓ Home Visit - Home visit and an in-person interview to assess the appropriateness of the family
<ul style="list-style-type: none"> ✓ Health Requirements - Physical examination within one year, tuberculosis (TB) clearances and other requirements 	<p style="text-align: center;">Not required</p>
<ul style="list-style-type: none"> ✓ Financial Requirements - The income of the resource family home shall be sufficient to maintain an adequate standard of living for the family before the addition of a foster child 	<ul style="list-style-type: none"> ✓ Financial Requirements - The income of the resource family home shall be sufficient to maintain an adequate standard of living for the family before the addition of a foster child
<ul style="list-style-type: none"> ✓ Employment History 	<p style="text-align: center;">Not required</p>
<ul style="list-style-type: none"> ✓ Marriage Verification - Marriage/divorce certificate 	<p style="text-align: center;">Not required</p>
<ul style="list-style-type: none"> ✓ Identification Verification - Verification of identification of all adult household members 	<ul style="list-style-type: none"> ✓ Identification Verification - Verification of identification of all adult household members
<ul style="list-style-type: none"> ✓ Home Study - Interview all household members and other requirements 	<p style="text-align: center;">Not required</p>
<ul style="list-style-type: none"> ✓ Sleeping and Other Arrangements - Suitable light, ventilation, and provision for proper rest, a safe and comfortable bed of a size and design to ensure safety and comfort with clean, comfortable bedding and linen, and equipment or appliances (e.g., wheelchairs, crutches, oxygen machines, etc.) are available and properly functioning 	<ul style="list-style-type: none"> ✓ Sleeping and Other Arrangements - Suitable light, ventilation, and provision for proper rest, a safe and comfortable bed of a size and design to ensure safety and comfort with clean, comfortable bedding and linen, and equipment or appliances (e.g., wheelchairs, crutches, oxygen machines, etc.) are available and properly functioning

✓ Sanitation - The home shall comply with State of Hawai'i standards on housing and sanitation including a kitchen with working equipment for safe food preparation, bath and shower with hot and cold water, rooms with adequate light, well-lit bedrooms, and fire escape exits	Not required
✓ Fire Escape Plan	Not required
✓ Current Automobile Insurance - All Vehicles	Not required
✓ Family Photograph - All Household Members	Not required
✓ Training - Year one pre-service Hawai'i Assures Nurturing and Involvement (H.A.N.A.I.) training	Not required
✓ Two References	Not required

Source: Office of the Auditor

According to current procedures for child-specific homes, once the placement worker verifies that required criminal history background checks were completed, the documentation is emailed to the appropriate CWSB licensing unit. That unit will then add the child-specific family into its database, and the assigned CWSB licensing worker emails the provisional certificate to the child-specific home. The licensing worker, ultimately, is responsible for issuing the unconditional license to the child-specific home upon completion of the licensing process. However, if the foster family has not met all the licensing requirements before the provisional certificate expires, the department's procedures explicitly state, "*the child must be removed and the home closed*" except for under certain circumstances. (Emphasis added.)

Specific provisions contained in the manual, which has a revised date of February 22, 2019, have been further amended by DHS through "Internal Communication Forms" (ICFs), which are akin to internal memoranda. Each of those revisions to the department's procedures was originated by the Social Services Division's Program Development Office 2 (Program Development Office), which is separate from CWSB, and approved by different DHS personnel, including the administrator of the Program Development Office and CWSB's Assistant Branch Administrator. Among other things, the department created more lenient timeframes for licensure through ICFs that effectively lengthened the amount of time a child-specific home can be provisionally certified, i.e., unlicensed, while caring for a foster child. For example, approximately six months after revising its procedures manual, DHS further amended those procedures through an ICF dated August 9, 2019 (August 9 ICF), which "temporarily" extended the timeframe for licensing to 90 days. The department has issued subsequent ICFs that have rescinded and

replaced the August 9 ICF, but those ICFs have retained the 90-day period for a child-specific home to complete the licensing requirements.

The department's current procedures include two narrow exceptions that allow it to issue "one additional 60-day Provisional License":

1. Sudden death in the child-specific applicants' family allowing applicants to mourn; or
2. Adult household member is immobilized and not able to leave the home to complete FBI background check.

Those procedures also implicitly confirm the department's policy to remove a child from a home that is not able to meet the requirements to become unconditionally licensed, stating when that happens and the child is placed in another provisionally certified home, the process and timelines restart.

The conflicts between DHS' rules, CWSB's procedures manual, and the series of ICFs have created confusion among CWSB licensing staff about how long child-specific homes may be provisionally certified. Even the Resource Home Licensing Unit Supervisor was unclear about provisional certification timelines after six months on the job and after signing off on a handful of extensions. One CWSB licensing worker told us, "[For] the rules itself I ask my co-workers because there is so much change in the last couple of years as far as how we process things You know lately I can't even keep up with them because they keep changing." Another employee brought up discrepancies between provisional certification procedures and DHS' rules, noting that the timing of initial application was 60 days and now it is 90 days, and it is unclear where "administration" got the 90 days from.

In addition to the confusion caused by ICFs, we also question the department's authority for amending *legal requirements* through internal procedures and how that achieves the department's stated goal "to unconditionally approve all homes and to minimize the time a home is provisionally licensed." More specifically, the State's policy to allow child-specific homes to care for children while completing the licensing requirements is clear: the department can issue a provisional certificate, "*not to exceed sixty days*," to a child-specific home that is unable to complete the requirements for licensure, "if it is reasonable to assume that all licensing requirements will be met within sixty days" and there are no risks to the health, safety, or well-being of a child. We do not believe that the department has the legal authority to ignore those policies or to override them through administrative action.

Neither Chapter 346-17, HRS, nor Chapter 17, Section 1625, HAR, explicitly provide for extensions or issuance of multiple provisional certificates. The ability to approve longer provisional certificates – discretion that the department granted itself in the administrative rules that it promulgated – needs to be balanced against DHS’ obligation to ensure there are no risks to the health, safety, or well-being of a child while the home is unlicensed. The maximum length of a provisional certificate, i.e., “not exceeding 60 days,” in the administrative rules presumably reflects the department’s determination that such period was reasonable for a foster family to complete the licensing requirements and was the appropriate balance between the importance of providing certain stability for a foster child and the risk to a child that the unlicensed home may not be a safe, stable, and nurturing environment. However, through the procedures intended to guide CWSB licensing workers, the department extended the length of provisional certificates by an additional 30 days and added the ability to issue a second provisional certificate of 60 days without regard to the requirements of the Hawai‘i Administrative Procedures Act, Chapter 91, HRS (see sidebar on page 27). In total, the procedures consider child-specific homes operating without completing the licensing requirements for *150 days* (or *five months*), which is *more than double* the number of days than is legally permitted. Moreover, the procedures do not direct either the branch’s placement workers or licensing workers to assess whether the child-specific home is reasonably likely to meet the licensing requirements within 60 days, which is a condition to issue the provisional certificate under DHS’ administrative rules.

Allowing children to remain in foster homes that cannot – or sometimes knowingly will not – complete the department’s licensing requirements within 60 days is inconsistent with the department’s higher mandate to protect abused and neglected children. However, we found DHS’ actual licensing practices to be even more concerning and contrary to the legal mandates and the department’s goal to minimize the time a home is provisionally licensed. Those practices, which are described below, fall well-short of the licensing requirements in the department’s administrative rules and even the department’s expanded procedures, creating significant risk that a foster child is in an inappropriate environment and reducing the State’s federal foster care reimbursements under Title IV-E.

“The expectation is that these children will be in homes that will keep them safe ... I think we follow the rules, and we try to do our best with that, and on occasion kids are being hurt in these homes.”

– CWSB
Administrator

CWSB’s actual licensing practices did not comply with the legal requirements or even the department’s procedures.

During our audit planning, the CWSB Administrator identified the branch’s licensing of foster homes as the activity posing the most risk to children. The CWSB Administrator told us: “The expectation is that these children will be in homes that will keep them safe ... I think we follow the rules, and we try to do our best with that, and on occasion kids are being hurt in these homes.” However, in practice, we found the department followed neither the legal requirements nor its internal licensing procedures for child-specific homes. The department’s actual licensing practices did not align with its goal: “*to unconditionally approve all homes and to minimize the time a home is provisionally licensed.*” We found that, once a provisional certificate is issued to a child-specific home, the department generally allowed a child to be in the home seemingly *indefinitely*, without regard to whether the relative (or other persons) fostering the child and others in the home were making any meaningful effort to complete the licensing requirements.

We reviewed approximately 10 percent of CWSB’s 995 active resource caregiver homes on O’ahu, Maui, East and West Hawai‘i, Moloka‘i, and Kaua‘i, 59 of which related to child-specific homes. We assessed whether the department’s licensing process was consistent and in compliance with legal requirements; we did not assess the process by which each unit licensed child-specific homes because, as explained in the second finding, the department had contracted with Catholic Charities to compile and complete the requirements for the department to license foster homes. However, it appeared that each unit – and each licensing worker – tracked the status of provisional certificates differently, using their own methods.

Based on the 30 child-specific homes that had achieved licensure prior to our file review, we found the licensing process took, on average, 314 days – *over 10 months* – to complete, meaning children stayed for months or longer in homes the department had not verified met State and DHS standards for safety, health, housing, and sanitation. When we looked at all 49 homes we analyzed, we determined that 43 homes cared for children under provisional certificates for longer than 60 days, which is the *legal deadline* for child-specific homes to complete the licensing requirements in the department’s administrative rules. With the additional 30 days that DHS added to the length of a provisional certificate through its internal procedures, only three of the 49 child-specific homes completed licensing requirements within that expanded period, i.e., within 90 days. Those same procedures direct that the child will be removed from a foster home that is unable to complete the licensing requirements within that time period, which the department did not do.

Misuse of provisional certificates kept children in homes that had not met DHS’ standards for health, safety, housing, and sanitation for months longer than state law allows.

Only 22 percent of the child-specific home licensing applications in our sample were issued a license within 150 days – or, stated differently, *78 percent of the child-specific homes in our sample remained unlicensed after 5 months.* In fact, half of the applications were open for 270 days or more. Even under the department’s procedures, the *maximum* number of days for a child-specific home to complete DHS’ licensing requirements is 150 days – the first provisional certificate of 90 days and a second provisional certificate of 60 days. While neither the statute nor the administrative rules allow the department to extend or issue a second provisional certificate – according to the law, child-specific homes must complete the licensing requirements within 60 days – the department, through its procedures, granted itself the ability to issue “*one additional 60-day Provisional License*” (emphasis added). But even that is limited to two very specific and narrow circumstances: a death in the applicant’s family or an immobile adult household member who cannot leave the house to complete the required FBI background check.

The CWSB Administrator told us, “[We’ve] got to figure out why the home is not licensable ... Children should not be in homes where it is not vetted and safe, and the expectations have not been met.” Yet, the department extended provisional certifications for all – 100 percent – of the child-specific homes whose licensing files we reviewed. In those files, we saw instances where multiple extensions and provisional certificates had been issued without any documentation or even a reference about either of the two conditions for which the procedures allow another provisional certificate. The “exceptions” that support one additional provisional certificate seem to be quite uncommon, which suggests that CWSB licensing workers, in practice, were not restrained by those exceptions. Based on our sample, the department commonly issued *multiple* provisional certificates to child-specific homes – all of the homes in our sample needed more than 60 days to meet licensing requirements. Those numbers cause us to question whether licensing staff were made aware of the CWSB Administrator’s position – and the legal requirement – that children should be removed when homes do not satisfy the licensing requirements.

The Administrator described that position as clear cut, but explained it was also a “big picture” perspective; supervisors and administrators may offer different instructions based on what is happening in the foster home, such as directing workers to continue encouraging the family to get overdue paperwork completed if maintaining placement stability is deemed in the child’s best interest. For example, an O’ahu

Administrative rules must be amended through a formal process that invites public participation

BECAUSE THEY HAVE “THE FORCE AND EFFECT OF LAW,” administrative rules are adopted only after a well-defined, rigorous process required under the Hawai‘i Administrative Procedures Act, Chapter 91, HRS, that includes posting of the proposed rules and proposed amendments to existing rules as well as holding public hearings. Governor approval is also required for the adoption, amendment, or repeal of any rule. However, in contrast, DHS’ process to “amend” rules through its procedures manual – and subsequent ICFs – does not involve any of the requirements and safeguards of the statutory rulemaking process. As we found, DHS changes its procedures, which seemingly attempt to change legal requirements, without any notice to the public, including the affected child-specific homes, whenever it (or the Assistant Program Administrator) decides.

licensing worker stated extensions are acceptable only under extreme circumstances, but explained that CWSB issues additional provisional certificates when foster homes have made continued progress toward licensure but the branch could not complete a home study on time, something that DHS' contractor is responsible for doing. "Of course, we'll extend for that," the licensing worker said. The O'ahu Licensing Unit Supervisor had been told completing the licensing process within 90 days is reasonable, but had come to believe six months is more realistic.

The supervisor and the branch's licensing staff may believe that extending provisional certificates is appropriate in certain circumstances or that the licensing process cannot be completed in 60 days; however, their discretion to extend provisional certificates is constrained by and must be consistent with the statute and administrative rules, which are legal requirements that they do not have the authority to disregard. The statute delegated to DHS the authority to establish licensing standards through administrative rules, which it did. And, as we described above, those administrative rules limit the length of a provisional certificate to no more than 60 days and simply do not provide for an extension or the issuance of more than one provisional certificate to a child-specific home.


CWSB covers lapses in provisional certification by retroactively approving extensions.

