



November 7, 2024

VIA EMAIL

The Honorable Ronald D. Kouchi
Senate President
415 South Beretania Street
Hawai'i State Capitol, Room 409
Honolulu, Hawai'i 96813

VIA EMAIL

The Honorable Greggor Ilagan
Vice Speaker, House of Representatives
415 South Beretania Street
Hawai'i State Capitol, Room 431
Honolulu, Hawai'i 96813

Re: *Report on the Implementation of State Auditor's Recommendations 2019 - 2022,*
Report No. 24-09

Dear President Kouchi and Vice Speaker Ilagan:

Please find attached Report No. 24-09, *Report on the Implementation of State Auditor's Recommendations 2019 - 2022*, which has also been uploaded to the Legislature's web-based application. This report is being issued pursuant to Section 23-7.5, Hawai'i Revised Statutes, and is a report on the follow-up reviews of State departments and agencies' implementation of audit recommendations contained in audits issued in calendar years 2019-2022.

The report is also accessible through our website at:
<https://files.hawaii.gov/auditor/Reports/2024/24-09.pdf>.

If you or other Legislators would like a printed version of the report, please let me know.

Very truly yours,

Leslie H. Kondo
State Auditor

LHK:emo

Attachment

ec/attach: Members of the Senate
Members of the House of Representatives
Carol Taniguchi, Senate Chief Clerk
Brian Takeshita, House Chief Clerk

Report on the Implementation of State Auditor's Recommendations 2019 – 2022

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

Report No. 24-09
November 2024



OFFICE OF THE AUDITOR
STATE OF HAWAII



OFFICE OF THE AUDITOR STATE OF HAWAII

Constitutional Mandate

Pursuant to Article VII, Section 10 of the Hawai'i State Constitution, the Office of the Auditor shall conduct post-audits of the transactions, accounts, programs and performance of all departments, offices and agencies of the State and its political subdivisions.

The Auditor's position was established to help eliminate waste and inefficiency in government, provide the Legislature with a check against the powers of the executive branch, and ensure that public funds are expended according to legislative intent.

Hawai'i Revised Statutes, Chapter 23, gives the Auditor broad powers to examine all books, records, files, papers and documents, and financial affairs of every agency. The Auditor also has the authority to summon people to produce records and answer questions under oath.

Our Mission

To improve government through independent and objective analyses.

We provide independent, objective, and meaningful answers to questions about government performance. Our aim is to hold agencies accountable for their policy implementation, program management, and expenditure of public funds.

Our Work

We conduct performance audits (also called management or operations audits), which examine the efficiency and effectiveness of government programs or agencies, as well as financial audits, which attest to the fairness of financial statements of the State and its agencies.

Additionally, we perform procurement audits, sunrise analyses and sunset evaluations of proposed regulatory programs, analyses of proposals to mandate health insurance benefits, analyses of proposed special and revolving funds, analyses of existing special, revolving and trust funds, and special studies requested by the Legislature.

We report our findings and make recommendations to the governor and the Legislature to help them make informed decisions.

For more information on the Office of the Auditor, visit our website:
<https://auditor.hawaii.gov>

Foreword

This is a report on the follow-up reviews of implementation by state departments and agencies of audit recommendations contained in audits issued in calendar years 2019–2022. We conducted the follow-ups pursuant to Section 23-7.5, Hawai‘i Revised Statutes, which requires the Auditor to report to the Legislature on each recommendation that the Auditor has made that is more than one year old and that has not been implemented by the audited agency.

We wish to express our appreciation for the cooperation and assistance extended to us by the various audited agencies and others whom we contacted during the course of the follow-up reviews.

Leslie H. Kondo
State Auditor

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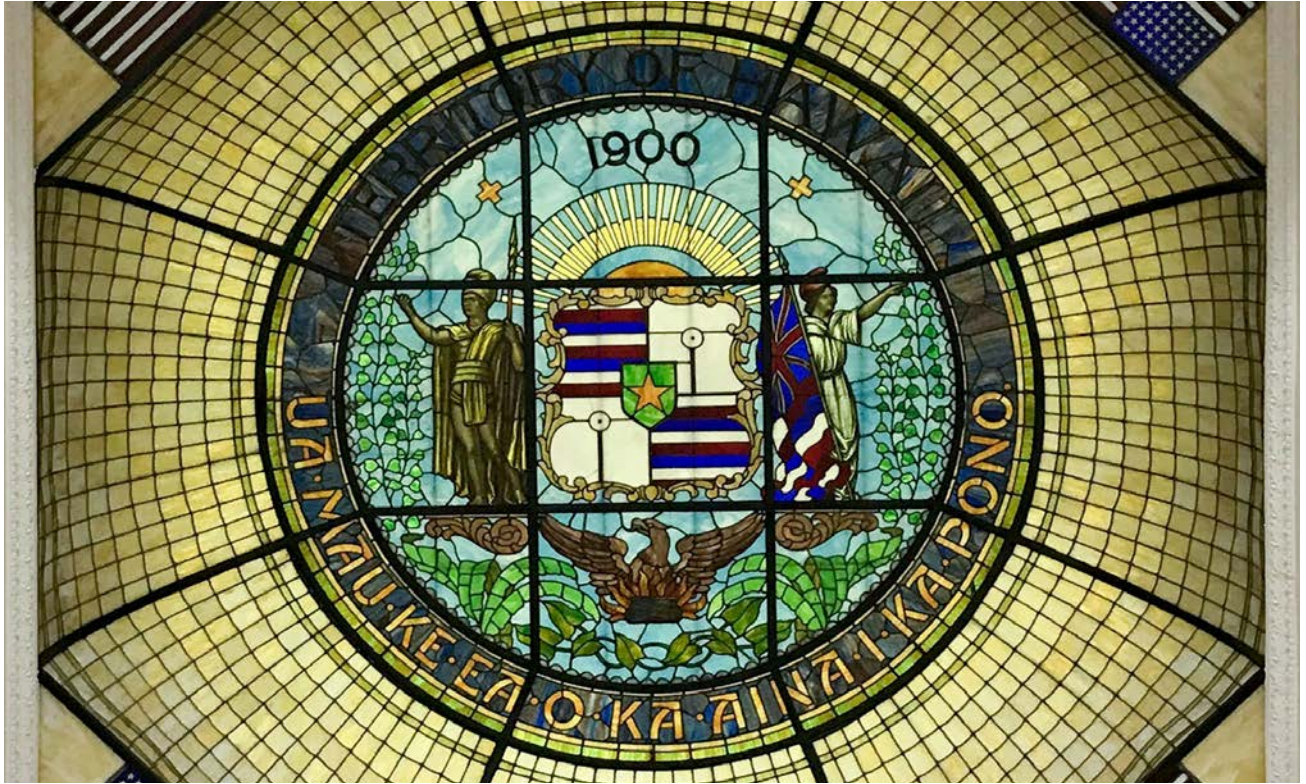


PHOTO: OFFICE OF THE AUDITOR

Status of Implementation of Audit Recommendations from Reports Issued 2019 – 2022

Section 23-7.5, Hawai‘i Revised Statutes, requires the Auditor to report to the Legislature annually on each audit recommendation more than one year old that has not been implemented by the audited agency. Our office follows up on recommendations in two ways. First, on an annual basis, we send requests to the agencies for status of implementation of our recommendations and details on steps taken toward implementation. Second, we conduct an active follow-up two to three years after issuance of the audit report containing recommendations and issue a separate follow-up report. Here, we report the latest status on the implementation of recommendations made in our reports issued from 2019 to 2022.

Introduction

EVERY YEAR, we follow up on recommendations made in our audit reports. We ask agencies to provide us with the status of their implementation of the recommendations made as part of our audit starting a year after the report was issued. After two or three years, we conduct a more rigorous follow-up review. Those reviews, which we refer to as “active reviews,” include interviewing

Definition of Terms

WE DEEM recommendations:

Implemented

where the department or agency provided sufficient and appropriate evidence to support all elements of the recommendation;

Partially Implemented

where some evidence was provided but not all elements of the recommendation were addressed;

Not Implemented

where evidence did not support meaningful movement towards implementation, and/or where no evidence was provided;

Not Implemented - N/A

where circumstances changed to make a recommendation not applicable; and

Not Implemented - Disagree

where the department or agency disagreed with the recommendation, did not intend to implement, and no further action will be reported.

selected personnel from the agency and examining the agency's relevant policies, procedures, records, and documents to assess whether action on recommendations has been taken. Our efforts are limited to reviewing and reporting on an agency's implementation of recommendations made in the original audit report. We do not explore new issues or revisit issues from the report unrelated to our original recommendations.

From 2019 to 2022, we made 118 audit recommendations. Based on information self-reported by the agencies and information from active reviews, 91 of those recommendations have been partially or fully implemented.

In 2020, we suspended work on ongoing audits so those auditees could adjust to performing their work remotely and address COVID-19-related issues. During that time, we performed a series of limited scope reviews and financial reporting on pandemic-related issues such as contact tracing, reporting of cases, suspension of tax breaks during difficult fiscal times, and amounts in special and revolving funds. These reports were specifically applicable to the challenges facing our state in 2020, so any recommendations in those reports are not included in our count, and no follow-up on the implementation status of recommendations contained in those reports was warranted.

We based our scope and methodology on guidelines published by the United States Government Accountability Office (GAO) – formerly the General Accounting Office – including *How to Get Action on Audit Recommendations* and *Government Auditing Standards*, as well as on Section 23-7.5, Hawai'i Revised Statutes (HRS).

According to the GAO, saving tax dollars, improving programs and operations, and providing better service to the public represent audit work's "bottom line." Recommendations are the vehicles by which these objectives are sought. However, it is action on recommendations – not the recommendations themselves – that helps government work better. Effective follow-up is essential to realizing the full benefits of audit work.

Audit Recommendations Implementation Reports Issued 2019 – 2022

Determining progress

The time it takes an agency to implement a recommendation depends on the type of recommendation. While some fall fully within the purview of an audited agency and can be addressed relatively quickly, others may deal with complex problems, involve multiple agencies, or require legislative action, resulting in a longer implementation period. We recognize ample time should be afforded to agencies implementing recommendations for a follow-up system to be useful and relevant.

With those observations in mind, we have determined an “active” follow-up effort, where we review and assess an agency’s efforts to implement our recommendations, is most effective and relevant if conducted two to three years after publication of an audit report. Too short an interval between audit report and follow-up might not give agencies enough time to implement; too long might allow agencies to lose valuable personnel and institutional knowledge needed to implement change. This is consistent with the GAO’s experience that action on recommendations usually occurs in the first three years after the recommendation is made.







Our current policy is to conduct follow-ups on recommendations for a five-year period after issuance of the report. After this time, further action on recommendations is unlikely. At that point, a new audit may be more appropriate.

The following pages present our summaries of the most recent status for recommendations from reports issued in the last five years. In many cases, the latest status is based on the agencies’ responses to our formal requests for an updated status of implementation of our recommendations.

It is important to stress that, unlike our “active” follow-up reports, the agencies’ responses to our requests for updates are just that – status as reported by the agencies themselves. Reporting of these responses is not based on an independent assessment by our office. However, the responses do represent the most recent status available to us.

Copies of our reports, including active follow-up reports, are available on our website at <https://www.auditor.hawaii.gov/>.

Audit Recommendations Implementation Dashboard

No. 19-01	Department of Land and Natural Resources Audit of the Department of Land and Natural Resources’ Land Conservation Fund		13 recommendations
No. 19-12	Department of Land and Natural Resources Audit of the Department of Land and Natural Resources’ Special Land and Development Fund		17 recommendations
No. 19-13	Department of Education Audit of the Department of Education’s Administration of School Impact Fees		22 recommendations
No. 21-01	Agribusiness Development Corporation Audit of the Agribusiness Development Corporation		36 recommendations
No. 22-05	Department of Corrections and Rehabilitation Audit of the Department of Public Safety		4 recommendations
No. 22-10	Office of Language Access Audit of the Office of Language Access		26 recommendations

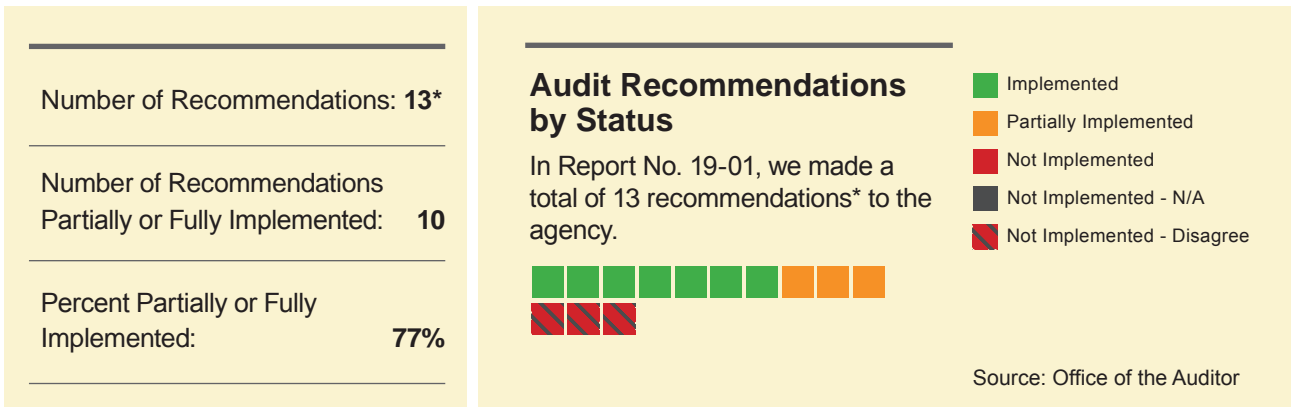
■ Implemented
 ■ Partially Implemented
 ■ Not Implemented
 ■ Not Implemented - N/A
 ■ Not Implemented - Disagree

Source: Office of the Auditor



COVER PHOTO: DEPARTMENT OF LAND AND NATURAL RESOURCES

REPORT NO. 19-01
***Audit of the Department of Land and Natural Resources’
 Land Conservation Fund***



*In Report No. 19-01, we offered 12 recommendations to the Department of Land and Natural Resources’ Legacy Land Conservation Program and Commission, including two separate recommendations that were part of Recommendation No. 3. In the follow-up Report No. 22-11, we assessed the program’s implementation of each part of Recommendation No. 3 separately. For that reason, we are now reporting on 13 recommendations (previously 12).

IN REPORT NO. 19-01, *Audit of the Department of Land and Natural Resources’ Land Conservation Fund*, we found that the Department of Land and Natural Resources (DLNR) and its Division of Forestry and Wildlife (DOFAW) have struggled to properly manage the Legacy Land Conservation Program, hampering its effectiveness. We also found that DOFAW sought and/or obtained funding from the Land Conservation Fund for its own projects outside of the Legacy Land Conservation Program’s grant award process.

In 2020 and 2021, we issued formal requests for information to DLNR on the status of audit recommendations from Report No. 19-01. The agency reported that 11 of our recommendations had been at least partially implemented and one recommendation had not been implemented.

In 2022, we conducted an active follow-up into the implementation of our recommendations and issued Report No. 22-11 entitled, *Follow-Up on Recommendations from Report No. 19-01, Audit of the Department of Land and Natural Resources’ Land Conservation Fund*. As a result of that report, we found that 8 out of 13 (62%) of our recommendations had been at least partially implemented.

In 2023, we issued a formal request for information to DLNR on the status of audit recommendations noted in Report No. 22-11 as “Partially Implemented” or “Not Implemented.” The agency reported that those recommendations that they agreed with were now at least partially implemented, and the three recommendations not implemented they disagreed with.

The following is a list of recommendations made and a chronological summary of our follow-up efforts. Any findings by the Office of the Auditor are highlighted in yellow.

Recommendation	Status of Recommendation
<p>(Program, 1.) The Legacy Land Conservation Program should prepare and implement a Resource Land Acquisition Plan to comply with Section 173A-3, HRS.</p>	<ul style="list-style-type: none"> <li data-bbox="760 369 1230 436"> <p>2023: DLNR reports Implemented Self-reported November 29, 2023.</p> <li data-bbox="760 474 1349 541" style="background-color: #FFF9C4;"> <p>2022: Auditor reports Partially Implemented Follow-Up, Report No. 22-11.</p> <li data-bbox="760 569 1328 636"> <p>2021: DLNR reports Partially Implemented Self-reported March 1, 2021.</p> <li data-bbox="760 663 1328 730"> <p>2020: DLNR reports Partially Implemented Self-reported February 28, 2020.</p>
<p>(Program, 2.) The Legacy Land Conservation Program should develop and implement written policies and procedures – including internal controls – governing the grant award and blanket encumbrance processes to ensure that project contracts are executed on time and blanket encumbered funds do not lapse.</p>	<ul style="list-style-type: none"> <li data-bbox="760 783 1247 850" style="background-color: #FFF9C4;"> <p>2022: Auditor reports Implemented Follow-Up, Report No. 22-11.</p> <li data-bbox="760 888 1219 955"> <p>2020: DLNR reports Implemented Self-reported February 28, 2020.</p>
<p>(Program, 3, Part 1.) The Legacy Land Conservation Program should develop clear and well-defined policies and procedures between the Legacy Land Conservation Program and DOFAW regarding distribution of Land Conservation Fund moneys.</p>	<ul style="list-style-type: none"> <li data-bbox="760 1083 1247 1150" style="background-color: #FFF9C4;"> <p>2022: Auditor reports Implemented Follow-Up, Report No. 22-11.</p> <li data-bbox="760 1188 1219 1255"> <p>2020: DLNR reports Implemented Self-reported February 28, 2020.</p>

Recommendation

Status of Recommendation

(Program, 3, Part 2.) DOFAW should follow Section 173A-5, HRS, and submit a grant application to receive funding rather than submit a budgetary request.

2022: Auditor reports **Not Implemented - Disagree**

Follow-Up, Report No. 22-11.

Our follow-up report noted: “The Legacy Land Conservation Program stated its belief that the department, on behalf of DOFAW, is allowed to submit budgetary requests for the acquisition of land and that it therefore disagrees with this part of Recommendation 3. The program further argues that the Legislature has shown support for the department by appropriating moneys through budgetary requests from the Land Conservation Fund for acquisitions.”

2020: DLNR reports **Not Implemented - Disagree**

Self-reported February 28, 2020, stating:

“...the Department—like many other State agencies—is authorized to submit a budgetary request for the acquisition of interests in land. As further evidence of legislative support for a State agency to submit a budgetary request for an appropriation from the Land Conservation Fund for resource land acquisition, the 2019 Legislature appropriated a total of \$1,100,000 from the Land Conservation Fund for two Department land acquisitions, as requested by the Department through the Executive Budget Request Process.”

(Program, 4.) The Legacy Land Conservation Program should work with the DLNR fiscal office to request the Department of Accounting and General Services to return the \$684,526 in administrative fees erroneously paid to it in FY2016 and FY2017.

2022: Auditor reports **Implemented**

Follow-Up, Report No. 22-11.

2020: DLNR reports **Implemented**

Self-reported February 28, 2020.

(Program, 5.) The Legacy Land Conservation Program should maintain a record of the transfer of funds to and from the DLNR trust account and report these transactions to the Governor and the Legislature in the program’s annual report as required by Section 173A-5(1)(2), HRS.

2022: Auditor reports **Implemented**

Follow-Up, Report No. 22-11.

2020: DLNR reports **Implemented**

Self-reported February 28, 2020.