Our review of the licensing files revealed many examples – concerning examples – of the department's use of provisional certificates to keep children in child-specific homes, none of which complied with legal requirements or were otherwise allowed. We found foster home applicants were regularly granted multiple, consecutive provisional certificates or extensions that allowed them to continue caring for foster children for months, sometimes more than a year, without meeting DHS' licensing standards. Of the 49 child-specific files we analyzed, we found 18 child-specific homes cared for children under provisional certificates *for more than a year* – during which time applicants lacked background checks, training, and completed home studies. We identified one case in which at least one foster child had been housed in a home with only a provisional certificate for *720 days* through the end date of our random sample, September 14, 2023. We do not know whether the home subsequently completed the licensing requirements or the children have been removed.

We list below three of the more egregious situations that we identified in the child-specific home licensing files that we reviewed:

1. A child-specific home cared for six children over a 606-day period without a provisional certificate or license. While not all six children were in the home for the entire 606 days, we calculated the length of time each child was in the unlicensed home – 1,672 days collectively.

STATE OF HAWAII
SOCIAL SERVICES DIVISION
DEPARTMENT OF HUMAN SERVICES
CHILD WELFARE SERVICES



TYPE OF APPLICATION:
 General-License Applicant
 Child-Specific Provisional License Applicant
 Special License Home Provisional Applicant
 Relative Placement Consideration Applicant

RESOURCE CAREGIVER LICENSING APPLICATION

- All licensing requirements must be completed within 90-days from the date you sign this application.
- Please refer to the "Resource Caregiver Licensing Checklist" to keep track of all required paperwork that you have submitted through the licensing portal and to see what outstanding information/documents is needed to complete your application.
- Child Welfare Services (CWS) conducts the following background checks on all adults in the home prior to placement: CJIS-Hawaii, State Sex Offender, National Sex Offender and Hawaii Child Abuse & Neglect.
- Before a final decision can be made on the application, applicants and all adult household members must undergo fingerprinting. (Please have all applicants and adult household members schedule and complete fingerprinting next 10 business days).
- CWS makes the final determination to approve (or deny) the resource caregivers licensing application based on background clearances, home study assessment, interviews, documents you provide, collateral information, and other sources of reliable/verifiable information are all used in the final decision made by CWS.
- Providing false information in this application, CWS forms, interviews and other contact with CWS may result in immediate grounds of denial of your application.

APPLICANT AND CO-APPLICANT NAME

PRIMARY APPLICANT NAME: _____

CO-APPLICANT NAME: _____


FOR CHILD SPECIFIC/SPECIAL LICENSE PLACEMENT
(SKIP THIS SECTION IF CHILDREN ARE NOT PLACED IN HOME)

CPSS NUMBER:	CASE NAME:	DATE OF BIRTH:
CHILD/YOUTH NAME:		DATE OF BIRTH:
CHILD/YOUTH NAME:		DATE OF BIRTH:
CHILD/YOUTH NAME:		DATE OF BIRTH:
CHILD/YOUTH NAME:		DATE OF BIRTH:
CHILD/YOUTH NAME:		DATE OF BIRTH:
CHILD/YOUTH NAME:		DATE OF BIRTH:

DHS 1583 (9/22) Page 1 of 1

Source: Department of Human Services

STATE OF HAWAII
SOCIAL SERVICES DIVISION
DEPARTMENT OF HUMAN SERVICES
CHILD WELFARE SERVICES



DEPARTMENT OF HUMAN SERVICES
CHILD WELFARE SERVICES BRANCH

AGREEMENT BETWEEN THE DEPARTMENT OF HUMAN SERVICES
AND
RESOURCE CAREGIVERS

This agreement between the Department of Human Services (DHS) and the Resource Caregiver (RCG) is for the purpose of establishing a foster care placement for the child named in this agreement. Foster care means placement which is apart from the child's legal custodian which provides twenty-four hour parenting care, including, but not limited to, placement in a licensed relative's home, a resource family home, or a child-caring institution, except in the case of a child who has attained 18 years of age, the term shall include an approved supervised setting in which the individual is living independently. This agreement is effective upon placement of the child in the home of the RCG until the child is no longer placed with the RCG as a foster care placement (HRS 17-1610, 17-1625).

Name of Resource Caregiver 1: _____

Name of Resource Caregiver 2: _____ Date of Birth: _____

Name of Child 1: _____

Effective Date: _____

A. RESOURCE CAREGIVERS (RCG):

We understand that the child's placement in our home is temporary and not for adoption, while the department is helping the child's parents with reunification and searching for relative placement. While the child is in our home, DHS has responsibility to develop and implement short and long-term plans for the child in our home. DHS has responsibility to coordinate the child's care. We understand that any form of corporal punishment in disciplining the child is not allowed and that the department has the authority to remove the child from our home if that is determined necessary. This agreement does not create an employer/employee relationship between the RCG and the DHS. This agreement may be revoked at any time with notice provided and does not create any rights for the RCG to have the child placed with them and does not create any rights or expectations not expressly provided by this agreement.

Resource Caregivers shall:

- Meet all the licensing requirements within 90-days from placement per Hawaii Administrative Rules 17-1625:
 - Schedule FBI Fingerprinting appointment for ALL ADULT HOUSEHOLD MEMBERS within 7-days from placement
 - Obtain TB clearance FOR ALL HOUSEHOLD MEMBERS INCLUDING CHILDREN within 30-days

DHS 1508 (1/21)

A Requirement in Name Only?

GENERAL LICENSE HOMES must complete all licensing requirements before caring for foster children. However, child-specific placements may occur with limited notice, and those prospective foster home applicants often are unable to complete the licensing requirements prior to the placement in a child-specific home. In those cases, DHS issues a provisional certificate, which allows the applicant time to complete licensure requirements while caring for the child.

The deadline for completing the licensing process is clear: "All licensing requirements must be **completed within 90-days** from the date you sign this application." It is the first line of DHS' Resource Caregiver Licensing Application. In addition, meeting this requirement is first of the many caregiver responsibilities listed in the department's Agreement between the Department of Human Services and Resource Caregivers.

During that time, the home was missing tuberculosis clearances and a home study, as well as FBI fingerprints for one adult in the home. According to the file, both caregivers had “significant” criminal and child welfare histories and the husband’s child with another woman had been placed in foster care in 2005 due to the husband and the other woman’s substance abuse issues. The file further stated that an Assistant Program Administrator had opted to provide assistance to help the home move toward licensure.

2. CWSB granted a provisional certificate and placed three foster children in a child-specific home on September 3, 2021. According to the case file, the initial home visit did not take place until January 6, 2022, approximately four months after the children were placed. The resource caregiver was subsequently granted four more provisional certificates, including one backdated to cover 157 days that foster children had been living in the unlicensed home with an expired certificate.

According to the case file, on August 31, 2022, CWSB sent a letter informing the family that its provisional certificate had been extended from August 31 to December 2, 2022, reminding the applicants of pending licensing requirements including personal references, a copy of a marriage certificate, the home study, and the final visit with a social worker. At that point, the children had been in the home just short of one year, and DHS would issue one more provisional certificate before the home was licensed on February 3, 2023, 17 months after the foster children were placed in the home.

3. A child was placed in a child-specific home that applied for a provisional certificate on May 4, 2022. Although the home was still missing several licensing requirements, CWSB placed a second child in the home on January 12, 2023. A letter from CWSB dated May 11, 2023, 372 days after the first child was placed, informed the foster home applicant that the provisional approval to care for both children had been extended to cover three 60-day periods; notably, the first and second “extensions” were approved retroactively, the first went into effect on January 31, 2023, and the second on April 1, 2023. The letter informed the applicant of a third extension through July 29, 2023, and listed the outstanding licensing requirements:

- FBI and state criminal clearance
- Medical report
- Completion of mandatory training
- Proof of financial stability
- Current driver’s license and no-fault insurance information
- TB clearances for all household members

REPORT NUMBER: KFLC3 717		STATE OF HAWAII DEPARTMENT OF HUMAN SERVICES			PAGE NUMBER: 3	
UNITY: 39		UNITY OVERDUE ELIGIBILITY REVIEWS			RUN DATE: 07/31/2023	
USING PROVISIONAL EXPIRATION DATE AS OF 07/31/2023						
FAMILY/FACILITY NAME	FAC TYPE	FACILITY ID	PROV EXPIRATION DATE	MOS O/D	WKR ID	
	SLH	FDS0187350	07/13/2022	12.8	1877	
	SLR	FDS0189160	08/10/2022	13.9	1877	
	SLR	FDS0200870	09/28/2022	10.2	1877	
	SLH	FDS0208010	02/04/2023	5.9	1877	
	SLR	FDS0208270	04/11/2021	28.0	1877	
	SLR	FDS0208510	05/05/2021	27.2	1877	
	SLH	FDS0117730	11/01/2022	9.1	1877	
	SLR	FDS0130950	02/28/2022	17.3	1877	
	CFH	FDS0134700	03/20/2022	16.6	1877	
	SLR	FDS0217850	07/09/2023	0.7	1877	
	SLR	FDS0014200	04/20/2022	15.6	1877	
	SLR	FDS0050070	12/29/2022	7.1	1877	
	SLR	FDS0213840	01/22/2023	16.3	1877	
	SLR	FDS0216410	03/06/2023	4.5	1877	
	CFH	FDS0216430	04/01/2023	4.0	1877	
	SLR	FDS0216840	03/29/2023	4.1	1877	
	SLH	FDS0216650	03/29/2023	4.1	1877	
	SLR	FDS0213330	06/18/2022	13.6	1877	
	SLR	FDS0213380	06/01/2022	14.2	1877	
	SLH	FDS0214750	10/19/2022	9.5	1877	
	SLH	FDS0214840	10/25/2022	9.3	1877	
	SLR	FDS0214800	10/03/2022	10.0	1877	
	SLR	FDS0215060	11/14/2022	8.6	1877	
	SLR	FDS0215080	10/29/2022	9.2	1877	
TOTAL MONTHS OVERDUE :				274.4		
AVERAGE MONTHS OVERDUE :				11.4		
TOTAL CASES OVERDUE :				24		

Overdue but Under-reported

One CWSB unit's Office of Information Technology report shows that 24 provisionally certified home extensions were overdue for nearly a year on average.

Source: Department of Human Services and the Office of the Auditor

Monthly Reports Show Nearly Year-long Delays in Licensing

"OIT reports" are meant to be used in internal meetings to discuss the status of each provisionally licensed home and steps needed to get it fully licensed. Those meetings were not consistently held.

EACH MONTH, DHS' Office of Information Technology (OIT) generates reports that CWSB licensing workers use to track the expiration date of provisional certificates and the recertification date for foster home licenses. These "OIT reports," which are circulated as paper printouts, compile information about homes that will need license renewals within the next few months, provisionally certified homes that must be licensed within 90 days, homes with lapsed licenses, and homes with expired provisional certificates.

We received sample OIT reports from licensing units across the state, which only capture a snapshot in time, but still offer an illuminating image. For instance, one unit's report of "overdue eligibility reviews using provisional expiration date," shows that on July 31, 2023, licensure for 24 provisionally certified homes was overdue by 11.4 months (or approximately 342 days) on average. A closer look at that report shows that nine child-specific homes had at least one licensing requirement pending more than one year after their provisional certificate expired; two of those homes still had outstanding

licensing requirements after two years. An eligibility worker supervisor explained that the purpose of the report is to provide a running list of provisionally certified caregivers and indicate which homes need extensions to their provisional certification and which need a further push to meet requirements. Licensing workers use these reports daily, the worker said.

According to the Resource Home Licensing Unit (RHLU) Supervisor on O'ahu, the OIT reports are meant to be used in one-on-one meetings between the licensing worker and the supervisor to discuss the licensing status of each home and what steps are needed to get the home fully licensed. However, those meetings were not happening consistently when the Supervisor started the job in April 2023. In September, the Supervisor informed us via email that the unit was "re-establishing ongoing and consistent one-on-one monthly supervision with each of the RHLU Licensing staff to further discuss the OIT reports and actions to follow up with the support of the [resource caregivers] being unconditionally licensed."

Taking no for an answer

During an initial home visit, two household members refused to comply with licensing requirements. CWSB awarded the child-specific home a provisional certificate anyway.

ACCORDING TO a CWSB licensing worker, following the initial home visit on January 10, 2022, two household members were unwilling to fill out the forms necessary for the home to obtain licensure as well as make FBI fingerprint appointments. Specifically, these two household members stated that they did not want to complete fingerprint appointments because they were immigrants from the Philippines. Despite this refusal, a provisional certificate was awarded to the child-specific home.

The home would operate under a provisional certificate for 456 days until all four children were removed from the home. One child was removed on March 18, 2022, and the remaining three children were removed and the home closed on February 21, 2023. The reason for the closing: "household members refused to get fingerprinted."

- Personal references
- Long- and short-term childcare plans
- Fire escape plan
- Parenting practices
- Resource family basics
- Home study and assessment by Catholic Charities
- Home visit by DHS/CWSB after receipt of the file from Catholic Charities

By not complying with legal requirements, DHS increased the risk to children in foster care and lost out on funding for services to support abused and neglected children.

Allowing children to remain in homes that have not completed the minimum requirements the department deems necessary to protect children's safety and welfare inherently increases the risk that those children may be in inappropriate environments and even harmed. As previously discussed, the department has determined that, for child-specific placements, the appropriate balance is to allow a child-specific home no more than 60 days to complete the licensing requirements.

However, the department's actual practice of allowing children to be in unlicensed homes for months, even years, longer than 60 days – a practice that is contrary to the legal requirements as well as DHS' internal procedures – greatly increases the risk to children in those homes. While we cannot determine the extent to which the department's failure to enforce its licensing requirements has resulted in actual harm to foster children, the department knows that the risk – and actual harm to children under its care – is not simply theoretical. The CWSB Administrator identified the branch's licensing of foster homes as the activity posing the most risk to children, saying "I think we follow the rules and try to do our best with that, and on occasion, *kids are being hurt in these [placement] homes.*" (Emphasis added.) If children are harmed in an unlicensed home, the State faces "huge" liability, the Administrator noted.