Recommendation	Status of Recommendation
<p>(Program, 6.) The Legacy Land Conservation Program should review personnel spending and position assignments and implement changes as needed to ensure that Land Conservation Fund moneys are used only for administrative and other costs directly related to the Legacy Land Conservation Program.</p>	<ul style="list-style-type: none"> <li data-bbox="799 365 1393 554"> <p>2022: Auditor reports Not Implemented - Disagree Follow-Up, Report No. 22-11.</p> <p>Our follow-up report noted: “The program entertained three different alternatives to address Recommendation 6... ... The program justified rejecting these scenarios in favor of the status quo in which the Land Conservation Fund Program Development Specialist is 100% funded from the Land Conservation Fund. The program based its determination on the fact that several individuals within the Land Division whose positions are funded through sources other than the Land Conservation Fund work on Legacy Land Conservation Program activities, resulting in ‘well over 1.0 FTE of staff services that directly benefit the Legacy Land Conservation Program.’”</p> <li data-bbox="799 972 1219 1031"> <p>2021: DLNR reports Implemented Self-reported March 1, 2021.</p> <li data-bbox="799 1073 1330 1131"> <p>2020: DLNR reports Partially Implemented Self-reported February 28, 2020.</p>
<p>(Program, 7.) The Legacy Land Conservation Program should maintain a centralized file system and establish a records retention policy for all awarded projects, including pending, completed, and discontinued projects.</p>	<ul style="list-style-type: none"> <li data-bbox="799 1197 1321 1266"> <p>2023: DLNR reports Partially Implemented Self-reported November 29, 2023.</p> <li data-bbox="799 1304 1349 1362"> <p>2022: Auditor reports Partially Implemented Follow-Up, Report No. 22-11.</p> <li data-bbox="799 1400 1330 1459"> <p>2021: DLNR reports Partially Implemented Self-reported March 1, 2021.</p> <li data-bbox="799 1497 1330 1556"> <p>2020: DLNR reports Partially Implemented Self-reported February 28, 2020.</p>
<p>(Program, 8.) The Legacy Land Conservation Program should implement a policy that places a reasonable limit on the time a project, whether proposed by State, county, or nonprofit organization, can remain pending.</p>	<ul style="list-style-type: none"> <li data-bbox="799 1612 1393 1860"> <p>2022: Auditor reports Not Implemented - Disagree Follow-Up, Report No. 22-11.</p> <p>Our follow-up report noted: “Although the program requires board approval for projects that have not been completed after five years and requires appropriate justification for delays, projects can remain active indefinitely. ”</p> <li data-bbox="799 1898 1219 1957"> <p>2020: DLNR reports Implemented Self-reported February 28, 2020.</p>

Recommendation

Status of Recommendation

(Program, 9.) The Legacy Land Conservation Program should provide commissioners with background information and history on each applicant, including how many grants they have received from the Legacy Land Conservation Program, how long it has taken them to complete projects, and any outstanding or discontinued projects – a practice employed by the Federal Forest Legacy Program to help its panelists make final decisions on project recommendations.

2022: Auditor reports **Implemented**

Follow-Up, Report No. 22-11.

2020: DLNR reports **Implemented**

Self-reported February 28, 2020.

(Program, 10.) The Legacy Land Conservation Program should post Commission meeting minutes in compliance with the Sunshine Law.

2023: DLNR reports **Partially Implemented**

Self-reported November 29, 2023.

2022: Auditor reports **Not Implemented**

Follow-Up, Report No. 22-11.

Our follow-up report noted: “Because the Commission is continuing to struggle with posting meeting minutes within 40 days after the meeting as required by the Sunshine Law, we deem this recommendation to be not implemented.”

2020: DLNR reports **Implemented**

Self-reported February 28, 2020.

Recommendation

Status of Recommendation

(Program, 11.) The Legacy Land Conservation Program should promulgate administrative rules to implement the above recommendations.

2023: DLNR reports **Partially Implemented**

Self-reported November 29, 2023.

2022: DLNR reports Not Implemented

Follow-Up, Report No. 22-11.

Our follow-up report noted: “As the program has not yet implemented administrative rules, we deem this recommendation to be not implemented.”

2021: DLNR reports Not Implemented

Self-reported March 1, 2021, stating:

“If certain legislative measures introduced during the 2021 session are enacted, then it may be necessary to initiate rulemaking soon thereafter to conform with new statutory requirements.”

2020: DLNR reports Not Implemented

Self-reported February 28, 2020, stating:

“We anticipate that after completing our implementation of other audit recommendations, the Program will vet a conceptual rulemaking proposal with Division administrators, the Department Chairperson, the Department of the Attorney General, and the Legacy Land Conservation Commission to help decide a future course of action.”

(Commission, 1.) The Legacy Land Conservation Commission should limit the amount of the grants that it recommends be funded from the Land Conservation Fund to the anticipated balance of the amount appropriated by the Legislature for the fiscal year. The Commission should not recommend awards that exceed the anticipated balance of the current fiscal year appropriation.

2022: Auditor reports **Implemented**

Follow-Up, Report No. 22-11.

2020: DLNR reports Implemented

Self-reported February 28, 2020.



PHOTO: THINKSTOCK.COM

REPORT NO. 19-12

***Audit of the Department of Land and Natural Resources’
Special Land and Development Fund***

Number of Recommendations:	17
Number of Recommendations Partially or Fully Implemented:	16
Percent Partially or Fully Implemented:	94%

Audit Recommendations by Status

In Report No. 19-12, we made a total of 17 recommendations to the agency.

■ Implemented
■ Partially Implemented
■ Not Implemented
■ Not Implemented - N/A
■ Not Implemented - Disagree

Source: Office of the Auditor

IN REPORT NO. 19-12, *Audit of the Department of Land and Natural Resources’ Special Land and Development Fund*, we found that the Department of Land and Natural Resources’ (DLNR) Land Division is lacking in both its management of public lands and its administration of the Special Land and Development Fund (SLDF). We found the Land Division does not have a strategic plan for the long-term management of its public lands, an asset management plan, nor clear and coherent policies or procedures to guide day-to-day operations and that the absence of long-range planning left staff without expertise, resources, or options to actively and effectively manage its land portfolio. We noted DLNR does not accurately account for moneys in the SLDF and underreported cash balances to the 2018 Legislature by more than \$1.5 million. We also reported it has allowed more than \$1.5 million to sit idle in the SLDF for more than five years.

In 2020, 2021, 2022, and 2024, we issued formal requests for information to DLNR on the status of audit recommendations from Report No. 19-12. As of 2024, the agency reported that 16 of our recommendations had been at least partially implemented, and the one recommendation not implemented they disagreed with.

The following is a list of recommendations made and a chronological summary of our follow-up efforts. Any findings by the Office of the Auditor are highlighted in yellow.

Recommendation	Status of Recommendation
<p>(Land Board, 1.) The Land Board should provide training for Land Board members about fiduciary responsibilities and obligations as trustees, including responsibilities related to the management and holding of state lands for the benefit of the State and promoting the development and utilization of public trust lands to their highest economic and social benefits. See <u>In Re Water Use Permit Applications</u>, 94 Haw. 97 (2000).</p>	<ul style="list-style-type: none"> • 2022: DLNR reports Implemented Self-reported July 27, 2022. • 2021: DLNR reports Partially Implemented Self-reported July 27, 2021. • 2020: DLNR reports Partially Implemented Self-reported July 30, 2020.
<p>(Land Board, 2.) The Land Board should require DLNR and the Land Division to develop a long-range asset management/strategic plan that provides direction to the department and the Land Division as to the management of all leases, RPs, and public lands managed by the division.</p>	<ul style="list-style-type: none"> • 2024: DLNR reports Implemented Self-reported October 2, 2024. • 2022: DLNR reports Partially Implemented Self-reported July 27, 2022. • 2021: DLNR reports Partially Implemented Self-reported July 27, 2021. • 2020: DLNR reports Partially Implemented Self-reported July 30, 2020.
<p>(Land Board, 3.) The Land Board should reconsider caps on annual rent adjustments for all rents below fair-market rates. Instead, the Land Board should review rent readjustments on a case-by-case basis.</p>	<ul style="list-style-type: none"> • 2021: DLNR reports Implemented Self-reported July 27, 2021. • 2020: DLNR reports Implemented Self-reported July 30, 2020.
<p>(Land Division, 1.) The Land Division should prepare a long-range asset management/strategic plan that includes criteria for assessment based on benchmarks and other measurable objectives. The plan should address all leases, RPs, and public lands managed by the Land Division.</p>	<ul style="list-style-type: none"> • 2024: DLNR reports Partially Implemented Self-reported October 2, 2024. • 2022: DLNR reports Partially Implemented Self-reported July 27, 2022. • 2021: DLNR reports Partially Implemented Self-reported July 27, 2021. • 2020: DLNR reports Partially Implemented Self-reported July 30, 2020.

Recommendation

Status of Recommendation

(Land Division, 2.a.) The Land Division should develop and document policies and procedures for monitoring of leases and RPs.

2022: DLNR reports **Implemented**

Self-reported July 27, 2022.

2021: DLNR reports **Partially Implemented**

Self-reported July 27, 2021.

2020: DLNR reports **Partially Implemented**

Self-reported July 30, 2020.

(Land Division, 2.b.) The Land Division should develop and document policies and procedures for periodic and regular reviews of RP rents.

2021: DLNR reports **Implemented**

Self-reported July 27, 2021.

2020: DLNR reports **Implemented**

Self-reported July 30, 2020.

(Land Division, 2.c.) The Land Division should develop and document policies and procedures for verification of required receipts to validate substantial property improvements required for 10-year lease extensions.

2022: DLNR reports **Implemented**

Self-reported July 27, 2022.

2021: DLNR reports **Partially Implemented**

Self-reported July 27, 2021.

2020: DLNR reports **Partially Implemented**

Self-reported July 30, 2020.

(Land Division, 2.d.) The Land Division should develop and document policies and procedures for timely and effective collection of lease and RP rents.

2021: DLNR reports **Implemented**

Self-reported July 27, 2021.

2020: DLNR reports **Implemented**

Self-reported July 30, 2020.

(Land Division, 3.) The Land Division should establish guidelines and requirements for periodic and regular inspections of leases and RPs to ensure that lessees are adequately maintaining improvements on the properties. If additional staff is needed to reasonably carry out these duties, a workload analysis should be performed to justify more positions.

2022: DLNR reports **Implemented**

Self-reported July 27, 2022.

2021: DLNR reports **Partially Implemented**

Self-reported July 27, 2021.

2020: DLNR reports **Partially Implemented**

Self-reported July 30, 2020.

Recommendation

Status of Recommendation

(Land Division, 4.) The Land Division should perform close-out inspections for leases and RPs upon termination of leases or RPs based on updates to the Land Division guidelines. Inspections should include looking for specific issues such as the presence of hazardous materials, as well as documenting any unauthorized dismantling or removal of property that should revert to the State.

2021: DLNR reports **Implemented**

Self-reported July 27, 2021.

2020: DLNR reports **Implemented**

Self-reported July 30, 2020.

(Land Division, 5.) The Land Division should explore strategies to better market and manage its properties, which may include contracting private-sector brokers and property managers. We suggest the division consult with the State Procurement Office and other state agencies, such as the Hawai'i Public Housing Authority, which contract for similar services. The division should also seek legislative assistance through statutory amendments if necessary, for example, to assess rent premiums when the Land Board decides to extend leases.

2021: DLNR reports **Implemented**

Self-reported July 27, 2021.

2020: DLNR reports **Implemented**

Self-reported July 30, 2020.

Recommendation

(Land Division, 6.) The Land Division should seek to hire people with professional expertise or develop and implement a training program to prepare land agents for the transition from ground leases to space leases, perform property management functions, and conduct in-house evaluations whenever external appraisals are not cost-effective.