Moreover, the State is entitled to federal reimbursement of child welfare support payments for certain foster children as well as administrative expenses; but eligibility is conditioned on foster homes being licensed. The State cannot seek reimbursement for payments to resource family homes, including child-specific homes, that have only a provisional certificate. While the department was unable to quantify the amount of lost federal reimbursement, the fact that none of the child-specific homes in our sample completed the licensing requirements within 60 days – and most (94 percent) remain unlicensed after 90 days – suggests that the State is forgoing significant federal reimbursement dollars.

Automatic Extensions?

DHS continuously extends licenses and issues provisional certificates to homes with lapsed licenses that cannot meet requirements at the time of renewal.

TO MAINTAIN ACTIVE LICENSURE, foster homes must repeat many requirements annually or upon renewal, including certain background checks and clearances that are only considered “current” for one year. While administrative rules require resource family homes to “immediately report” changes or circumstances that may impact their certificate of approval or their ability to care for children, the renewal process requires the agency to make affirmative checks on a regular basis. As with initial applications, DHS rules allow CWSB to issue a provisional certificate to foster homes that do not meet all licensing requirements at the point of renewal “if it is reasonable to assume that all licensing requirements will be met within sixty days and that there are no risks to the health, safety, or well-being of a child.”

CWSB maintains a Licensing Resource Files database that contains licensing/certification information necessary to claim federal foster care funds and generate reports used by CWSB to develop policy and planning decisions. The data we sampled included 50 general license and child-specific foster homes with renewed licenses; of those, 37 homes took more than 60 days to complete the renewal process.

In one of those cases, a license was retroactively renewed 230 days after it expired. The renewed license also lapsed, this time

for 237 days, and another child was placed in the home and a new adult moved in while the home was unlicensed. DHS renewed the home’s license before doing any background checks or FBI fingerprinting for the new adult household member and backdated the license, an extension, and a provisional certificate to cover the lapses in licensure. The home cared for three children at different times while the home was unlicensed.

In another case, a home that initially required two extensions to its provisional certificate before obtaining a license later needed three extensions totaling 271 days before meeting requirements for renewal. The process for that home’s third license was extended by approximately 11 months: CWSB granted the home a three-month extension to its unconditional license, followed by a six-month provisional certificate to care for two children. Both extensions were referred to in a letter from CWSB reminding the caregivers they had 45 days to complete six hours of required training before their provisional certificate expired, and warning them, “Your home will automatically close [when the provisional certificate expires] if the pending licensing requirement is not received by that day.” Nevertheless, the resource caregiver requested and was granted an extension to meet the six-hour training requirement; the training was completed two months later, and an unconditional license was approved soon after.

“Largely Noncompliant”

Missing numerous licensing requirements, a resource caregiver ignored contractor's weekly and monthly phone calls, text messages, and emails for nearly a year. Nevertheless, CWSB awarded the caregiver seven extensions to her provisional certificate, allowing the home to operate without a license for nearly 17 months.

On November 2, 2021, a child-specific resource caregiver home was granted a 90-day provisional certificate to care for four children. CWSB would approve seven extensions to the provisional certificate despite the resource caregiver's failure to complete the FBI fingerprinting and concerns about drug use and unsafe living conditions reported by Catholic Charities.

On April 5, 2022, CWSB simultaneously approved two extensions to the provisional certificate, the first retroactively dated to be effective from February 1, 2022, and the second extending the certificate through May 31, 2022. At the time the extensions were granted, the caregiver had not completed the required FBI and state criminal background clearances, submitted personal references, obtained TB clearances, medical and clinical reports, or had a home study conducted by Catholic Charities. Moreover, by this point, four mandatory background clearances conducted prior to placement were no longer current; according to DHS procedures, child abuse and neglect registry clearances, Hawai'i Criminal Justice Information System clearances, and state and national sex abuse registry clearances are only valid for one year.

On May 24, 2022, while conducting a visit of the home, a CWSB licensing worker noted the presence of a man outside of the house who was gathering his belongings and preparing to leave. The caregiver explained that the man was her brother, who is impaired due to injuries sustained in prior years. For years, the brother had come to the home to sit outside and wait for their father, who had passed away. While the caregiver confirmed that the brother talks to himself, she said that he had not exhibited aggressive behavior toward the children who had become accustomed to his presence.

On June 14, 2022, CWSB approved another extension of the provisional certificate, retroactive to June 1, 2022 and effective through July 30, 2022. The extension was granted despite CWSB's repeated efforts to contact the resource caregiver about providing required documents, including FBI and state criminal history clearances for an adult son living at the home. As chronicled by a CWSB licensing worker on October 10, 2022, the licensing worker requested assistance from a CWSB social worker, relaying challenges in getting the caregiver to complete licensing requirements or even respond.

The social worker contacted the caregiver on **February 8, 2023**, and reminded her of the pending requirements. The next day, outstanding documentation notwithstanding, CWSB simultaneously approved four more provisional certificates, for a total of 193 days, retroactive to July 31, 2022 and effective through February 9, 2023. Along with the email informing the caregiver of the extensions, the CWSB licensing worker attached instructions for FBI fingerprinting to the email because the caregiver's adult son had yet to comply with this requirement. The worker also included a warning: “I can't stress enough that it's important that these requirements are completed soon as your home can't remain on a provisional license.”

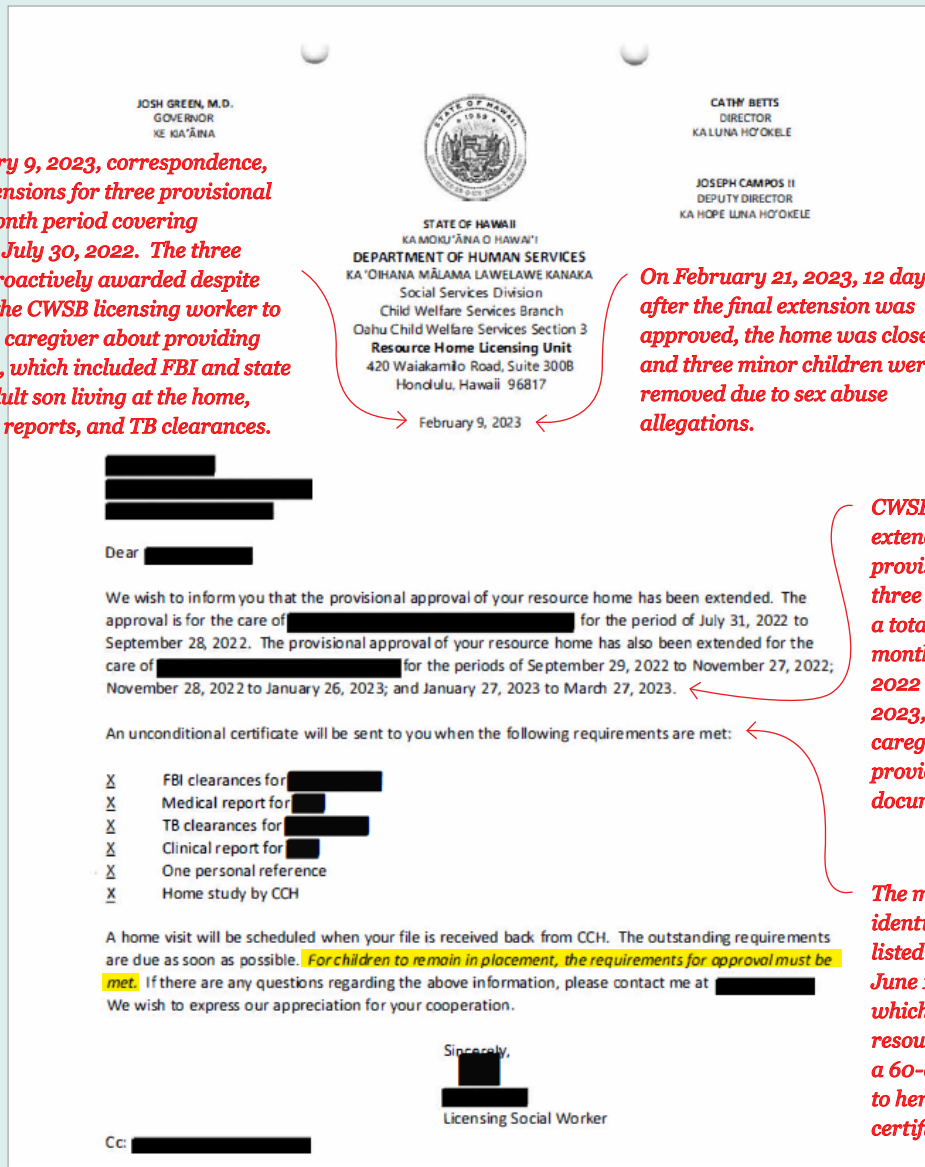
Nine days after the final extension was approved, the home was closed, and three minor children were removed due to sex abuse allegations. One child was already aged out at 18 and lived elsewhere.

On February 22, 2023, Catholic Charities prepared a Child Specific Resource Home Closing Summary noting the resource caregiver had been largely noncompliant during the licensing process. In addition to the caregiver's failure to complete more

The “Cover Letter”

In one correspondence, CWSB retroactively awarded three extensions to a provisional certificate even though the caregiver repeatedly failed to provide required documentation.

Prior to this February 9, 2023, correspondence, CWSB awarded extensions for three provisional certificates, a six-month period covering February 2, 2022 to July 30, 2022. The three extensions were retroactively awarded despite repeated efforts by the CWSB licensing worker to contact the resource caregiver about providing required documents, which included FBI and state clearances for an adult son living at the home, medical and clinical reports, and TB clearances.



On February 21, 2023, 12 days after the final extension was approved, the home was closed, and three minor children were removed due to sex abuse allegations.

CWSB retroactively extends the caregiver's provisional certificate three more times for a total of almost eight months, from July 31, 2022 to March 27, 2023, even though the caregiver has yet to provide the required documentation.

The missing items are identical to the ones listed in CWSB's June 14, 2022 letter, which awarded the resource caregiver with a 60-day extension to her provisional certificate.

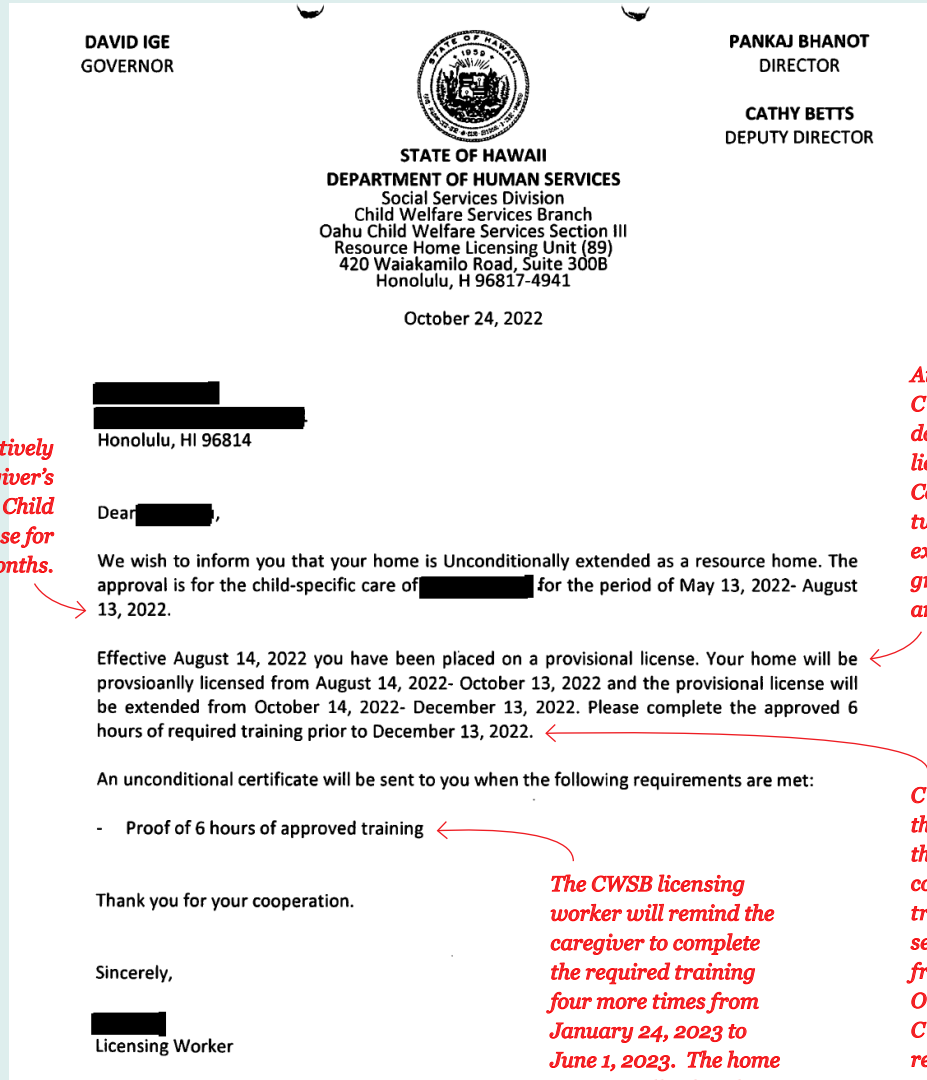
Sources: Department of Human Services and the Office of the Auditor

than a half-dozen licensing requirements, the summary cited previous concerns about a deranged uncle smoking a metal pipe and a child potentially sleeping in an unventilated attic. According to Catholic Charities, the resource caregiver had not

responded to the agency's weekly and monthly phone calls, text messages, and emails for nearly a year while continuing to care for multiple foster children.

Another "Cover Letter"

In one correspondence, CWSB retroactively and simultaneously extended and downgraded an unconditional license even though the caregiver failed to complete required training.



CWSB retroactively extends the caregiver's Unconditional Child Specific License for three months.

At the same time, CWSB retroactively downgrades the license to a Provisional Certificate, good for two months, and then extends the newly granted certificate for another two months.

CWSB has granted the extension despite the caregiver not completing required training. On five separate occasions, from April 22, 2022 to October 24, 2022, the CWSB licensing worker reminded the caregiver to complete six hours of required training.

The CWSB licensing worker will remind the caregiver to complete the required training four more times from January 24, 2023 to June 1, 2023. The home is eventually closed on September 29, 2023.

Sources: Department of Human Services and the Office of the Auditor

Powerless

Only after a child-specific home loses power – twice – did CWSB suspend the resource caregiver’s provisional certificate and remove the child.

ON AUGUST 20, 2019, a resource caregiver applied for an Unconditional Child Specific License for the care of a non-relative youth with special needs. The resource caregiver, who had worked with the child since elementary school, was one of the 24-hour caregivers for the child, along with rotating nurses and the child’s grandfather. Both grandfather and grandson lived in a small one-bedroom apartment.

The caregiver was awarded a 90-day provisional certificate the same day the application was submitted. CWSB would award the resource caregiver eight extensions to that provisional certificate between November 11, 2019 and May 13, 2021.

In a letter dated October 24, 2022, CWSB concurrently and retroactively (a) extended the license, effective May 13, 2022 to August 13, 2022; (b) downgraded the license to a provisional certificate, effective August 14, 2022 to October 13, 2022; and (c) awarded another extension effective October 14, 2022 to December 13, 2022. In addition, CWSB requested that the resource caregiver complete six hours of mandatory training by December 13, 2022. Between April 22, 2022 and September 14, 2023, the day we reviewed the file, CWSB would make eight separate requests that the resource caregiver complete the required training, to no avail.

But overdue training requirements were only part of the reason the home could not be licensed. On October 24, 2022, the resource caregiver had informed the CWSB licensing worker that the grandfather was having difficulty paying his electric bills. On September 1, 2023, the child’s social worker informed the licensing worker that

the home had no electricity. The licensing worker suggested the child be removed from the home as living conditions were no longer sustainable. However, no action had been taken when we asked to review the home’s file on September 14, 2023.

Notes added to the home’s file record communications between CWSB and the resource caregiver on September 14, 2023, the day of our review, stating the home was still without electricity and according to the caregiver, they were “running an extension cord from the neighbor’s home again.” The file further noted that the home had no power for an undetermined amount of time in May 2023 and for more than two weeks in September 2023, a particular concern since the child was medically fragile. A letter bearing the same date as the home visit informed the caregiver that no further provisional certificates would be issued, citing noncompliance with DHS administrative rules that require foster homes to meet acceptable state standards on housing and sanitation and to ensure that required equipment and appliances are available and functioning. The letter further noted that the training requirements had been overdue for roughly 16 months.

On September 29, 2023, the home was closed, and the child was placed in another home the following day.

Finding No. 2

DHS reimbursed contractors' personnel and administrative costs without assessing whether performance goals were met.

DHS has entered into nearly 100 contracts with private organizations, spending more than \$48 million to support CWSB's efforts to strengthen families and protect children who have been abused, neglected, and/or threatened with maltreatment. These include contracts to recruit foster families as well as to expedite the licensing of foster homes, which is the activity that the CWSB Administrator identified as posing the most risk to children, as well as to the State. The Administrator told us: "If a child gets hurt in a home that's not licensed it's devastating and the liability around that is huge. So, any home that comes at least to the attention of the Supervisor, the Administrator, or myself it's clear the expectation is you remove the child. You don't even place children in a home that is not licensed [or] licensable."

In an effort to expedite the licensing process, DHS has contracted with Catholic Charities, and has since 2006. The current contract, which pays \$2 million annually, requires Catholic Charities to perform home studies and to compile the other documentation necessary for CWSB to complete foster family licensing within 90 days of placement.³ However, paying Catholic Charities to do that work has not resulted in an expedited licensing process. As described in Finding 1, of the 49 randomly selected child-specific home files that we were able to analyze, no home was licensed within the legal deadline of 60 days and only three within the current contractual requirement of 90 days. In our sample, for the homes that had licenses, it took an average of 314 days for DHS to issue the license from the date of the application.

And yet, we are unaware of any consequence to Catholic Charities when it failed to meet the annual goal of licensing 100 percent of child-specific homes within 90 days – a goal set by the department and adopted by Catholic Charities which represented it to be "reasonable and achievable." One of the reasons for this lack of accountability is that DHS has yet to establish a contract monitoring infrastructure – clear lines of responsibility to monitor contractor performance, documented policies and procedures, a monitoring plan, and criteria – a legal requirement staff were unaware of prior to our audit. As a result, staff in the Program Development Office and the Support Services Office, which are separate offices under the Social Services Division, were

³ Prior to the current contract, Catholic Charities was required to complete the assessments required for CWSB to license a child-specific home within 60 days of placement. As reported above, the department purported to expand the duration of a provisional certificate from 60 days, as set forth in its administrative rules, to 90 days through an Internal Communication Form issued on August 9, 2019.

confused over not only which office should be fulfilling that legal requirement but what that job would entail.

More significantly, DHS was seemingly unconcerned about monitoring and evaluating contractor performance despite numerous provisions in its contracts that require DHS to consider whether Catholic Charities had “satisfactorily performed” the contracted services, including, for example, when processing payment. Per the contracts’ Compensation and Payment Schedule, DHS agreed to pay Catholic Charities “[f]or services satisfactorily performed.” With performance seemingly irrelevant, DHS’ contract “monitoring” had been conflated with its reimbursement of Catholic Charities’ expenses. In other words, DHS paid Catholic Charities for the people it employed to do the contracted work regardless of how or even if that work was getting done.

That means, despite contracting for licensing support services, DHS not only left foster children in homes it could not verify met health, safety, and housing standards, risking their safety, it also left federal money on the table that could have reimbursed the State for a portion of its foster care-related expenditures and administrative costs. It also means that DHS continued to pay Catholic Charities \$2 million year-after-year without holding Catholic Charities accountable for performing those services that are intended, among other things, to expedite the licensing of foster homes.

DHS contracted with private organizations to “expedite” the licensure of child-specific homes.

We reviewed DHS’ two most recent contracts to support CWSB’s licensing of child-specific homes: the first with Partners in Development Foundation, in collaboration with Catholic Charities and Family Programs Hawai‘i, effective from June 26, 2019 to June 30, 2021 (the 2019 Contract),⁴ and the second with Catholic Charities, which has been in effect since July 1, 2021 (the 2021 Contract).⁵ As outlined in the respective requests for proposals (RFPs) that resulted in the award of these contracts, the goal of the services to be provided under both contracts is, among other things, to “expedite child-specific trainings and licensure . . . as well as to maximize federal Social Security Act Title IV-E funding.”⁶ The RFPs described Title IV-E funding as

⁴ Catholic Charities was responsible for completing the required foster home certification requirements and reports for DHS to assess applications for licenses of child-specific homes. (See sidebar on page 40.)

⁵ For purposes of our audit, the primary difference between the scope of services in the 2019 Contract relating to the licensing of child-specific homes and the 2021 Contract is the outcome performance measurement: under the 2019 Contract, homes were to be unconditionally licensed within 60 days; the 2021 Contract allows a 90-day license window.

⁶ The RFPs and the providers’ proposals are incorporated into the respective contracts.

The Contracts

The 2019 Contract

In February 2019, DHS issued a request for proposals for *Resource Family Recruitment, Training, Home Study, and Support* for licensing services. In June 2019, the department contracted with Partners in Development Foundation to recruit, train, and license foster homes, both general license and child-specific. The contracted services were to be provided by a collaboration called Hui Ho'omalau, comprised of Partners in Development Foundation, Catholic Charities, and Family Programs Hawai'i. Partners in Development Foundation would provide recruitment, training, assessment, and required document collection for general license applicants, while Catholic Charities would provide those same services for child-specific applicants.

The annual total funding for the 2019 Contract was not to exceed \$4.05 million, with nearly \$2.1 million of that amount relating to the licensing of child-specific homes, Catholic Charities' part of the contract.

The 2021 Contracts

In February 2021, DHS issued a request for proposals for *Resource Caregiver Recruitment, Licensing & Support Services*, the substantively identical services provided under the 2019 Contract. In August 2021, the department retroactively awarded three separate contracts for the solicited services: one to Partners in Development Foundation for recruitment of foster families, a second to Catholic Charities for licensing of both general license and child-specific homes, and a third to Catholic Charities for support services.

The Catholic Charities contracts are for a two-year period starting on July 1, 2021, with annual maximum contract amounts of \$2 million for licensing services and \$800,000 for support services. Both include two options, each to extend for two years.

“an essential component of the DHS/CWS budget” that is available to the State only for those homes with unconditional licenses. The RFPs also included certain General and Special Conditions that require Catholic Charities, as the contracted provider, to comply with Hawai'i law, including, specifically, Title 17, Section 1625, HAR, which are DHS' administrative rules relating to licensing of foster homes, as well as DHS' policies and procedures.

Both contracts have required Catholic Charities, each fiscal year, to complete assessments of at least 325 child-specific homes statewide,⁷ which include face-to-face interviews with each household member, and to provide reports to CWSB on all child-specific home applications as well as other documentation required for CWSB to unconditionally license the homes. The 2021 Contract expressly notes that “[c]ompleted assessments within 90 days of placement for child-specific licensure shall provide the necessary support to the applicant resource families, foster children, and birth families as well as maximize federal IV-E funding.”

Although the pricing structure in both the 2019 and 2021 Contracts was characterized as “cost reimbursement,” where the State pays the Provider up to a maximum annual contract amount for budgeted costs actually expended in the delivery of the contracted services, performance of the contracted services is required for reimbursement of those costs. Specifically, in accordance with the Contracts' Compensation and Payment Schedule, Catholic Charities is paid the allowable costs that it actually and appropriately incurred in the performance of the Contracts for:


- a. Maintaining the capacity to fully deliver services in compliance with the terms and conditions of the Contracts, and throughout the terms of the Contracts; and
- b. Satisfactorily performing the services under the Contracts.

Both the RFPs and the 2019 and 2021 Contracts describe how Catholic Charities' performance of the contracted

⁷ The number of unconditionally licensed child-specific homes that Catholic Charities is required to “minimally provide” under both contracts total 325.

Performance Matters

Although the pricing structure in both the 2019 and 2021 Contracts was characterized as cost reimbursement, performance of the contracted services is required for reimbursement of those costs.



STATE OF HAWAII

COMPENSATION AND PAYMENT SCHEDULE

Cost Reimbursement Pricing

This Original Contract provides funding for FY 2022 and FY 2023 for the delivery of one (2) years of Licensing Services from July 01, 2021 through June 30, 2023.

The Provider's final budget, including all amendments and revisions which have been accepted by the State, shall be incorporated into this Contract as part of this Attachment 3. All terms and conditions of this Compensation and Payment Schedule are valid and enforceable.

1. Payment Conditions and Sum

Subject to the continuing availability of State and Federal funds, the State agrees to pay the Provider:

- For the maintenance of the capacity to fully deliver services in compliance with the terms and conditions, and throughout the term, of this Contract.
- For the services satisfactorily performed under this Contract.
- For the expenditures actually and appropriately incurred in the performance of this Contract, according to a budget for costs approved by the State, by the submittal of invoices supported by the required documentation specified by the State.

The total sum, unless otherwise agreed, shall not exceed:

TWELVE MILLION DOLLARS AND 00/100 DOLLARS (\$12,000,000.00)

This sum shall be allocated as follows for the specified fiscal years:

	FY 2022		FY 2023		FY 2024	
	Amount	%	Amount	%	Amount	%
State Funds	\$2,000,000.00	100.00	\$2,000,000.00	100.00	\$2,000,000.00	100.00
Total Federal Funds	\$0.00	0.00	\$0.00	0.00	\$0.00	0.00
Annual Maximum Contract Amount	\$2,000,000.00	100.00	\$2,000,000.00	100.00	\$2,000,000.00	100.00

Cost reimbursement still requires performance of the contracted services.

Source: Department of Human Services

services will be monitored and evaluated. For example, the RFPs state that the resulting contracts “shall be monitored by DHS” in accordance with Chapter 103F, HRS, and will include “review of program and fiscal reports and periodic assessment of service delivery and program effectiveness” as well as an annual review of Catholic Charities’ “compliance with contractual requirements.” The Contracts contain performance measurements, called “Output and performance and outcome measurements,” which are the criteria by which Catholic Charities’ performance of the Contracts are to be monitored and evaluated, and specifically require Catholic Charities to “maintain the capacity to deliver services throughout the contract term as specified in the Performance Measurement Forms A, B, and C, Section 2” of the RFPs. Those Performance Measurement Forms reflect DHS and

Promises Made

In the 2021 Contract, Catholic Charities claimed that it would meet the department's projected goals. However, of the 49 randomly selected child-specific home files that we analyzed, only 3 were licensed within 90 days.