Status of Recommendation

2021: DLNR reports Not Implemented - Disagree

Self-reported July 27, 2021, stating:

“Land Division presently manages only one multi-tenanted building under space leases (revocable permits), and the Land Board has approved the public auction of that property to a master lessee who will then manage the spaces. Land Division would need a much larger budget and ceiling to assume the cost of maintaining and directly managing improved properties in its portfolio, many of which are more than 50 years old. Directly managing such buildings increases the State’s exposure to liability for tort claims commonly associated with property management (e.g., slip-and-fall claims). In recent years, Land Division has been unsuccessful in its requests to the Legislature for capital improvement funds and even for ceiling increases in the expenditure of SLDF monies to invest in State properties. Prospects for obtaining such funds in the future are not good. In addition, the State accounting system does not easily accommodate holding accounts required for deposit of common area charges from tenants to be paid to public utility companies such as for water, sewer, electrical and telecommunications. For these reasons, DLNR disagrees that transforming Land Division into a space leasing agency is desirable or economically feasible.”

2020: DLNR reports Not Implemented - Disagree

Self-reported July 30, 2020, stating: See above.

(DLNR, 1.) The Department of Land and Natural Resources should establish policies and procedures to accurately account for and report the activities of the SLDF to the Legislature.

2021: DLNR reports Implemented

Self-reported July 27, 2021.

2020: DLNR reports Implemented

Self-reported July 30, 2020.

Recommendation

Status of Recommendation

(DLNR, 2.) The Department of Land and Natural Resources should review the 400-series special fund accounts to determine whether the unexpended and unencumbered balances remaining in these accounts should be transferred to other SLDF accounts or transferred back to the origination fund. Considering the amount of SLDF cash disbursements and transfers to other DLNR special fund accounts, we further recommend that DLNR review each of the SLDF accounts to ascertain whether these accounts continue to meet the criteria of a special fund. Specifically, there should be a clear link between the programs and the sources of revenue. If not, these accounts should be subject to the State's general fund budget and appropriation process.

2021: DLNR reports **Implemented**

Self-reported July 27, 2021.

2020: DLNR reports **Implemented**

Self-reported July 30, 2020.

(DLNR, 3.) The Department of Land and Natural Resources should reconcile cash receipts recorded in SLIMS to FAMIS on a monthly basis.

2021: DLNR reports **Implemented**

Self-reported July 27, 2021.

2020: DLNR reports **Implemented**

Self-reported July 30, 2020.

(DLNR, 4.) The Department of Land and Natural Resources should determine with the Department of Budget and Finance whether revenues from ceded lands, net of amounts remitted to OHA, should be transferred to the State's general fund on a regular basis.

2021: DLNR reports **Implemented**

Self-reported July 27, 2021.

2020: DLNR reports **Implemented**

Self-reported July 30, 2020.

Recommendation

(DLNR, 5.) The Department of Land and Natural Resources should establish and adhere to formal written procedures for the collection of all percentage rent due from lessees. These procedures should address the timely receipt of sales audit reports or certified statements of gross receipts and percentage rent payments for all leases with percentage rent clauses, as well as appropriate actions to be taken for lessees failing to submit required sales audit reports or certified statement of gross receipts, and if applicable, percentage rent payments. In addition, these procedures should include documentation requirements for DLNR’s review and approval of certified statement of gross receipts provided by lessees.

Status of Recommendation

2022: DLNR reports **Implemented**

Self-reported July 27, 2022.

2021: DLNR reports **Partially Implemented**

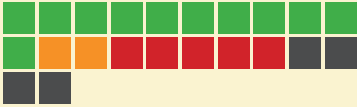
Self-reported July 27, 2021.

2020: DLNR reports **Partially Implemented**

Self-reported July 30, 2020.



REPORT NO. 19-13
Audit of the Department of Education’s Administration of School Impact Fees

<hr/> <p>Number of Recommendations: 22</p> <hr/> <p>Number of Recommendations Partially or Fully Implemented: 13</p> <hr/> <p>Percent Partially or Fully Implemented: 59%</p> <hr/>	<p style="text-align: center;">Audit Recommendations by Status</p> <p>In Report No. 19-13, we made a total of 22 recommendations to the agency.</p> <div style="display: flex; align-items: center;">  <div style="margin-left: 20px;"> <ul style="list-style-type: none"> ■ Implemented ■ Partially Implemented ■ Not Implemented ■ Not Implemented - N/A ■ Not Implemented - Disagree </div> </div> <p style="text-align: right; font-size: small;">Source: Office of the Auditor</p>
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IN REPORT NO. 19-13, *Audit of the Department of Education’s Administration of School Impact Fees*, we examined the administration of the school impact fee law, which applies to all builders of new residential units in designated school impact districts. The report found that the Department of Education (DOE) has no written policies and procedures for the selection of potential school impact districts, the factors that should be considered in determining the size of potential districts, or oversight and review of the process. We reported DOE does not begin assessing school impact fees immediately upon the Board of Education’s designation of a school impact district, sometimes waiting months before beginning collection. We noted DOE has not promulgated administrative rules to prescribe the process it intends the counties to follow before issuing building permits for new residential construction in an impact fee district.

In 2020, 2021, 2022, and 2023, we issued formal requests for information to DOE on the status of audit recommendations from Report No. 19-13. The agency initially reported that five recommendations had been at least partially implemented, 13 recommendations had not been implemented, and four recommendations were considered moot by the Board of Education and would not be implemented. By their 2023 response, DOE reported it had at least partially implemented 13 of the remaining recommendations, with five still not implemented.

The following is a list of recommendations made and a chronological summary of our follow-up efforts. Any findings by the Office of the Auditor are highlighted in yellow.

Recommendation

(DOE, 1.) The Department of Education should undertake a comprehensive evaluation of its implementation and administration of the school impact fee law, including an assessment of the appropriate staffing and other resources necessary to implement and administer the law.

Status of Recommendation

2021: DOE reports Implemented

Self-reported October 28, 2021.

2020: DOE reports Not Implemented

Self-reported October 30, 2020, stating:

“A comprehensive evaluation of the school impact fee program commenced in February 2020, with the hiring of a new Assistant Superintendent for the Office of Facilities and Operations. A preliminary evaluation and situation analysis by the planning department of the Office of Facilities and Operations (OFO) were made available to the Assistant Superintendent in October 2020.

Effective November 30, 2020, the OFO will initiate the development of a comprehensive plan for the school impact fee program.”

(DOE, 2.a.) The Department of Education should create written policies and procedures to guide and direct staff’s and management’s implementation and administration of the school impact fee law. Documented policies and procedures are some of the controls necessary for the DOE to ensure effective and efficient implementation and administration of the law in accordance with the statute, legislative intent, and constitutional requirements. At minimum, policies and procedures should address the stage in the development process at which a proposed new residential project should be included in the DOE’s consideration of classroom capacity requirements. We found the decision to recommend designation of a school impact district (and its boundaries) was left to the discretion of a land use planner who relied heavily on the City and County of Honolulu’s vision of transit-oriented residential development projects that were purely conceptual, without specific developers, development plans, or even land commitments for those projects. The policies and procedures should include criteria and other objective factors to be considered in evaluating when designation of a school impact district is appropriate.

2021: DOE reports Implemented

Self-reported October 28, 2021.

2020: DOE reports Not Implemented

Self-reported October 30, 2020, stating:

“As of October 2020, written policies and procedures have not been drafted. Based on the evaluation noted in Recommendation No. 1, the Department will draft written policies and procedures to guide and direct Department personnel in the implementation and administration of the school impact fee law.

Subject to concurrence by the appropriate offices and agencies and approval of the Superintendent, OFO intended to implement said policies and procedures by March 1, 2021.”

Recommendation

Status of Recommendation

(DOE, 2.b.) The Department of Education should create written policies and procedures to guide and direct staff’s and management’s implementation and administration of the school impact fee law. Documented policies and procedures are some of the controls necessary for the DOE to ensure effective and efficient implementation and administration of the law in accordance with the statute, legislative intent, and constitutional requirements. At minimum, policies and procedures should address the factors that determine the size and composition of a proposed impact fee district. Without a consistent process or documented framework, some of the department’s district designations appear questionable or even arbitrary: For instance, the expansive and diverse Leeward O’ahu district encompasses five school complexes (41 schools) with varying rates of past and projected student enrollment growth. Meanwhile, the KAM district boundaries are based on smaller elementary school service areas; as a result, the impact fee district includes only 10 of the 15 elementary schools in the Farrington and McKinley complexes.

2021: DOE reports **Implemented**

Self-reported October 28, 2021.

2020: DOE reports **Not Implemented**

Self-reported October 30, 2020, stating:

“As of October 2020, written policies and procedures have not yet been created.

Based on the evaluation noted in Recommendation No. 1, the OFO will draft written policies and procedures to guide Department personnel in the implementation and administration of the school impact fee law. These policies and procedures will be measured against the findings and recommendations in existing school impact fee districts (Central and West Maui, Leeward O’ahu, and Kalihi to Ala Moana) to maintain consistency in the implementation and management of the program.

Subject to concurrence of the appropriate offices and agencies and approval of the Superintendent, the Department intends to implement said policies and procedures by May 3, 2021.”

(DOE, 2.c.) The Department of Education should create written policies and procedures to guide and direct staff’s and management’s implementation and administration of the school impact fee law. Documented policies and procedures are some of the controls necessary for the DOE to ensure effective and efficient implementation and administration of the law in accordance with the statute, legislative intent, and constitutional requirements. At minimum, policies and procedures should address the collection, tracking, and accounting of lands dedicated to or that will be dedicated to the DOE under the school impact fee law, fees in lieu of land dedication, and construction component fees.

2021: DOE reports **Implemented**

Self-reported October 28, 2021.

2020: DOE reports **Partially Implemented**

Self-reported October 30, 2020.

Recommendation

(DOE, 2.d.) The Department of Education should create written policies and procedures to guide and direct staff's and management's implementation and administration of the school impact fee law. Documented policies and procedures are some of the controls necessary for the DOE to ensure effective and efficient implementation and administration of the law in accordance with the statute, legislative intent, and constitutional requirements. At minimum, policies and procedures should address the tracking and accounting of transfers and expenditures of lands and moneys paid under Fair Share agreements and the school impact fee law.

(DOE, 2.e.) The Department of Education should create written policies and procedures to guide and direct staff's and management's implementation and administration of the school impact fee law. Documented policies and procedures are some of the controls necessary for the DOE to ensure effective and efficient implementation and administration of the law in accordance with the statute, legislative intent, and constitutional requirements. At minimum, policies and procedures should address the use of moneys received by the DOE under Fair Share agreements and the school impact fee law. Under the school impact fee law, fees collected within an impact fee district can be spent only within the same district. We found that, with only one exception, the impact fee districts designated by the Board of Education encompass multiple school complexes. We raised concerns about whether the DOE can use school impact fees from a specific development in a school complex within the same impact fee district that is unaffected by the additional public school students created by the development.

Status of Recommendation

2021: DOE reports **Implemented**

Self-reported October 28, 2021.

2020: DOE reports **Partially Implemented**

Self-reported October 30, 2020.

2021: DOE reports **Implemented**

Self-reported October 28, 2021.

2020: DOE reports **Not Implemented**

Self-reported October 30, 2020, stating:

“As of October 2020, written policies and procedures have not been created. Based on the evaluation noted in Recommendation No. 1, the OFO will draft written policies and procedures to guide and direct the Department on the use of money received under the fair share agreements and the school impact fee program. The Department agrees that the current policy regarding the use of school impact fees may not serve its intended purpose as currently structured and needs to be adjusted.

Subject to concurrence by the appropriate offices and agencies and with Superintendent's approval, the Department intends to implement said policies and procedures by May 3, 2021.”

Recommendation

Status of Recommendation

(DOE, 2.f.) The Department of Education should create written policies and procedures to guide and direct staff's and management's implementation and administration of the school impact fee law. Documented policies and procedures are some of the controls necessary for the DOE to ensure effective and efficient implementation and administration of the law in accordance with the statute, legislative intent, and constitutional requirements. At minimum, policies and procedures should address the use and updating of cost factors (including "recent conditions") in school impact fee calculations.

2021: DOE reports Implemented

Self-reported October 28, 2021.

2020: DOE reports Not Implemented

Self-reported October 30, 2020, stating:

"As of October 2020, written policies and procedures have not yet been created. Based on the evaluation noted in Recommendation No. 1, the OFO will draft written policies and procedures on the use and updating of cost factors (including recent conditions and land appraisals) in school impact fee calculations. The OFO is currently undergoing a transition in leadership for this work in progress.

Subject to concurrence by the appropriate offices and agencies and with Superintendent's approval, the Department intends to implement said policies and procedures by May 3, 2021."

(DOE, 2.g.) The Department of Education should create written policies and procedures to guide and direct staff's and management's implementation and administration of the school impact fee law. Documented policies and procedures are some of the controls necessary for the DOE to ensure effective and efficient implementation and administration of the law in accordance with the statute, legislative intent, and constitutional requirements. At minimum, policies and procedures should address management's responsibilities in overseeing and approving staff's implementation and administration of the school impact fee law.

2021: DOE reports Implemented

Self-reported October 28, 2021.

2020: DOE reports Not Implemented

Self-reported October 30, 2020, stating:

"As of October 2020, written policies and procedures have not been created. Based on the evaluation noted in Recommendation No. 1, the OFO will draft written policies and procedures detailing the Department's responsibilities in overseeing and approving staff recommendations and the effective implementation and administration of the school impact fee law.

Subject to concurrence by the appropriate offices and agencies and with Superintendent's approval, the Department intends to implement said policies and procedures by May 3, 2021."

Recommendation

(DOE, 3.) The Department of Education should obtain written legal guidance from the Department of the Attorney General as to the constitutional restrictions associated with impact fees, including nexus and rough proportionality requirements. The legal guidance should specifically consider whether impact fee districts encompassing multiple school complexes satisfy constitutional requirements, considering Section 302A-1608(a), HRS, allows the department to use school impact fees anywhere within the impact fee district and does not restrict the department's use of school impact fees collected from a residential developer to the school complex in which the development is situated.

Status of Recommendation

- 2022: DOE reports **Implemented**
Self-reported October 27, 2022.
- 2021: DOE reports **Partially Implemented**
Self-reported October 28, 2021.
- 2020: DOE reports **Partially Implemented**
Self-reported October 30, 2020.

(DOE, 4.) The Department of Education should work with the Department of the Attorney General to establish the legal basis and the resultant policies for the collection of school impact fees from builders of new residential construction effective upon designation of the impact fee district.

- 2022: DOE reports **Implemented**
Self-reported October 27, 2022.
 - 2021: DOE reports **Partially Implemented**
Self-reported October 28, 2021.
 - 2020: DOE reports **Partially Implemented**
Self-reported October 30, 2020.
-

Recommendation

(DOE, 5.) The Department of Education should assess whether certain provisions in the school impact fee law, for example the land valuation procedures, are applicable to the constraints and requirements of district designation and district-wide fee setting, particularly in the urban setting. If needed, pursue amendment of the statute.

Status of Recommendation

• **2023: DOE reports Partially Implemented**

Self-reported October 25, 2023.

• **2022: DOE reports Partially Implemented**

Self-reported October 27, 2022.

• **2021: DOE reports Not Implemented**

Self-reported October 28, 2021, stating:

“To date, an assessment on land valuation procedures has not been initiated. As part of the Department’s ongoing assessment of the Program, an analysis will be done to identify whether the land valuation procedures are applicable to the constraints and requirements of district designation and district wide fee setting, particularly in the urban setting.

The Department intends to complete this analysis and make a determination whether an amendment to the statutes is required by January 15, 2022.”

• **2020: DOE reports Not Implemented**

Self-reported October 30, 2020, stating:

“As of October 2020, a comprehensive assessment on land valuation procedures and other methodologies to determine applicable fees across existing districts has not been initiated. This specific review will be addressed as part of the OFO’s comprehensive review of the program.

Subject to concurrence by the appropriate offices and agencies and with Superintendent’s approval, the Department intends to implement said policies and procedures by May 3, 2021.”

Recommendation

(DOE, 6.) The Department of Education should assess whether the “urban exceptions” made for the KAM district ensure fees collected for urban schools are relevant to that district and equitable to those collected for suburban schools. If needed, pursue amendment of the statute.

Status of Recommendation

2023: DOE reports **Partially Implemented**

Self-reported October 25, 2023.

2022: DOE reports **Partially Implemented**

Self-reported October 27, 2022.

2021: DOE reports **Not Implemented**

Self-reported October 28, 2021, stating:

“To date, an assessment of the ‘urban exception’ has not been initiated. As part of the Department’s ongoing assessment of the Program, an analysis will be done to ensure whether fees collected for urban schools are equitable to fees collected for suburban schools.

The Department intends to complete this analysis and make a determination whether an amendment to the statutes is required by July 1, 2022.”

2020: DOE reports **Not Implemented**

Self-reported October 30, 2020, stating:

“As of October 2020, an assessment of the ‘urban exceptions’ has not been initiated. As part of its comprehensive assessment of the school impact fee program, the Department will include an analysis of the differences, if any, between urban and suburban districts.

Subject to concurrence by the appropriate offices and agencies and with Superintendent’s approval, the Department intends to determine whether an amendment to the law is necessary.”

(DOE, 7.) The Department of Education should develop an expenditure plan for existing funds, including documented policies and procedures for ensuring that expenditures are made in accordance with existing Fair Share Agreements and the school impact fee law.

2021: DOE reports **Implemented**

Self-reported October 28, 2021.

2020: DOE reports **Partially Implemented**

Self-reported October 30, 2020.

Recommendation

(DOE, 8.a.) The Department of Education should ensure proper maintenance of records of land contributions for Fair Share and the school impact fee program. Records should be regularly updated and accessible to both management and the public. Promulgate administrative rules necessary to provide direction to developers, county permitting agencies, and the public as to how the DOE interprets and intends to implement the school impact fee law. At minimum, the administrative rules should address the specific information the DOE expects the county permitting offices to provide to the department regarding the applicants for county subdivision approvals and county building permits, including the form of the information, the timing of delivery of the information, and the method by which the counties should transmit the information.

Status of Recommendation

2023: DOE reports Not Implemented

Self-reported October 25, 2023, stating:

“The Department continues to maintain records of land contributions for Fair Share and the school impact fee program and are made accessible to management and the public. Quarterly reports are posted on the DOE public [website](#).

Pursuant to Act 72, Session Laws of Hawaii (SLH) 2020, and as of October 17, 2023, the Department is in consultation and coordination with the School Facilities Authority to establish administrative rules.”

2022: DOE reports Not Implemented

Self-reported October 27, 2022, stating:

“Pursuant to Act 72 (2020), the Department is in consultation and coordination with the School Facilities Authority to establish administrative rules.”

2021: DOE reports Not Implemented

Self-reported October 28, 2021, stating:

“The Department will begin to draft administrative rules by the end of this year, with anticipated adoption by December 31, 2022.

The approved policies and procedures to implement and administer the Program and fair share contributions will provide the basis in the drafting of administrative rules.

The approved policies and procedures includes the process established between the counties, with school impact districts, and the Department regarding the form of information, the timing of delivery of the information, and the method by which the counties should transmit the information.”

2020: DOE reports Not Implemented

Self-reported October 30, 2020, stating:

“The OFO has begun drafting written policies and procedures to guide and direct staff and management’s collection, tracking, and accounting of lands dedicated to the Department under the school impact fee law, fees in lieu of land dedication and construction component fees.

The OFO has drafted basic procedures for processing of building permits and collection of school impact fees for internal use.

However, the Department has not yet promulgated the recommended administrative rules.

Subject to concurrence by the appropriate offices and agencies and with Superintendent’s approval, the Department intends to draft and initiate rule-making by the latter half of 2021.”

Recommendation

(DOE, 8.b.) The Department of Education should ensure proper maintenance of records of land contributions for Fair Share and the school impact fee program. Records should be regularly updated and accessible to both management and the public. Promulgate administrative rules necessary to provide direction to developers, county permitting agencies, and the public as to how the DOE interprets and intends to implement the school impact fee law. At minimum, the administrative rules should address when and how applicants must pay the school impact fees, including the process and procedure by which the department or the county building departments intend to collect the fees.

Status of Recommendation

2023: DOE reports Not Implemented

Self-reported October 25, 2023, stating:

“The Department continues to maintain records of land contributions for Fair Share and the school impact fee program and are made accessible to management and the public. Quarterly reports are posted on the DOE public [website](#).

Pursuant to Act 72, Session Laws of Hawaii (SLH) 2020, and as of October 17, 2023, the Department is in consultation and coordination with the School Facilities Authority to establish administrative rules.”