<u>LICENSING FORM C: OUTCOMES</u>	Annual Goal for Contract Year	
	DHS' PROJECTED GOALS	APPLICANT'S PROJECTED GOALS
GENERAL LICENSE		
1. % of new GL resource families who are unconditionally licensed within 90 days	100%	100%
2. % of resource families who are still active with the department 15 months following licensure or approval	75%	75%
CHILD SPECIFIC LICENSE		
1. % of new CS resource families who are unconditionally licensed within 90 days	100%	100%
2. % of CS resource families who are still active with the department 15 months following licensure or approval	75%	75%

Source: Department of Human Services, Contract No. DHS-22-POS-0008 (sic)

Catholic Charities' annual performance and outcome goals: to license 325 child-specific homes and to unconditionally license 100 percent of the child-specific homes within 90 days of CWSB's receipt of the foster home application.⁸

In its proposal relating to the RFP for the 2021 Contract, Catholic Charities expressed its ability to achieve those performance and outcome goals. In describing its licensing process for child-specific homes, Catholic Charities stated, "[h]ome studies and supporting licensing documents will be submitted [to CWSB] within 60 to 75 days of referral." Catholic Charities also emphasized that awarding it both the licensing contract and a contract for support services that DHS was procuring separately "will facilitate the requirement for meeting the 90-day deadline for licensing [child-specific homes]." DHS awarded both contracts to Catholic Charities.

DHS is required by law to monitor and evaluate Catholic Charities' performance under the contracts.

The department procured the licensing support services under Chapter 103F, HRS, which applies to all contracts made by state agencies to provide health or human services to Hawai'i's residents. Contracts awarded under Chapter 103F, HRS, including those awarded

⁸ In the 2019 Contract, DHS and Catholic Charities' goal was to unconditionally license 100 percent of child-specific homes within 60 days.

to expedite the licensing process, are generally exempt from Chapter 103D, HRS, *Hawai‘i Public Procurement Code*, but are subject to the requirements of Title 3, Chapter 149, HAR, *Licensing*. Those administrative rules are intended “to provide uniform practices and procedures for drafting, monitoring, and evaluating contracts awarded under [C]hapter 103F, HRS.”

With respect to monitoring contractor performance, Section 3-149-401, HAR, *requires* DHS to “formulate and implement a monitoring plan” that includes:

1. A manual or other set of guidelines that includes the objectives, procedures, and requirements of the monitoring process;
2. Procedures to document reported problems or recommendations between the provider and the department; and
3. A clear procedure for follow-up on recommendations, problems, and items requiring corrective action, including deadlines for both reporting and responding to such items.

In addition, Section 3-149-501, HAR, requires DHS to evaluate every contract awarded through a competitive purchase of services method within 120 days after the expiration or termination of the contract. According to the rules, DHS must establish criteria and procedures to evaluate the contracts, which, at a minimum, include a final written evaluation assessing the extent to which performance outcomes were met as well as discussion of problems or adjustments to those outcomes, as applicable.

DHS did not monitor its contracts with Catholic Charities for performance. Instead, it focused on reimbursing the contractor’s personnel and administrative costs.

We found DHS neither formulated nor implemented a contract monitoring plan as it is legally required to do; it did not have “[a] manual or other set of guidelines that include the objectives, procedures, and requirements” to monitor contractor performance or procedures to document reported problems or recommendations required by Section 3-149-401, HAR, the administrative rules relating to health and human services contracts. In fact, the Support Services Office Administrator was not even aware of the requirement that DHS develop a monitoring plan until we discussed the applicable administrative rules during the audit. The Support Services Office includes the Purchase of Services Unit (the Purchasing Unit) that is identified in the RFPs as “responsible for overseeing the contracts resulting from this RFP including systems operations, fiscal agent operations, and *monitoring and assessing the Provider’s performance.*” (Emphasis added.)

Irrespective of the legal requirement, we discovered that DHS had not established procedures to monitor or assess contractor compliance with contract terms. Instead, the contract “monitoring” DHS did do was limited to reviewing the number of Catholic Charities personnel assigned to the contract for the purpose of reimbursing Catholic Charities for those personnel-related costs each month. DHS did nothing to assess Catholic Charities’ performance of the contracted licensing support services or to hold Catholic Charities accountable for performing those services. The actual performance of the services was seemingly ignored and effectively deleted from the contracts.

Although identified in the RFPs as the unit responsible for overseeing the Catholic Charities’ contract as well as for “monitoring and assessing” Catholic Charities’ performance, the Purchase of Services Specialist told us that the Purchasing Unit does not monitor contractor performance. The Specialist said it was not the Purchasing Unit’s responsibility to ensure Catholic Charities satisfactorily performed the services for which it was contracted to perform before approving payment of the monthly invoices. The Support Services Office Administrator agreed that the Purchasing Unit’s role is mainly procurement, not managing performance of the contract requirements. According to both, contrary to what was stated in the RFPs, the Program Development Office is responsible for ensuring satisfactory performance of the contract. The Program Development Office is also under the Social Services Division but separate from the Support Services Office.

The Purchase of Services Specialist said that the Purchasing Unit primarily reviewed and approved Catholic Charities’ monthly invoices, comparing the monthly payroll expenditure report against the approved personnel budget to ensure that Catholic Charities maintained the appropriate number of staff. In addition, the Purchase of Services Specialist reviewed the quarterly activity reports submitted by Catholic Charities to understand what services were rendered based on the contract’s goals and informed the Program Development Office of concerns that may have arisen from their review of the reports. The Purchase of Services Specialist did not track or otherwise monitor Catholic Charities’ performance of contract goals. The Specialist emphasized that the Program Development Office is responsible for determining whether the contractor met the contract’s goals.

The Program Development Administrator, however, initially told us that the Purchasing Unit monitors Catholic Charities’ performance of the contract, then clarified that the responsibility was shared by both the Program Development Office and the Purchasing Unit. While monitoring contract performance may be the responsibility of the Program Development Office or the Purchasing Unit or both, we found neither monitored Catholic Charities’ performance of the services under the contracts.

Although the Contracts’ terms require satisfactory performance before payment is made, DHS has yet to withhold or even reduce payment to Catholic Charities based on lack of performance.

While the payment structure of both Contracts is intended to reimburse Catholic Charities for its actual expenses, payment of those expenses is also premised on satisfactory performance of the services under the Contract. The Contracts, by their terms, require DHS – whether that be the Purchase of Services Specialist or someone else – to ensure that Catholic Charities satisfactorily performed the contracted services *before* processing any invoice for payment. According to the Contracts, if Catholic Charities’ performance is less-than-satisfactory, Catholic Charities is not entitled to reimbursement (or to full reimbursement) of the expenses it incurred performing sub-par services.

The Contracts include other criteria by which Catholic Charities’ performance of the services is supposed to be monitored and evaluated, including annual performance and outcome goals, which offer another means to assess whether Catholic Charities is “satisfactorily performing” the services. Among other things, DHS and Catholic Charities each agreed to the goal of unconditionally licensing 100 percent of child-specific homes within 90 days (and the goal in the 2019 Contract was within 60 days) from the date of the application. To achieve that goal, Catholic Charities must complete the services for which it is contracted to perform: home studies and compiling the documents required for CWSB to license child-specific homes.

Catholic Charities neither performed the services in accordance with the contract requirements nor achieved the contracts’ performance and outcome goals. And, of greater concern, Catholic Charities’ underperformance of the services for which DHS paid \$2 million each year was readily apparent to DHS. Because the department places children in the homes and licenses the homes, DHS was well-aware that it was licensing very few child-specific homes within 90 days. The internal OIT reports used by CWSB staff to track licensing status of child-specific homes showed, among other things, the expiration date of a provisional certificate and the number of months that a provisional certificate had been expired. (See page 31) The 49 child-specific home files we analyzed generally confirmed the information available to CWSB staff in the OIT reports: slightly more than 6 percent of the child-specific homes were licensed within 90 days and, on average, it took 314 days to complete the licensing process. While the applications relating to those child-specific homes may not all be from the same fiscal year, we believe that the results are representative of Catholic Charities’ performance: the services Catholic Charities performed resulted in far less than 100 percent of child-specific homes being licensed within 90 days.

Defining by Doing

THE MONITORING of contracts defines what actions the agency will take in order to ensure that the contractors are delivering the results required in the contract standards.

– Casey Family Programs, a foundation focused on reducing the use of foster care in the United States

We also reviewed Catholic Charities' quarterly activity reports for each of the quarters during FY2022 and found that Catholic Charities missed its annual goals, benchmarks, and outcomes meant to expedite the licensing process for child-specific homes. Those reports show that Catholic Charities completed home studies for about 62 percent of the child-specific homes that it is contractually responsible to license annually. Specifically, in FY2022, Catholic Charities reported completing the licensing for 201 child-specific homes; the 2021 Contract required licensure of 325 child-specific homes. Those reports, however, do not reflect the amount of time that lapsed between the initial filing of the application and licensure of the homes.

We understand that DHS did not pay Catholic Charities the full amount of the Contracts when they had less than the number of staff performing services than it was contractually required to maintain. However, it is our understanding that DHS has not withheld or even reduced payment to Catholic Charities based on performance.

Reported but Unnoticed?

Catholic Charities' FY2022 quarterly activity report clearly shows that the contractor's work fell far below the stated annual goal. It is unclear if anyone took note of this deficiency.

Annual Goal: 325 Resource Families

Qtr. Total/YTD: Actual number of activities performed (unduplicated).

SERVICE ACTIVITIES	Annual Goal	Q1	Q2	Q3	Q4	YTD
Total of Completed Child-Specific Home Studies Submitted to DHS	-					
O'ahu	175	33	21	19	16	89
West Hawai'i	40	6	6	6	6	24
East Hawai'i	40	9	8	14	19	50
Kaua'i	20	6	2	2	3	13
Maui	35	11	2	3	6	22
Moloka'i	10	2	0	1	0	3
Lāna'i	5	0	0	0	0	0
STATEWIDE TOTAL	325	67	39	45	50	201

Source: Department of Human Services

With contracting duties split between two offices, monitoring contractor performance has fallen through the cracks.

Social Services Division staff knew Catholic Charities fell short of performance goals in the 2021 Contract meant to expedite the process so all foster homes can be licensed within 90 days of a child’s placement. Yet, the 2021 Contract was extended to June 30, 2025, raising questions about how the division monitored and evaluated its contractor’s performance. The simple answer is that they didn’t, at least not in any formal manner.

The lack of oversight can be partly attributed to DHS’ decision to segregate contracting duties between different sections under its Social Services Division – one section develops the scope of services, and another procures the services. While one section pays the monthly invoices, neither that section nor the other section ensures that contractors actually performed the work for which they are contracted to do. CWSB, whose work the contracts are intended to support, is not one of the sections involved in contracting, managing the contract, or even evaluating contractor performance. In fact, for the three contracts relating to licensing, the CWSB Administrator admitted to not reading the contracts and did not know the specific work for which the contractor has been contracted to do.

We interviewed the Social Services Division Administrator, whose division includes the Program Development Office and the Purchasing Unit as well as CWSB, to gain an understanding of how the division’s contracts are monitored, including the contracts’ goals and performance measures. The Social Services Division Administrator told us the responsibility lies with both the Program Development Office and the Purchasing Unit. According to the Social Services Division Administrator, the Purchasing Unit is responsible for ensuring the terms of the contract are being satisfied, while the Program Development Office is responsible for addressing any contract-related issues with the provider. This generally aligns with how the Program Development Administrator described the separation of duties.

The Support Services Office Administrator had a different take, stating that the Program Development Office – not the Purchasing Unit – is responsible for monitoring contractors’ performance. The Support Services Office Administrator described the Purchasing Unit’s role as primarily financial in nature, with staff reconciling the contractor’s monthly expenditure report, which includes personnel costs and line items, with the invoice the contractor submits to DHS for payment. The Support Services Office Administrator said the Purchasing Unit does not have the staff to monitor the contractor’s performance, but even if it did, it would not take on that responsibility. “How can I monitor when

The Proof is in the Performance

OVER THE PAST THREE DECADES, states have increasingly turned to performance-based contracts to deliver human services, a trend facilitated by policy guidance issued by the federal government in the late 1990s and early 2000s, accompanied by best practices concerning performance-based contracting for other services. According to a paper prepared for the U.S. Department of Health and Human Services, there are several definitions of “performance-based contracting,” but most refer to contracts that include clearly identified objectives and measures to examine performance, consistent processes for data collection, reporting and assessing results, and incentives (and potential consequences) based on performance.

Lost in Administration

According to the Social Services Division Administrator, responsibility for monitoring performance of the division's contracts, including the contracts' goals and performance measures, lies with both the Program Development Office and the Purchasing Unit. Neither does.

I don't even know where those goals came from, and I don't set the policies tied to the contract? [The Program Development Office] sets the policies; they [are] the one that is responsible."

We note that the division of responsibilities seems relatively clear on paper. DHS' RFPs in 2019 and 2021 identified the Purchasing Unit as the Contracting Office "responsible for overseeing the contracts resulting from this RFP including systems operations, fiscal agent operations, and monitoring and assessing the Provider's performance." The 2019 RFP also stated, "The Applicant is charged with presumptive knowledge of all requirements of the cited authorities," referring to Chapter 103F, HRS, and an unspecified HAR. But the Purchasing Unit staff we interviewed did not seem to understand the legal requirements themselves. Notably, neither the Support Services Office Administrator nor the Purchase of Services Specialist named as the contact person in the RFP for the 2021 Contract were aware of the administrative rules that require the unit to develop a plan to monitor contractors' performance and perform post-contract evaluations that include analyses of whether defined performance outcomes were met.

By failing to hold Catholic Charities accountable for its contractual performance, DHS is not receiving the intended benefits of the contracts.

DHS contracted with Catholic Charities to expedite the licensing of child-specific homes, requiring, among other things, that Catholic Charities provide 325 licensed child-specific homes each fiscal year and establishing a performance outcome goal to license 100 percent of child-specific homes within 90 days. Catholic Charities has not fulfilled those requirements or come anywhere near to those performance goals. DHS has not formulated a monitoring plan and did not ensure Catholic Charities met performance outcomes; however, DHS was aware that it was not licensing child-specific homes within 90 days and that the support services Catholic Charities was paid to perform have not expedited the licensing of child-specific homes. Notwithstanding that payment to Catholic Charities was for services "satisfactorily performed," DHS reimbursed Catholic Charities without regard to performance. By effectively removing performance from the Contracts' payment conditions, DHS' payments to Catholic Charities – \$2 million each year – constitute waste, which, according to the Comptroller General of the United States, includes when funds are used carelessly or to no purpose.