2022: DOE reports Not Implemented

Self-reported October 27, 2022, stating:

“Pursuant to Act 72 (2020), the Department is in consultation and coordination with the School Facilities Authority to establish administrative rules.”

2021: DOE reports Not Implemented

Self-reported October 28, 2021, stating:

“The Department will begin to draft administrative rules by the end of this year, with anticipated adoption by December 31, 2022.

The approved policies and procedures to implement and administer the Program and fair share contributions will provide the basis in the drafting of administrative rules.

The approved policies and procedures includes when and how the Department or county building department intends to collect school impact fees.”

2020: DOE reports Not Implemented

Self-reported October 30, 2020, stating:

“The OFO has drafted basic procedures for processing of building permits and collection of school impact fees for internal use.

However, the Department has not promulgated administrative rules for external entities to track Department involvement in the building permit process, imposition and collection of school impact fees, coordination with respective county building and permitting departments, and appeals.

Subject to concurrence by the appropriate offices and agencies and with Superintendent’s approval, the Department intends to draft and initiate rule-making by the latter half of 2021.”

Recommendation

(DOE, 8.c.) The Department of Education should ensure proper maintenance of records of land contributions for Fair Share and the school impact fee program. Records should be regularly updated and accessible to both management and the public. Promulgate administrative rules necessary to provide direction to developers, county permitting agencies, and the public as to how the DOE interprets and intends to implement the school impact fee law. At minimum, the administrative rules should address if the department intends to allow developers to pay all or portions of the school impact fee subsequent to the issuance of county subdivision approval or county building permits, and the process by which payment shall be made, including the timing of the payment.

Status of Recommendation

2023: DOE reports Not Implemented

Self-reported October 25, 2023, stating:

“The Department continues to maintain records of land contributions for Fair Share and the school impact fee program and are made accessible to management and the public. Quarterly reports are posted on the DOE public [website](#).”

Pursuant to Act 72, Session Laws of Hawaii (SLH) 2020, and as of October 17, 2023, the Department is in consultation and coordination with the School Facilities Authority to establish administrative rules.”

2022: DOE reports Not Implemented

Self-reported October 27, 2022, stating:

“Pursuant to Act 72 (2020), the Department is in consultation and coordination with the School Facilities Authority to establish administrative rules.”

2021: DOE reports Not Implemented

Self-reported October 28, 2021, stating:

“The Department will begin to draft administrative rules by the end of this year, with anticipated adoption by December 31, 2022.

The approved policies and procedures to implement and administer the Program and fair share contributions will provide the basis in the drafting of administrative rules.

The approved policies and procedures includes whether the Department intends to allow developers to pay all or portions of the school impact fees subsequent to the issuance of a county building permit, and the process by which payments shall be made, including the timing of payments.”

2020: DOE reports Not Implemented

Self-reported October 30, 2020, stating:

“The OFO has drafted basic procedures for processing of building permits and collection of school impact fees for internal use.

However, the Department has not promulgated administrative rules for external entities to track Department involvement in the building permit process, imposition and collection of school impact fees, coordination between the Department and respective county building and permitting departments, and appeals.

Subject to concurrence by the appropriate offices and agencies and with Superintendent’s approval, the Department intends to draft and initiate rule-making by the latter half of 2021.”

Recommendation

(DOE, 8.d.) The Department of Education should ensure proper maintenance of records of land contributions for Fair Share and the school impact fee program. Records should be regularly updated and accessible to both management and the public. Promulgate administrative rules necessary to provide direction to developers, county permitting agencies, and the public as to how the DOE interprets and intends to implement the school impact fee law. At minimum, the administrative rules should address the process and procedures by which a developer can contest or appeal the imposition of school impact fees on the developer's project.

Status of Recommendation

2023: DOE reports **Not Implemented**

Self-reported October 25, 2023, stating:

“The Department continues to maintain records of land contributions for Fair Share and the school impact fee program and are made accessible to management and the public. Quarterly reports are posted on the DOE public [website](#).

Pursuant to Act 72, Session Laws of Hawaii (SLH) 2020, and as of October 17, 2023, the Department is in consultation and coordination with the School Facilities Authority to establish administrative rules.”

2022: DOE reports **Not Implemented**

Self-reported October 27, 2022, stating:

“Pursuant to Act 72 (2020), the Department is in consultation and coordination with the School Facilities Authority to establish administrative rules.”

2021: DOE reports **Not Implemented**

Self-reported October 28, 2021, stating:

“The Department will begin to draft administrative rules by the end of this year, with anticipated adoption by December 31, 2022.

The approved policies and procedures to implement and administer the Program and fair share contributions will provide the basis in the drafting of administrative rules.

The approved policies and procedures includes how a developer can contest or appeal the imposition of school impact fees on a developer's project.”

2020: DOE reports **Not Implemented**

Self-reported October 30, 2020, stating:

“The OFO has drafted basic procedures for processing of building permits and collection of school impact fees for internal use. The process to establish administrative rules has not been initiated.

Subject to concurrence by the appropriate offices and agencies and with Superintendent's approval, the Department intends to draft and initiate rule-making for the benefit of outside parties by the latter half of 2021.”

Recommendation

(DOE, 8.e.) The Department of Education should ensure proper maintenance of records of land contributions for Fair Share and the school impact fee program. Records should be regularly updated and accessible to both management and the public. Promulgate administrative rules necessary to provide direction to developers, county permitting agencies, and the public as to how the DOE interprets and intends to implement the school impact fee law. At minimum, the administrative rules should address the process and procedures by which the DOE will inform the county building departments that a developer has satisfied the school impact fee requirement.

Status of Recommendation

2023: DOE reports Not Implemented

Self-reported October 25, 2023, stating:

“The Department continues to maintain records of land contributions for Fair Share and the school impact fee program and are made accessible to management and the public. Quarterly reports are posted on the DOE public [website](#).”

Pursuant to Act 72, Session Laws of Hawaii (SLH) 2020, and as of October 17, 2023, the Department is in consultation and coordination with the School Facilities Authority to establish administrative rules.”

2022: DOE reports Not Implemented

Self-reported October 27, 2022, stating:

“Pursuant to Act 72 (2020), the Department is in consultation and coordination with the School Facilities Authority to establish administrative rules.”

2021: DOE reports Not Implemented

Self-reported October 28, 2021, stating:

“The Department will begin to draft administrative rules by the end of this year, with anticipated adoption by December 31, 2022.

The approved policies and procedures to implement and administer the Program and fair share contributions will provide the basis in the drafting of administrative rules.

The approved policies and procedures includes how the Department will inform the county building departments that a developer has satisfied the school impact fee requirement.”

2020: DOE reports Not Implemented

Self-reported October 30, 2020, stating:

“Although the OFO has drafted basic procedures for processing of building permits and collection of school impact fees for internal use, the process to establish administrative rules has not been initiated or drafted to provide direction to developers, county permitting agencies, and the public as to how the Department interprets and intends to implement the school impact fee law.

Subject to concurrence by the appropriate offices and agencies and with Superintendent’s approval, the Department intends to draft and initiate rule-making on the process and procedures by which the Department will inform the county building departments that a developer has satisfied the school impact fee requirement by the latter half of 2021.”

Recommendation

Status of Recommendation

(Board, 1.) The Board of Education should require the department to submit a written report that provides a comprehensive evaluation of its implementation and administration of the school impact fee law. This report should include the department’s findings and conclusions, specific actions that the department intends to implement to address our recommendations, other changes the department intends to make, and copies of policies and procedures. The report should also include a timeframe for implementation and note any additional resources the department feels may be necessary for successful implementation.

2020: BOE reports **Not Implemented - N/A**

Self-reported December 9, 2020, stating:

“[I]t is unlikely that the Board will implement any of the report’s recommendations as the governance structure and legal context surrounding school impact fees have changed.”

(Board, 2.) The Board of Education should direct the DOE to implement the recommendations necessary to address and correct the audit findings.

2020: BOE reports **Not Implemented - N/A**

Self-reported December 9, 2020, stating:

“[I]t is unlikely that the Board will implement any of the report’s recommendations as the governance structure and legal context surrounding school impact fees have changed.”

(Board, 3.) The Board of Education should direct the DOE to report at least quarterly on the status of its implementation of the recommendations necessary to address and correct the audit findings.

2020: BOE reports **Not Implemented - N/A**

Self-reported December 9, 2020, stating:

“[I]t is unlikely that the Board will implement any of the report’s recommendations as the governance structure and legal context surrounding school impact fees have changed.”

(Board, 4.) The Board of Education should for each school impact district considered by the board, obtain the Department of the Attorney General’s opinion, in writing, that the school impact district satisfies constitutional requirements, including nexus and proportionality requirements, prior to designation of the district.

2020: BOE reports **Not Implemented - N/A**

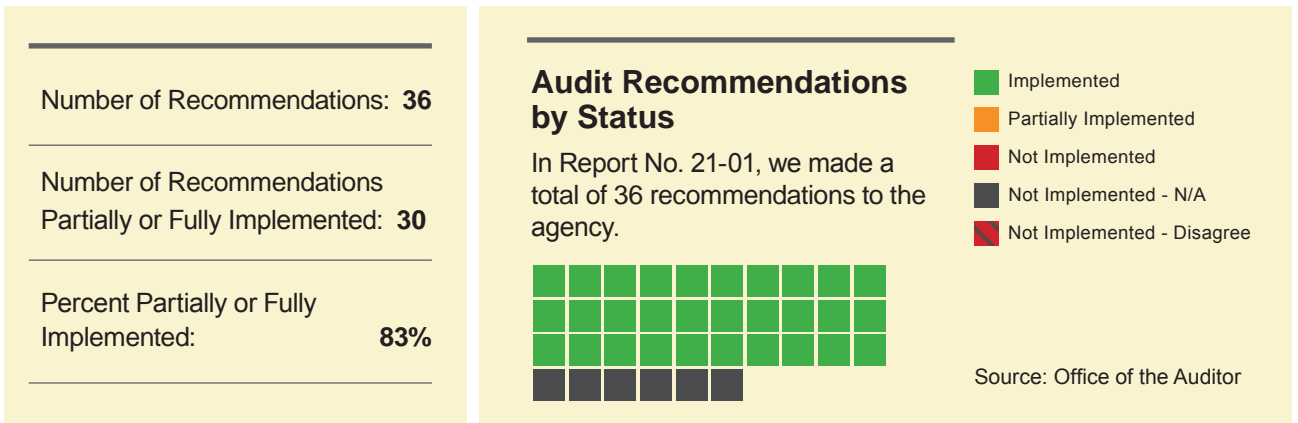
Self-reported December 9, 2020, stating:

“[I]t is unlikely that the Board will implement any of the report’s recommendations as the governance structure and legal context surrounding school impact fees have changed.”



REPORT NO. 21-01

Audit of the Agribusiness Development Corporation



IN REPORT NO. 21-01, *Audit of the Agribusiness Development Corporation*, we found that the Agribusiness Development Corporation (ADC) has done little – if anything – to facilitate the development of agricultural enterprises to replace the economic loss created by the demise of the sugar and pineapple industries. Instead of leading the State’s agricultural transformation, ADC primarily manages 4,257 acres of land it started acquiring in 2012 as well as the Waiāhole Water System on O‘ahu. Yet, we found that the corporation struggles to manage its lands, challenged by the myriad duties required for effective land management. We also found that ADC’s Board of Directors, as the head of the corporation, has provided minimal guidance and oversight of ADC’s operations.

In 2022, we issued a formal request for information to ADC on the status of audit recommendations from Report No. 21-01. The agency reported that 26 of our

recommendations had been at least partially implemented, and the 10 recommendations not implemented they either disagreed with or felt were no longer applicable.

In 2023, we issued another formal request for information on the status of audit recommendations. The agency reported that 25 of our recommendations had been at least partially implemented and 11 had not been implemented. Of the 11 recommendations not implemented, the agency disagreed with two, and noted that six were no longer applicable.

In November 2023, we received an update from the agency informing us that of the recommendations made to ADC, 25 had been implemented and six were no longer applicable. Of the five recommendations made to ADC’s Board of Directors, all five had been implemented.

The following is a list of recommendations made and a chronological summary of our follow-up efforts. Any findings by the Office of the Auditor are highlighted in yellow.

Recommendation

Status of Recommendation

(1.) ADC should update and revise its mission statement to reflect the corporation's purpose more completely as intended by the Legislature to address, among other things, facilitating the development of Hawai'i-based agricultural enterprises and strategies to promote, market, and distribute Hawai'i-grown agricultural crops and value-added products in local, national, and international markets.

2023: ADC reports **Implemented**

Self-reported November 16, 2023.

2023: ADC reports **Implemented**

Self-reported February 14, 2023.

2022: ADC reports **Implemented**

Self-reported March 4, 2022.

(2.) ADC should develop goals, objectives, policies, and priority guidelines that articulate and outline an agribusiness development strategy.

2023: ADC reports **Implemented**

Self-reported November 16, 2023.

2023: ADC reports **Implemented**

Self-reported February 14, 2023.

2022: ADC reports **Implemented**

Self-reported March 4, 2022.

(3.) ADC should develop an inventory of agricultural lands with adequate water resources that are or will become available due to the downsizing of the sugar and pineapple industries or for any other reason that can be used to meet present and future agricultural production needs.

2023: ADC reports **Implemented**

Self-reported November 16, 2023.

2023: ADC reports **Partially Implemented**

Self-reported February 14, 2023.

2022: ADC reports **Partially Implemented**

Self-reported March 4, 2022.

(4.) ADC should develop an inventory of agricultural infrastructure that was or will be abandoned by the sugar and pineapple industries or by any other organization involved in the production of agricultural products such as irrigation systems, drainage systems, processing facilities, and other accessory facilities.

2023: ADC reports **Implemented**

Self-reported November 16, 2023.

2023: ADC reports **Partially Implemented**

Self-reported February 14, 2023.

2022: ADC reports **Partially Implemented**

Self-reported March 4, 2022.

Recommendation

(5.) ADC should prepare an analysis of imported agricultural products and the potential for increasing local production to replace imported products in a manner that complements existing local producers and increases Hawai'i's agricultural self-sufficiency.

Status of Recommendation

2023: ADC reports Not Implemented - N/A

Self-reported November 16, 2023, stating:

“The language was removed when [Section] 163D-5(a)(3) [of the Hawai‘i Revised Statutes] was amended. The task of analyzing the replacement of imported foods with local foods was removed from the Hawaii Agribusiness Plan. The new language tasks ADC with ‘Strategies for federal, state, county and community stakeholder actions that will promote the development and enhancement of Hawai‘i’s agricultural industries.’”

2023: ADC reports Not Implemented - N/A

Self-reported March 16, 2023*, stating:

“[Section] 163D-5(a)(3) [of the Hawai‘i Revised Statutes] was amended and the language was removed.

The task of analyzing the replacement of imported foods with local foods was removed from the Hawaii Agribusiness Plan. However, incentivizing farmers to attain USDA Good Agricultural Practices certification and to grow products that consumers want in affordable and sustainable ways, and which retailers will then sell, is a prerequisite to large scale local production. (Local farmers’ markets and Community Supported Agriculture have been available for a while, but have been unable to replace the large retail stores that import produce.)”

*Original response was dated February 14, 2023, but an amended response was sent via email on March 16, 2023.

2022: ADC reports Not Implemented

Self-reported March 4, 2022, stating:

“There is currently legislation that proposes to substantially change ADC’s focus, including whether ADC should be tasked with analyzing imports or exports or both.”

Recommendation

(6.) ADC should develop financial and other programs (such as advisory, consultative, training, and educational) to promote and facilitate the development of diversified agriculture and agricultural enterprises.

Status of Recommendation

2023: ADC reports Implemented

Self-reported November 16, 2023.

2023: ADC reports Not Implemented

Self-reported February 14, 2023, stating:

“Some of this task is duplicative of the Agricultural Loan program within the Department of Agriculture. The University of Hawaii extension service has staff and crop specialist on all the counties who visit farmers including the farmers on ADC property. The ADC works with the Natural Resources Conservation service as part of our leasing process and they provide expertise in soil management and may provide funding for some of their practices.

Because farming is a business, permitting and licensing functions and related training are already managed by various county, state, and federal offices.

The ADC is working to add staff to provide financial expertise, Accountant IV and V. We will work to add education training programs for farmer use by using and adapting existing materials from other departments or exterior sources. The tasks are ongoing and although filling the vacant positions will help to assemble these resources, we plan to use existing staff until the positions are filled.”

2022: ADC reports Not Implemented

Self-reported March 4, 2022, stating:

“With respect to financial programs, see Detailed Response to Recommendation No. 5. Additionally, this task is duplicative of the Agricultural Loan program within the Department of Agriculture.

With respect to ‘other program (such as advisory, consultative, training, and educational)’, these types of activities benefit, and likely would be used, if at all, by small farmers. With respect to small farmers, see Detailed Response to Recommendation No. 5. With respect to large farmers, ADC’s large farmers are typically owned or controlled by national or international corporate entities who likely have their own programs.”

Recommendation

(7.) ADC should develop feasible strategies for the promotion, marketing, and distribution of Hawai'i agricultural crops and value-added products in local, national, and international markets.

Status of Recommendation

2023: ADC reports Not Implemented - N/A

Self-reported November 16, 2023, stating:

“Statute 163D-5(a)(5) was amended, and the language was removed.”

2023: ADC reports Not Implemented - N/A

Self-reported March 16, 2023*, stating:

“[Section] 163D-5(a)(5) [of the Hawai'i Revised Statutes] was amended and the language was removed.

This work is produced by other departments and divisions and ADC plans to make use of existing studies to support the industry. DBEDT has resources to support ADC if there is a need to update studies.”

*Original response was dated February 14, 2023, but an amended response was sent via email on March 16, 2023.

2022: ADC reports Not Implemented

Self-reported March 4, 2022, stating:

“See Detailed Response to Recommendation No. 5.”

(8.) ADC should develop strategies to ensure the provision of adequate air and surface transportation services and associated facilities to support the agricultural industry in meeting local, national, and international market needs.

2023: ADC reports Not Implemented - N/A

Self-reported November 16, 2023, stating:

“Statute 163D-5(a)(5) was amended, and the language was removed.”

2023: ADC reports Not Implemented - N/A

Self-reported March 16, 2023*, stating:

“[Section] 163D-5(a)(5) [of the Hawai'i Revised Statutes] was amended and the language was removed.

ADC has reached out to work with the foreign trade zone to support agricultural product aggregation and storage sites near transportation hubs and will continue to work with them.”

*Original response was dated February 14, 2023, but an amended response was sent via email on March 16, 2023.

2022: ADC reports Not Implemented

Self-reported March 4, 2022, stating:

“See Detailed Response to Recommendation No. 5. Additionally, ADC has previously commissioned a transportation study whose findings remain applicable today.”

Recommendation

Status of Recommendation

(9.) ADC should develop proposals to improve data collection and the timely presentation of information on market demands and trends that can be used to plan future harvests and production.

2023: ADC reports Not Implemented - N/A

Self-reported November 16, 2023, stating:

“Statute 163D-5(a)(5) was amended, and the language was removed.”

2023: ADC reports Not Implemented - N/A

Self-reported March 16, 2023**, stating:

“[Section] 163D-5(a)(5) [of the Hawai‘i Revised Statutes] was amended and the language was removed.”

This task is duplicative of work that is, or should be, conducted by USDA, CTAHR and HDOA.”

*Response indicated status as both “Not Implemented – N/A” and “Not Implemented – Disagree”. Based on our review of the Detailed Response, we believe “Not Implemented – N/A” is the intended response.

**Original response was dated February 14, 2023, but an amended response was sent via email on March 16, 2023.

2022: ADC reports Not Implemented - Disagree

Self-reported March 4, 2022, stating:

“See Detailed Responses to Recommendation Nos. 5 and 6. Additionally, this task is duplicative of work that is, or should be, conducted by CTAHR and HDOA.”

(10.) ADC should develop strategies for federal and state legislative actions that will promote the development and enhancement of Hawai‘i’s agricultural industries.

2023: ADC reports Implemented

Self-reported November 16, 2023.

2023: ADC reports Implemented

Self-reported February 14, 2023.

2022: ADC reports Implemented

Self-reported March 4, 2022.

(11.) ADC should prepare, and revise as required, the Hawai‘i Agribusiness Plan.

2023: ADC reports Implemented

Self-reported November 16, 2023.

2023: ADC reports Implemented

Self-reported February 14, 2023.

2022: ADC reports Implemented

Self-reported March 4, 2022.

Recommendation

Status of Recommendation

(12.) ADC should prepare short- and long-range strategic plans to facilitate development of Hawai’i-based agricultural enterprises to grow and export agricultural crops and value-added products.

• **2023: ADC reports Implemented**

Self-reported November 16, 2023.