In addition to constituting waste of the state funds, DHS' failure to hold Catholic Charities accountable for its performance of the Contracts likely resulted in additional costs to the State. Both RFPs described Title IV-E funding as "an essential component of the DHS/CWS budget"

that is available to the State only for those homes with unconditional licenses. Title IV-E funding was also emphasized in CWSB’s licensing procedures: DHS is not able to claim federal reimbursement for either support payments to foster families or administrative costs for eligible children in provisionally certified homes. While the department was not able to quantify the amount of lost federal reimbursement, the fact that no child-specific homes in our random sample completed the licensing requirements within 60 days – and most (78 percent) remained unlicensed after 150 days – suggests that the State has been forgoing significant federal reimbursement dollars.

A perceived scarcity of available providers is DHS’ rationale for not holding contractors accountable for achieving contract goals.

Instead of holding Catholic Charities accountable for its sub-par performance, DHS “rewarded” Catholic Charities by extending the contracts for another two years, from July 1, 2023 through June 30, 2025. Both contracts contain nearly identical “Performance Terms,” describing the term of the contracts, the number of possible extensions, and the term of each extension. The performance terms also include “Conditions for an extension,” two of which are “Full service delivery in compliance with the terms and conditions of this Contract” and “Satisfactory performance.” According to that unambiguous language, DHS is required to consider those conditions when it extends the contract.

However, the Social Services Division Administrator said that the division’s practice is to automatically grant contract extensions unless there is a compelling reason to terminate – such as unresolved issues with underperformance and complaints. The Administrator, as previously noted, had not been informed of any concerns related to Catholic Charities’ performance. But the Assistant Branch Administrator told us, “I know meeting the 90 days hasn’t happened after contracting,” when asked whether the contracts with Catholic Charities have been effective.

We asked the Social Service Division Administrator how DHS holds contractors accountable for achieving contract goals. The Administrator alluded to a different rationale for extending the terms of contracts, pointing out that few contractors can offer the types of services required for how much DHS can afford to pay for those services. Upon the termination of a contract, the Administrator worries no new qualified applicants will offer their services. While we acknowledge the Administrator’s concern about attracting new qualified providers, contractors paid with state dollars need to be held accountable for delivering the services they are contractually obligated to perform.

Even more concerning, DHS allowed foster children to remain in unlicensed child-specific homes well beyond the period allowed by law, CWSB's policies, or any reasonable standard simply because the home study and/or certain documentation required to complete the licensing process had not been completed – services for which DHS pays Catholic Charities \$2 million annually to perform. In addition to putting children at risk, accepting Catholic Charities' non-performance increases the financial risk to the State. While we cannot quantify that risk, as the CWSB Administrator told us, "If a child gets hurt in a home that's not licensed it's devastating and the liability around that is huge." The CWSB Administrator added, "You don't even place [a child] in a home that's not licensed [or] licensable."

Conclusion

DHS, through its Child Welfare Services Branch, has a critical mission: to provide child welfare services for children who have been abused, neglected, or threatened with maltreatment, which includes placing children in foster homes until those children can be reunited with their families or placed with permanent adoptive parents or legal guardians. The importance of that responsibility – protecting Hawai'i's keiki – simply cannot be overstated. Neither can the difficulties that the branch experiences in performing its work.

The Legislature, through Chapter 346, HRS, and the department, itself, through its administrative rules, have established state policies with respect to child welfare services. Those policies create the *legal* framework under which DHS and CWSB are required to provide child welfare services; neither has the discretion nor the authority to ignore those legal requirements or to change them through internal administrative action.

Both Chapter 346, HRS, and DHS' administrative rules require foster homes to be licensed by the department in order to care for a child. That requirement provides reasonable assurance that the foster home meets minimal health and safety standards, including confirming that adult household members do not have criminal histories that would disqualify the home from caring for a child. DHS has recognized the need for provisional certificates, which are akin to temporary licenses, so children can be placed in child-specific homes while those caregivers complete the licensing requirements. However, the law is clear: those provisional certificates are "not to exceed 60 days" and may be issued to a child-specific home only "if it is reasonable to assume that all licensing requirements will be met within 60 days and there are no risks to the health, safety, or well-being of the child." If applicants do not complete these requirements by the time their provisional certificates

expire, the child must be placed in another home that can qualify for licensure. We found that DHS' process to license child-specific homes did not comply with those legal requirements. DHS often allowed children to remain in child-specific homes for months – even years – that had not, and sometimes would not, complete the licensing requirements.

DHS has contracted with Catholic Charities, which it pays \$2 million a year to perform home studies and to compile the other documentation necessary for CWSB to complete foster family applications within 90 days of placement. The performance goals in the contracts are clear: 325 child-specific homes licensed every fiscal year and 100 percent licensed within 90 days; however, contracting with Catholic Charities has not resulted in an expedited licensing process, which is one of the purposes of the contracts. Of the randomly selected child-specific home files that we reviewed, none of the homes were licensed within the legal deadline of 60 days and only 3 within the current contractual requirement of 90 days; on average, for the 30 child-specific homes that had licenses, DHS took 314 days to issue those licenses, with some taking significantly longer.

We found DHS did not monitor or evaluate Catholic Charities' performance. DHS had not implemented a contract monitoring plan, including procedures to monitor performance, that is required by law, and in fact, administrators of the DHS offices with responsibilities relating to the Catholic Charities contracts were unaware of the legal requirement. What is more concerning is that Catholic Charities' performance was apparently not a concern to the department. While we did not audit Catholic Charities' performance, DHS knew that Catholic Charities' performance of the contracts to support CWSB's licensing of foster homes was, at best, poor. Nonetheless, DHS reimbursed Catholic Charities for its personnel and administrative costs even though the payment under the contracts is "for the services satisfactorily performed." Instead of assessing performance, the division took a "do-your-best" approach to contract administration, helping ensure that contract goals were not achieved.

The end result is that contractor invoices were paid, and contracts were renewed, regardless of how or whether the work was being done. The State did not receive federal reimbursement of certain foster home support payments for children in foster homes that only had provisional certificates. Worst of all, children were put at risk.

Recommendations

The Department of Human Services should,

Regarding licensing of child-specific homes:

1. Ensure that the Department of Human Services' policies and procedures relating to licensing of resource family homes are consistent with Chapter 346, HRS, and Title 17, Chapter 1625, HAR. Document the processes employed by the department and/or the branch to implement this recommendation to inform management, including supervisors, administrators, and others charged with governance. Management is responsible to ensure that the department and its divisions comply with and operate in compliance with legal requirements.
2. Develop and document policies and procedures, including specific criteria, that Child Welfare Services Branch workers will use to determine whether "it is reasonable to assume that all licensing requirements will be met within 60 days and there are no risks to the health, safety, or well-being of a child" before issuing a provisional certificate to a child-specific home. The policies and procedures should require Child Welfare Services Branch workers to document their determination based on the criteria developed by the department. Documentation will allow supervisors, among others, to effectively oversee and manage Child Welfare Services Branch workers who are responsible for placing children in child-specific homes under provisional certificates.
3. Amend the applicable portions of the *Child Welfare Services Procedures Manual*, specifically, "Part IV – Licensing," and any relevant Internal Communication Forms to require child-specific homes to be unconditionally licensed by the 60th day from a child's placement in the home.
4. Amend the applicable portions of the *Child Welfare Services Procedures Manual*, specifically, "Part IV – Licensing," and any relevant Internal Communication Forms that allow the Department of Human Services and/or the Child Welfare Services Branch to issue provisional certificates for greater than 60 days. Provisional certificates should be for no more than 60 days. See Sections 17-1625-2, 17-1625-10, 17-1625-11, HAR.

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5. Amend the applicable portions of the *Child Welfare Services Procedures Manual*, specifically “Part IV – Licensing,” and any relevant Internal Communication Forms that allow the Department of Human Services and/or the Child Welfare Services Branch to issue more than one provisional certificate to allow a child-specific home more than 60 days to complete the licensing requirements. Neither Chapter 346, HRS, nor Title 17, Chapter 1625, HAR, authorize the Department of Human Services to issue more than one provisional certificate to allow a child-specific home to complete the licensing requirements.
 6. Amend the applicable portions of the *Child Welfare Services Procedures Manual*, specifically “Part IV – Licensing,” and any relevant Internal Communication Forms to make clear that the Department of Human Services and/or the Child Welfare Services Branch will not extend a provisional certificate for the purpose of allowing a child-specific home more than 60 days to complete the licensing requirements. Neither Chapter 346, HRS, nor Title 17, Chapter 1625, HAR, authorize the Department of Human Services and/or the Child Welfare Services Branch to grant extensions to a provisional certificate.
 7. Develop and document policies and procedures to track the licensing status of child-specific homes, including the date by which a child-specific home must complete the requirements for licensure, i.e., 60 days from a child’s placement in the home, as well as the expiration dates of licenses and provisional certificates. The policies and procedures should ensure that the processes by which licensing workers track the licensing status of child-specific homes are uniform and consistent as well as protect children from being in child-specific homes whose provisional certificates have expired. Documented policies and procedures will allow supervisors to effectively oversee and manage licensing staff.
 8. Develop and document policies and procedures for supervising personnel and licensing workers to track the licensing status of general license homes, including the expiration date of licenses and, for those general license homes granted provisional certificates to complete the re-licensing (i.e., the renewal) process, the expiration dates of the provisional certificates. The policies and procedures should ensure that the processes by which licensing workers track the licensing status of general license homes are uniform and consistent as well as protect children from being in homes whose licenses have expired. Among other things, documented policies and procedures will allow supervisors to effectively oversee and manage licensing staff.

9. Identify the requirements for licensure that child-specific homes most often do not complete within 60 days; develop and document policies and procedures specific to those licensing requirements. The policies and procedures should support child-specific homes' completion of the requirements for licensure and minimize the risks that those homes are caring for children without the ability (or intent) to complete the requirements.
10. Develop and document policies and procedures to remove and relocate children in the event a child-specific home does not complete licensure requirements by the 60th day from a child's placement in the home.
11. Develop and document policies and procedures to remove and relocate children in the event a general license home does not complete licensure requirements by the 60th day from the date of the provisional certificate issued for the purpose of allowing the home to complete the requirements to renew its license.

Regarding Contract Monitoring and Evaluation:

12. Formulate and implement a contract monitoring plan as required by Section 3-149-401, HAR. The plan should identify the specific office or unit that is responsible for each of the activities described in the monitoring plan and include the procedures that each office or unit is to follow in performing their respective responsibilities.
13. Establish and implement contract evaluation criteria and procedures as required by Section 3-149-501, HAR. Procedures should identify the specific office or unit responsible for completing a written evaluation within 120 days after the expiration or termination of the contract.
14. For cost reimbursement contracts, develop and implement policies and procedures to determine whether the contractor has satisfactorily performed the services under the contract as part of the department's invoice payment processes, including criteria against which contractor performance is to be assessed or measured. For the licensing support contract that we reviewed, that criteria should include the contract's requirements and service goals as well as actual licensing data, such as the OIT reports and contractor reports and feedback from Child Welfare Services Branch licensing staff about the contractor's performance in licensing child-specific homes. Those policies and procedures should require the Purchasing Unit to determine whether contractor performance was satisfactory based on the criteria before processing

contractor payment requests. The policies and procedures should include guidance as to whether and/or how the Purchasing Unit should consider the contractor's performance in processing the payment request, specifically when the Purchasing Unit deems the contractor's performance to not meet contractual requirements or expectations. The Purchasing Unit should be required to document its review of the contractor's performance during the period for which payment is requested and its determination to process, reduce, or withhold payment. The documentation will allow management to ensure that the department is accountable for its use of state resources, including in paying contracted child welfare services providers.

15. Develop policies and procedures to hold contractors accountable for performing the services and achieving the performance goals in accordance with the contract terms. Those policies and procedures should define the office or offices that are responsible for holding contractors accountable and require feedback from the Child Welfare Services Branch about the contractor's performance of the services.
16. Develop and implement an oversight structure, identifying supervisors, administrators, or other management personnel who are responsible for ensuring that contractor performance is monitored and contractors are held accountable should they not perform the services (or meet performance requirements, measures, and goals) under the contract.

Regarding Management:

17. Demonstrate a commitment to following the legal requirements. Among other things, management should document and communicate that commitment to Child Welfare Services Branch, specifically regarding its placement and licensing of workers, affirming that child-specific homes must complete the licensing requirements within 60 days of placement. As we found, despite the risk to the children, the department allows child-specific homes to care for children without completing the licensing requirements that are intended to ensure the homes are safe and nurturing environments.

Office of the Auditor’s Comments on the Department of Human Services’ Response to the Audit



ON MARCH 25, 2024, we provided a draft of our audit report to the Department of Human Services (DHS) and, on April 12, 2024, met via videoconference with the department’s Director, a Deputy Director, the Social Services Division Administrator, the Child Welfare Services Branch (CWSB) Administrator, the Acting Program Development Administrator, and the Complaints Liaison and Legislative Coordinator to discuss our audit findings. The department subsequently provided written comments to the draft report, which consists of a four-page cover letter containing comments signed by the Director and an attachment with six pages of additional comments. The cover letter and attachment, which we refer to herein collectively as the department’s comments, are included in their entirety as Attachment 1 to this response.

On the last page of its comments, the department says that it “agrees with the fifteen (15) recommendations” in the report, which suggests that DHS concurs with our findings. The recommendations are intended to address the audit findings, i.e., they are the actions that we recommend the department implement to comply with the legal requirements relating to licensing child-specific homes and to ensure that Catholic Charities Hawai‘i (Catholic Charities), or any other contractor, satisfactorily performs the licensing support services under its contract with DHS. The department’s comments, however, do not reflect “agreement” with the findings. Instead, the department’s comments attempt to justify its disregard of the State’s policy and the legal requirements relating to the licensing of child-specific homes; that policy and those requirements are intended to ensure foster children are in safe, stable, and nurturing environments. DHS also seems to downplay the significance of its noncompliance with those legal requirements by maintaining there is no evidence to suggest that foster children were at greater risk of harm because of its noncompliance.

We are compelled to respond to the department’s comments, specifically those that attempt to justify its noncompliance with legal requirements and to minimize the significance of the findings. While we recognize the challenges DHS faces in performing its work, the importance of the department’s responsibility – protecting Hawai‘i’s keiki – simply cannot be overstated. Yet, many of the department’s comments seem to reflect different priorities. We do not agree that the department has the legal

authority to amend policies relating to child welfare services set forth in Chapter 346, Hawai'i Revised Statutes (HRS), and its own administrative rules to prioritize things ahead of the safety of the children under its care.

DHS' paramount responsibility is the safety of children in its care

In her cover letter, the Director defends allowing foster children to remain in unlicensed homes for months – and sometimes years – saying that the department “hold[s] firm to supporting a child’s placement unless there are health and safety risks.” The Director advocates what seems to be the department’s policy to allow children to remain in unlicensed homes by representing that well-supported research shows multiple placements have long-term negative impacts on children in foster care. That policy, and presumably the cited research, are premised on the home being a safe environment for the child. However, DHS does not know whether a foster home placement poses safety and health risks to a child *until a foster home completes the licensing requirements*. That is the purpose of the requirement that foster homes must be licensed to care for children – so the department can determine whether a home and its occupants pose a risk to a child’s safety and health. The Director’s comment suggests that the department prioritizes “placement stability” over the child’s safety, which is irrefutably misplaced and clearly inconsistent with state law.

DHS’ enabling statute, Chapter 346, HRS, is unambiguous in directing the department to prioritize the safety and health of foster children. Specifically, the law directs DHS to “[e]stablish, extend, and strengthen services for the protection and care of abused or neglected children and children in danger of becoming delinquent *to make paramount the safety and health of children who have been harmed or are in life circumstances that threaten harm.*”¹ In fact, “child welfare services” is defined to mean “[a]ll services necessary *for the protection and care* of abused or neglected children and children in danger of becoming delinquent.”² As importantly, DHS’ own administrative rules *require* foster homes – including child-specific homes – to be licensed to care for children. We are unaware of any authority that supports the department prioritizing placement stability over the legal requirement that a foster home be licensed, or overwriting the department’s administrative rules about the use of provisional certificates. We also note that the State is not entitled to receive federal reimbursement of certain foster care payments to homes that have not completed the licensing requirements, meaning that prioritizing placement stability over requiring child-specific homes to complete the licensing requirements before the initial provisional certificate expires likely has caused the State to forgo significant amounts of federal funds.

¹ Section 346-14(2), HRS (emphasis added).

² Section 346-1, HRS (emphasis added).

The risk of harm to children is not theoretical

Perhaps as concerning, the department asserts that the audit does not support any suggestion that allowing children to remain in unlicensed homes, i.e., child-specific homes with provisional certificates, for months – and sometimes for years – puts children at risk. The department, however, is grossly misinformed. The report includes multiple bases supporting the conclusion that DHS’ actions – more accurately, inactions – resulted in foster children being at risk, starting with the CWSB Administrator’s candid comments during our audit planning work. The CWSB Administrator identified the branch’s licensing of foster homes as the activity posing the most risk to children, telling us: “If a child gets hurt in a home that’s not licensed, it’s devastating and the liability around that is huge. . . . You don’t even place children in a home that is not licensed [or] licensable.” The CWSB Administrator’s statement clearly reflects the concern that there is heightened risk to children who are in homes that have not completed, or cannot complete, the department’s licensing requirements. And, in our sample of child-specific homes, **none** completed the licensing requirements within 60 days after placement of the child.

Second, as stated in the department’s administrative rules relating to licensing, DHS’ goal is to provide temporary foster care placement in a safe, stable, and nurturing environment. Those rules require that homes be licensed to care for a foster child. The clear purpose of that requirement is to provide reasonable assurance that the home is a safe, stable, and nurturing environment. Accordingly, when a home does not complete the licensing requirements, children who DHS has placed in that home are at risk – the department simply does not know if the home is a safe environment. The department seems to have determined that, in balance, the risk to a child placed in a child-specific home is acceptable for the period of the provisional certificate, i.e., 60 days; that policy also implicitly reflects that allowing children to remain in homes that have not completed the licensing requirements beyond 60 days creates an unacceptable risk to the safety of a child, which is consistent with the department’s procedures that direct CWSB licensing staff to remove the child if the home is not unconditionally licensed within that period. The child-specific homes in our sample took, on average, 314 days to complete the licensing requirements, well beyond the 60 days that the department appears to have determined is, in balance, an acceptable amount of risk.

Third, the risk of harm is not simply theoretical. We reported cases where children were *actually harmed* in child-specific homes that had not completed the licensing requirements. The department approved multiple consecutive provisional certificates to allow those homes to continue caring for the children. For example, we reported that three

children were removed from a child-specific home in February 2023 due to sex abuse allegations. DHS approved a provisional certificate for the home to care for the children over a year earlier, in November 2021, and subsequently issued multiple provisional certificates, many of which were retroactively approved. (See sidebar “Largely Noncompliant,” page 34.)

In addition, we reported about a special-needs child who had been under foster care since August 2019 in a child-specific home that had been retroactively issued multiple consecutive provisional certificates. In October 2022, CWSB licensing staff were informed that the owner of the home was having difficulty paying his electric bills. When the child was removed from the home on September 29, 2023, which was prompted by our inquiry about the home a few weeks prior, it was the second time that the home did not have electricity. (See sidebar “Powerless,” page 37.)

Misleading “context”

The department’s comments also include a number of confusing and misleading statements. For instance, the department alleges that the conclusions are “without context,” stating that the Family Court is responsible for placement decisions and repeating the department’s apparent policy to prioritize placement stability. We assessed the department’s compliance with the legal requirements relating to its licensure of child-specific homes. The Family Court’s involvement does not change or excuse DHS’ noncompliance with those requirements.

Similarly, DHS contends that we did not review applicable federal laws or policies, stating that “federal laws take precedence over state laws.” While that may be true, we are unaware of any U.S. Code provision or other federal law that allows foster homes to be unlicensed when caring for children, and the department does not cite or otherwise direct us to any such federal provisions. Instead, DHS represents only that updated federal rules “eased some of the *placement* requirements.” (Emphasis added.) Those updated rules, however, do not supersede Hawai‘i law requiring foster homes to be licensed to care for children or the administrative rules relating to provisional certificates. Additionally, the State is not eligible to receive federal Title IV-E reimbursements for foster care payments to unlicensed homes, including child-specific homes with provisional certificates, suggesting to us that the U.S. Department of Health and Human Services does not support the placement of children in foster homes that have not fully completed the department’s licensing requirements.

The department argues that the administrative rules allow it to extend provisional certificates beyond 60 days. Specifically, the administrative rule states “[a] provisional certificate of approval, not to exceed sixty days, unless otherwise approved by the department may be issued to a resource family home that is unable to meet all the requirements at

the time of the study, if it is reasonable to assume that all licensing requirements will be met within sixty days and that there are no risks to the health, safety, or well-being of a child.” DHS apparently believes the language allows it to issue an unlimited number of consecutive provisional certificates to the same child-specific home. That interpretation is unsupported by the rule’s plain language. Moreover, the department’s suggestion that the delays in completing the licensing requirements are “reasonably acceptable” is belied by the evidence. As we report, the department’s licensing files are replete with correspondence to child-specific caregivers about the outstanding information needed to complete the licensing requirements; the files reflect that the department did nothing when the child-specific caregiver ignored those requests to provide the missing information – except issue another provisional certificate.

Irrespective of DHS’ disagreement with the interpretation of the rule, we are troubled by the department’s effort to discount the number of consecutive provisional certificates that were issued to the majority of child-specific homes as well as the 314 days, on average, that the homes in our sample took to complete the licensing requirements. In some instances, we found that children were in unlicensed child-specific homes for well over a year.

Catholic Charities’ performance wasn’t overlooked, it didn’t – and still doesn’t – matter

Lastly, we would be remiss if we did not address the department’s comments about Catholic Charities’ performance of the contracted licensing support services. DHS attempts to explain Catholic Charities’ failure to complete the licensing of child-specific homes within 90 days by citing the COVID-19 pandemic. However, DHS is well-aware that the licensing delays predated the pandemic; those same delays continue today, as evidenced by the cases described in the report and the reproduced page of the Office of Information Technology report on page 31 of the report.

We also are concerned that the department’s comments about the challenges that Catholic Charities may have encountered to perform the work for which it was paid to do – i.e., to expedite the licensing of foster homes, including child-specific homes – seems to again ignore the department’s most important responsibility: to protect children who have been harmed or are in circumstances that threaten harm. Neither the pandemic nor other circumstances changed that responsibility. In fact, the paramount importance of DHS’ child welfare duties is highlighted by the Governor’s Proclamation ordering all persons in the State to stay at home in response to COVID-19: “child protection and child welfare personnel” were exempted from the order.

The department should hold Catholic Charities accountable for its performance of the contracted services instead of trying to justify its poor performance. It is simply a waste of public funds to pay \$2 million year-after-year to Catholic Charities without any regard to the performance of the contracted services.

More importantly, DHS' comments attempting to excuse Catholic Charities' performance highlight the department's misunderstanding of the audit finding and, very likely, the recommendations to address the finding. We did not audit Catholic Charities' performance of the licensing support services under the contracts with DHS. We audited the department's monitoring of the Catholic Charities' licensing support contracts.

DHS says that it "was aware that the projected performance goals would likely not be met." We assume that DHS was aware of the extreme lengths of time that children were in child-specific homes that had not completed the licensing requirements. (See, e.g., the Office of Information Technology report on page 31.) However, being aware is not the same as monitoring, i.e., ensuring that Catholic Charities performs the contracted work; being aware is not the same as "formulating and implementing a monitoring plan" that includes guidelines for the monitoring process, as the law requires.

A serious misunderstanding of the audit

As apparent from this response, the majority of the department's comments are unrelated to the audit that we performed and the associated audit findings. The comments reflect a serious misunderstanding of the audit and the department's obligation to comply with legal requirements, specifically those relating to the licensing and the use of provisional certificates as well as to the monitoring and evaluation of contractor performance. Most concerning, the comments seem to reflect that the department prioritizes things over what is DHS' paramount responsibility: the safety of the children under its care.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



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April 15, 2024

Mr. Leslie Kondo
State Auditor
Office of the Auditor
465 S. King Street, Room 500
Honolulu, Hawaii 96813-2917

RE: Draft Audit of the Department of Human Services Child Welfare Services Branch, Report No. 24-05 / April 2024

Dear Mr. Kondo,

The Department of Human Services administration and staff value the opportunity to review the draft audit's findings and recommendations and to work with the Auditor's office to improve our internal controls and systems. As noted in our exit interview, the Social Services Division and Child Welfare Service Branch greatly appreciated the candor and kindness of your staff.

The Department affirms its responsibility to ensure the health and safety of children who require the State's intervention and child welfare services. The complexity of working with children and families to restore a safe and nurturing home or to find a different permanent home is daunting. The field continues to evolve to meet the needs of families who lack parenting information and skills, have themselves experienced childhood adversities, lack economic resources or social or familial connections to assist or provide nurturing support, or are impacted by domestic violence or substance abuse.

While acknowledging the importance of the audit's findings and recommendations, the Department and those involved in child placement decisions hold firmly to supporting a child's placement unless there are health and safety risks. The focus of the audit regards licensing of resource family homes; in the field of child welfare, the issue of placement stability is well-researched and founded on principles of child development that a child needs consistency,

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stability, and attachment to a nurturing adult to thrive. There is also well-supported research that multiple placements have long-term negative impacts on children in foster care and increase the child's risk of developing aggression, delinquency, and depression. The federal Family First Prevention Services Act of 2018 changed the child welfare practice and financing model to shift the field from intervention to preventing and reducing out-of-home placements.

With the draft audit's recommendations, the Department will examine and work with the Department of the Attorney General to review the administrative rules and draft rules or propose legislation, if necessary, so that the State's statute and rules, policies and practices, better reflect the considerations of the child's health and safety, including the number of placements a child has experienced, whether there is an alternative placement and the efforts or issues to assist an appropriate resource caregiver to meet the licensing requirements.

A strong protective services system requires the agency to engage with family members who often take on the responsibility of being a child's resource caregiver and collaborate with the Judiciary, the legal community, who serve as parents' counsel or Guardian Ad Litem, health care professionals, teachers, community members, and our contracted providers. We routinely work with contracted providers to address and resolve compliance concerns to ensure our duties and obligations are carried out. We will also seek providers' input as we address the draft audit's recommendations.

However, as mentioned during the exit interview, a sense of balance needs to be added to the draft audit, which would more accurately capture the realities and conditions of the division and branch that was already experiencing staff shortages prior to the COVID-19 pandemic. A comment was noted in the draft audit referring to the amount of change that was taking place and that it was challenging for staff to keep up. From the Department's perspective, the pace of change, especially during the first two years of the COVID-19 pandemic, required a complete and constant redesign to keep children and resource families safe while mitigating the risks to staff health and safety. Notably, in the draft audit, there is no reference to the COVID-19 pandemic and its impact on the Division staff and operations. We cannot express our appreciation enough for the resource caregivers, staff of the Social Services Division, and contracted providers for their dedication during "blue skies" and the pandemic, as the face-to-face nature of the work increased their stress, risk of exposure, and illness.

The draft audit presents a brief discussion of the high vacancy rates in the branch in 2023, which continue above 30% in 2024. Yet, the report needs to comment further on the impact of high vacancy and turnover, including retirements of significant leadership, which contribute to skills and knowledge loss that may likely lead to weakened internal controls. The struggle to maintain sufficient staffing cannot be understated. We actively recruit and fill positions, and have strongly advocated to have positions and funding restored in past sessions, including this session, as the Department faces proposed cuts of 91 positions.

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We agree with the Department of Human Resource Development statement in its 2024 Act 57 (SLH 2019) report to the Legislature,

"State employees are changing positions or leaving state service faster than departments can fill vacancies, which has caused the State's vacancy rate to increase. In addition, the Executive Branch faces an aging statewide workforce that is approximately 39% eligible to retire within the next five years."

Across the nation, human services and child welfare programs are experiencing high vacancies as private sector industries pay much higher wages for similarly skilled work. Contracted providers have also experienced high turnover and need help filling positions. Here in Hawaii, the provider community is strongly promoting government contracts to meet the true costs of services for child care, homeless services, and child protective services. Thus, we are additionally motivated to address recommendations that will lead to improved efficiencies to maximize federal reimbursement and increase revenue to the State to fund higher wages aimed at supporting the public and private human services workforce and strengthening the child welfare system.

Notably, in the effort to support the branch, the Department's Human Resources office and the Social Services Division innovated to address the high vacancy rates in the Division even before 2020 by developing and piloting the Wiki Wiki Hire process with the Department of Human Resources Development, which shortened the hiring process for Child Welfare Staff. Last year, we advocated for stipends for Child Welfare staff and an increase in funds for contract providers. We are also examining position descriptions to modernize the public workforce and add needed skills.

We have also been working with our federal oversight agency, the Administration on Children and Families, to gain authorization for our proposed IT modernization project for the Child Welfare Services. We are requesting appropriations from the Legislature for the Comprehensive Child Welfare Information System. We envision that an improved and well-designed IT infrastructure will significantly assist the Social Services Division staff to have the tools to do their work and lead to more efficiencies in their case management and contract oversight.

The branch also gained the approval of the State's Family First Prevention Services Act plan—the first in federal Region IX—which shifts the agency's work to the prevention of child abuse and neglect and changes the federal reimbursement process. We will incorporate the Auditor's recommendations and insight regarding our process to increase federal reimbursements.

The Department also worked with the Department of the Attorney General, the Judiciary, law enforcement, community providers, and advocates and proposed three measures this session that clarify several state laws and establish new processes for impacted families involved in child welfare services. We are also in discussion with federal agencies and Congressional members to improve access to resources for youth who have aged out of foster care and to increase oversight of families who receive federal adoption assistance.

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As we continue to engage in multiple efforts to ensure the health and safety of Hawaii's children and families, the Department will continue to address the problems identified in this draft audit with the Office of the Auditor and our partners. The detailed response is attached along with an updated Department organizational chart, as the one referenced in your draft report needed to be updated.

If you or your staff have any further questions, please contact Daisy Hartsfield, Social Services Division Administrator, at dhartsfield@dhs.hawaii.gov.

Sincerely,



Cathy Betts
Director

Attachment 1

Department of Human Services' Response to the Draft "Audit of the Department of Human Services Child Welfare Services Branch"

The Department of Human Services ("DHS") appreciates the opportunity to respond to the State Auditor's draft Audit of the Department of Human Services' Child Welfare Services Branch ("CWSB" or "branch"). The Department agrees with the draft audit's recommendations to amend existing rules, manuals, policies, and procedures to improve overall documentation and contract monitoring efforts and increase access to federal funds reimbursement.

The conclusion that children were put at risk was not supported by the data presented in the audit.

The Department of Human Services disagrees with the conclusion that the 'children were put at risk.' We want to emphasize that for each child in foster custody, a comprehensive network of professionals, including the case-assigned social worker, the child's guardian ad litem, the Family Court, and other mandated reporters, conduct ongoing risk assessments. Upon review of the cases investigated as part of the audit, we found no evidence that the involved children 'were put at risk' due to the licensing issues identified. While we acknowledge the need for policy and procedure changes, we firmly dispute the stark conclusion drawn by the audit.

The Department agrees that the applicable statutes, rules, procedures, and practices must be reviewed and amended to improve statutory compliance and facilitate contract oversight. The Department will work to ensure that those changes prioritize the health and safety of children in care and placement stability.

The conclusions were without context.

Placement decisions are made as part of a more extensive system of court monitoring for children in foster care. We contend it is necessary to highlight that the agency works within a more extensive child welfare system and does not act alone when making placement decisions. For children in foster custody, the ultimate decision on placement is the province of the Family Court. In making that decision, the Family Court receives input from the Department, parents, parents' counsel, and the child's guardian ad litem. At any time, the

parties, e.g., parents and their legal counsel, the child’s court-appointed guardian ad litem, and the court can raise concerns about the appropriateness of the resource caregivers and any other concerns about the child’s health or safety. These same parties can advocate to the Family Court that a child not be moved from a placement if the parties believe, despite licensing concerns, that the placement is in the best interest of the child.

In considering appropriate placements for children in foster custody, the Department always prioritizes the child's safety. The Department also considers factors like the child's needs, the proximity of the placement to the child's school, childcare, or health care provider, the willingness of the proposed placement to facilitate reunification with the parents, and other factors that affect the child's best interests. If there has been no identified risk to a child’s safety, removal of that child from the resource caregiver’s home can cause additional trauma to the child, and that potential trauma must also be considered in considering removal.¹

Inflammatory graphics and terms that should be removed.

In contrast to the financial audits from the Auditor's office that the Department is responding to, the tone of this draft audit mischaracterizes quotes without context as "sound bites." It uses visual cues that appear to intend to inflame the reader versus neutrally focusing on actionable improvement.

Examples include the addition of graphics (including color-blocked, side-text information) where citations to the information and purpose of the graphic are omitted, which may lead a reader to make conclusions that are not evidence-based or fact-based. The stock photo of a child looking out of a window on the first page of the audit report needs to be more relevant to the focus on contract compliance addressed in the draft audit. Instead, the photo infers the child is alone or forgotten. The Department requests reconsideration of the use of the photo.

The use of the red circles on pages 22, 23, and 42—without explanation—places unnecessary emphasis that negatively influences the reader's interpretation and conclusion that something is amiss.

¹ See, In re AS, 132 Hawai’i at 378, (2014)(holding DHS's placement decisions remain subject to the family court's "independent best interests review"), and In re ASK, 152 Hawai’i 123, at 275, (2022).

The conclusion that resource caregiver homes could be provisionally licensed “indefinitely” was not supported by the cases investigated in the audit.

The sentence, "We found that, once a provisional certificate is issued to a child-specific home, the department generally allowed a child to be in the home seemingly indefinitely, " on page 26, is a misrepresentation. We acknowledge that the provisionally licensed homes were licensed longer than contemplated by the rules, but they were not provisionally licensed indefinitely. The provisionally licensed homes were all eventually licensed. The provisional licenses were also time-limited based on case factors like the return of the child to their family or the child being adopted. Notably, the average length of stay in an out-of-home placement in SFY 2023 was 17 months.

The box on page 29 is misleading, and the appropriateness and fairness of using “A Requirement in Name Only?” is questionable. An individual who has been asked to become provisionally licensed so that they can care for a specific child is not similarly situated as an individual who is interested in becoming a resource caregiver for any child in foster care. Hence, there are different procedures for individuals who begin with a provisional license.

The review period conducted for the audit report was from September 2022 through October 2023, with a sampling of 103 files, of which 44 were general licensed resource homes and 59 were child-specific resource homes. The analysis, however, is based on 49 of the child-specific resource homes.

The Department requests which sampling approach was used in the draft audit; the Department is at a disadvantage in adequately responding to the validity of the information drawn from the sample size and its applicability to the population of licensed resource caregivers (provisional or unconditional).

Federal policies and guidance also inform child welfare policies and procedures.

The draft audit did not review applicable federal laws or policies, which would have been necessary to understand the federal requirements that must be adhered to by CWSB if the State is to accept federal funding, which is used for child welfare services. Review of federal laws, especially ones where federal funding is provided to a state government, is beneficial when analyzing a state’s compliance with legal requirements because, typically, federal laws take

precedence over state laws. Additionally, the September 28, 2023, amendments to 45 CFR 1355.20 and 1356.21(m) updated federal rules regarding placement with relatives or kin, which eased some of the placement requirements. These 2023 federal amendments are not yet reflected in our administrative rules.

Notably, no one in the Department's executive leadership, including the Director or Deputy Directors, was interviewed as part of the audit despite statements during the audit exit interview regarding the executive leadership roles and functions. The lack of participation of the Department's executive leadership resulted in a void of information as part of this audit.

The draft audit should mention that the Department instituted the use of a web portal² launched in July 2021 to improve the timeliness of the licensing process. This is significant because the portal became the mechanism to process applicants and illustrates the intent and commitment to address delays in licensing.

Unfortunately, the launch of the portal was not without additional technical issues that needed to be addressed and resolved. Other reasons for the delay in obtaining an unconditional license were challenges in finding interpreters for applicants, waitlists for training, and availability to do fingerprints due to limited access to authorized fingerprinting sites and fingerprinting machines. As mentioned in the draft audit, capacity issues continue to impact all levels of child welfare significantly. An example of this is how the absence of one employee who was on leave during the timeframe of the audit and thus unavailable impacted the audit because this person likely would have had much personal knowledge to provide specific details regarding the contract at issue. We do acknowledge the audit process highlights the need to strengthen our day-to-day documentation process. Fortunately, concerns about licensing were discussed during supervision, which is how concerns about the use of the licensing portal were addressed and eventually resolved.

The continued environment of being understaffed impacts our operational capacity and the ability to have the time and resources to supervise better, document, and timely record information. Another example of this lack of capacity problem is when a management position is vacant, requiring line staff to either cover or get temporarily assigned, which results in

² The only reference to the licensing portal is in the graphic on page 29 of the draft audit.

decreased supervision, heavier workloads, and truncated onboarding processes that do not allow new workers sufficient time to receive adequate training to familiarize themselves with the rules and statutes related to procurement.

The agency acknowledges the untimeliness of completing non-conditional licensing by every provisionally licensed child-specific resource caregiver but disagrees with the use of the term “often ignored” as it implies an intent to disregard the law or administrative rules.

As discussed above, the Department also disagrees that safety risks were created by the inability to have a provisionally licensed resource caregiver become unconditional licensed caregivers within sixty (60) days of being provisionally licensed. Also, Section 17-1625-10(b)(2) of the Hawaii Administrative Rules states that “A provisional certificate of approval, not to exceed, **unless** otherwise approved by the department . . . if it is reasonable to **assume that** all licensing requirements will be met within sixty days...”. (Bold emphasis added.)

The Department will work with the Department of the Attorney General to examine whether the rule or authorizing statute should be amended to better inform decision-making and correct implementation of the law. The Department's interpretation of the rule is that reasonably acceptable delays are valid reasons to extend a provisional certificate beyond 60 days of approval as long as there are no risks to the health, safety, or well-being of a child. Further, the rule, as interpreted by the Department, does not limit the number of extensions that can be approved by the Department pending completion of an unconditional license, and there were no evidentiary facts to support that a child in a provisionally licensed home pending non-conditional licensing was abused or neglected.

The Department acknowledges the finding that there is no assessment per se of whether the contracted provider met performance goals. However, the Department was in contact with the provider and was aware that the *projected* performance goals would likely not be met. This, however, was attributed to delays beyond the contract provider's control, such as the COVID-19 lockdown and restrictions, delays associated with the web portal transfer of information, and fingerprinting delays. COVID-19 played a considerable part in the licensing and home studies completed timely; families were reticent to allow anyone in their homes. The change in business practices in the other sectors to mitigate the risks of COVID-19 infection

also delayed the completion of background clearances and medical exams. Additionally, the outcome goals of the contract are based on projections, as the number of applicants and other unanticipated issues is unknown at the time of contract execution.

Generally, the Department agrees with the recommendations and commits to incorporating them in a continuing effort to amend policies and procedures.

The Department agrees with the fifteen (15) recommendations of the draft audit and notes that several recommendations will require the cooperation of external partners to implement. Even before this audit was conducted, the policies and procedures relating to licensing, which includes the Hawai'i Administrative Rules and Child Welfare Services Procedure Manual, were already being reviewed for updating in consultation with the Department of the Attorney General.

While it will take time to implement all of the recommendations due to many competing interests related to daily operations and crises that arise during case management, the Department is committed to improving the child welfare system.

In fact, the department had already identified the same areas for improvement and had begun addressing them before the audit.

Further, the Department worked and advocated to add executive leadership to restore the second Deputy Director position in the Director's Office. The loss of this position in the mid-1990s reduced the leadership by a third and further reduced top-level availability to assist the Division with oversight and quality improvement efforts. With the position restored in 2023, the 2nd Deputy position was filled in August 2023, six days before the Maui Wildfires.

Relevant to CWS, the August 2023 Maui Wildfires immediately reprioritized the Director's office and divisions' efforts to support the State's emergency management response. As recovery efforts are now plateauing, the Department is tasked with additional responsibilities to the residents of Maui to ensure an equitable recovery.

However, as much as the Department may not like some of the sentiment and tone in the draft audit, the recommendations provide an additional framework for the Department to move forward with realigning or reshaping internal controls and improving our practices.

Attachment 2

STATE OF HAWAII
 DEPARTMENT OF HUMAN SERVICES
 ORGANIZATION CHART
 JUNE 30, 2023