• **2023: ADC reports Not Implemented**

Self-reported February 14, 2023, stating:

“ADC has been in discussion with Office of Planning within DBEDT to contract the strategic planning process with ADC.

ADC was approved \$90K to contract a planner. After talking with planning companies it was determined that working with DBEDT office of special planning is best suited for this type of work. ADC is developing a scope of work and OP will be working with ADC on this planning process for ADC managed property.”

• **2022: ADC reports Not Implemented**

Self-reported March 4, 2022, stating:

“See Detailed Response to Recommendation No. 5.”

(13.) ADC should, for each project, prepare or coordinate the preparation of business and agricultural development plans, as required by Section 163D-7, HRS.

• **2023: ADC reports Implemented**

Self-reported November 16, 2023.

• **2023: ADC reports Not Implemented**

Self-reported February 14, 2023, stating:

“With the approval of the ADC board, the ADC has leased agriculture lands to farmers who present their farming plan to the board for review. The ADC does not provide a plan for farmers to follow. ADC works with a farmer to understand the needs and if possible support the farmer with the infrastructure to successfully prep, plant, harvest and market a crop.

The ADC has worked to add infrastructure to vacant land and with the support of consultants and contractors installed a network of reservoirs and main waterlines and this work continues.”

• **2022: ADC reports Not Implemented**

Self-reported March 4, 2022, stating:

“ADC is currently developing the infrastructure, similar to being in the midst of construction of building. Development plans for the use of the infrastructure should be developed. Out-sourcing assistance for this task will be required in the near future.”

Recommendation

Status of Recommendation

(14.) ADC should evaluate retaining consultants and other outside technical assistance to develop a current Hawai'i Agribusiness Plan, short- and long-term strategic plans, business and agricultural development plans, and other tasks necessary to carry out the purposes of Chapter 163D, HRS.

2023: ADC reports **Implemented**

Self-reported November 16, 2023.

2023: ADC reports **Implemented**

Self-reported February 14, 2023.

2022: ADC reports **Implemented**

Self-reported March 4, 2022.

(15.) ADC should obtain and document approval by the Board of Agriculture for agricultural projects, agricultural development plans, and project facility programs, before implementation, as required by Section 163D-8.5, HRS.

2023: ADC reports **Not Implemented - N/A**

Self-reported November 16, 2023, stating:

“[Section] 163D-8.5 [of the Hawai'i Revised Statutes] was repealed. ADC is now under the Department of Business & Economic Development administratively.”

2023: ADC reports **Not Implemented - N/A**

Self-reported March 16, 2023*, stating:

“[Section] 163D-8.5 [of the Hawai'i Revised Statutes] was repealed.

The ADC board reviews and determines if a project is approved or not.”

*Original response was dated February 14, 2023, but an amended response was sent via email on March 16, 2023.

2022: ADC reports **Implemented**

Self-reported March 4, 2022.

Recommendation

Status of Recommendation

(16.) ADC should obtain from the Board of Agriculture its policies and procedures for approval of ADC’s projects under Section 163D-8.5, HRS, including any delegations of authority.

2023: ADC reports Not Implemented - N/A

Self-reported November 16, 2023, stating:

“[Section] 163D-8.5 [of the Hawai‘i Revised Statutes] was repealed... After review by the Attorney General, it was determined ADC is compliant with Chapter 163D.”

2023: ADC reports **Not Implemented - N/A**

Self-reported March 16, 2023*, stating:

“[Section] 163D-8.5 [of the Hawai‘i Revised Statutes] was repealed.

The Department of Agriculture Chair, along with the Department of Land and Natural Resources and Department of Business, Economic Development and Tourism designees all sit on both the ADC board and the Department board. Additionally, the Department of the Attorney General has assured us that our current practice complies with Chapter 163D.”

*Original response was dated February 14, 2023, but an amended response was sent via email on March 16, 2023.

2022: ADC reports **Implemented & Not Implemented**

Self-reported March 4, 2022, stating:

“See Detailed Response to Recommendation No. 5. Additionally, the Department of Agriculture Chair, and the Department of Land and Natural Resources and Department of Business, Economic Development and Tourism designees sit on both the ADC board and the Department board. Finally, the Department of the Attorney General is in accord with ADC’s method of compliance.”

(17.) ADC should, twenty days before each legislative session, submit a report of the corporation’s plans and activities to the Legislature and Governor, as required by Section 163D-19, HRS.

2023: ADC reports Implemented

Self-reported November 16, 2023.

2023: ADC reports **Implemented**

Self-reported February 14, 2023.

2022: ADC reports **Implemented**

Self-reported March 4, 2022.

Recommendation

Status of Recommendation

(18.a.) ADC should develop written policies and procedures relating but not limited to ADC Board oversight. The policies and procedures should address, among other things, the matters or types of matters that must be presented to the Board for information, consideration, and/or action; criteria establishing the actions which the Executive Director may authorize without the Board's approval, including powers delegated by the Board to the Executive Director, if any, as well as the process to periodically review the delegated authority; and the recordation of actions taken by the Board, which may include, among other things, confirmation of the Board's approvals, approvals with amendments, rejections, and/or deferrals.

2023: ADC reports **Implemented**

Self-reported November 16, 2023.

2023: ADC reports **Implemented**

Self-reported February 14, 2023.

2022: ADC reports **Partially Implemented**

Self-reported March 4, 2022.

(18.b.) ADC should develop written policies and procedures relating but not limited to land and other ADC-owned property disposition application processes. The policies and procedures should address, among other things, the internal processes for evaluating applications for use of ADC-owned property (license, permit, right of entry, etc.), including criteria upon which applications are evaluated; and checklists to document completion of each step of the process, receipt of required information, and timely communication with the applicant.

2023: ADC reports **Implemented**

Self-reported November 16, 2023.

2023: ADC reports **Implemented**

Self-reported February 14, 2023.

2022: ADC reports **Partially Implemented**

Self-reported March 4, 2022.

Recommendation

Status of Recommendation

(18.c.) ADC should develop written policies and procedures relating but not limited to property management. The policies and procedures should address, among other things, the process to confirm the receipt of all required documentation and other information, such as certificates or other evidence of compliance with federal and state requirements, performance bonds or other security, certificates or other evidence of insurance; for inspection of ADC properties, including the information or types of information that should be documented and the frequency of inspections; for enforcement of license/ permit/right-of-entry terms and conditions, including, issuance of notices of default; to evaluate the need for and type of security measures for a specific parcel; and to document completion of required processes or activities.

- **2023: ADC reports Implemented**
Self-reported November 16, 2023.
- **2023: ADC reports Implemented**
Self-reported February 14, 2023.
- **2022: ADC reports Partially Implemented**
Self-reported March 4, 2022.

(18.d.) ADC should develop written policies and procedures relating but not limited to file and document management. The policies and procedures should address, among other things, the types of documents retained by ADC and organization of those documents; staff responsibility for performing each file and document management task; document retention; and reporting of any release of personal information.

- **2023: ADC reports Implemented**
Self-reported November 16, 2023.
- **2023: ADC reports Partially Implemented**
Self-reported February 14, 2023.
- **2022: ADC reports Partially Implemented**
Self-reported March 4, 2022.

(19.) ADC should create an electronic database that includes, among other things, an inventory of the corporation's lands, improvements, and other assets. The database should include all information reasonably necessary to manage those assets, such as the material terms of licenses, permits, rights of entry, and other agreements to use or occupy ADC assets; and should allow ADC to generate reports necessary for management of its assets, such as current tenant lists, vacancy rates, rent rolls, rent reopening dates, and license, permit, or right of entry termination dates.

- **2023: ADC reports Implemented**
Self-reported November 16, 2023.
- **2023: ADC reports Partially Implemented**
Self-reported March 16, 2023*.

*Status submitted March 16, 2023, but response dated March 4, 2022.
- **2022: ADC reports Partially Implemented**
Self-reported March 4, 2022.

Recommendation

Status of Recommendation

(20.) ADC should create a filing system (or electronic document management system) that maintains documents in an organized manner and allows for the efficient retrieval of documents and/or files.

2023: ADC reports **Implemented**

Self-reported November 16, 2023.

2023: ADC reports **Partially Implemented**

Self-reported February 14, 2023.

2022: ADC reports **Partially Implemented**

Self-reported March 4, 2022.

(21.) ADC should evaluate the retention of a private property management company to manage some or all of ADC's properties.

2023: ADC reports **Implemented**

Self-reported November 16, 2023.

2023: ADC reports **Not Implemented - Disagree**

Self-reported February 14, 2023, stating:

“Hiring a consultant whose job can be performed by a union position requires exemption approvals. Prior property managers out-sourced by ADC via contract were not able to do all things that a property manager typically does because the scope of work of the property manager had to accommodate the fact that the vendor would not be doing union-type of work. ADC questions how other departments are able to outsource property management work without exemptions.

The better solution is to create a property manager position within ADC. This would help ADC with its property management responsibilities while not violating collective bargaining agreements with the State.”

2022: ADC reports **Implemented**

Self-reported March 4, 2022.

Recommendation

Status of Recommendation

(22.) ADC should promulgate administrative rules to address, among other things, the application process for the use of ADC lands and other assets, including ADC’s process for evaluating applications; ADC’s administration and enforcement of the terms and conditions of licenses, permits, rights of entry, and other conveyance instruments, including those relating to inspections, notices of default, termination, eviction, and appeal rights; criteria and other procedures to create subsidiaries; criteria and other procedures to coventure, i.e., to invest in qualified securities of an agricultural enterprise, and to make direct investment in an agricultural enterprise; criteria and other procedures to apply and qualify for allowances and grants; criteria and other procedures to exercise ADC’s right of withdrawal from licenses, permits, and rights of entry; and criteria and other procedures to apply and qualify for rent credits.

2023: ADC reports Implemented

Self-reported November 16, 2023.

2023: ADC reports Implemented*

Self-reported February 14, 2023.

*Response indicated status as both “Implemented” and “Not Implemented – Disagree”. Based on our review of the Detailed Response, we believe “Implemented” is the intended response.

2022: ADC reports Not Implemented & Not Implemented - Disagree

Self-reported March 4, 2022.

[There was no Detailed Response.]

(23.) ADC should evaluate the need to procure insurance against loss in connection with ADC-owned properties.

2023: ADC reports Implemented

Self-reported November 16, 2023.

2023: ADC reports Not Implemented - Disagree

Self-reported February 14, 2023, stating:

(same as below)

2022: ADC reports Not Implemented - Disagree

Self-reported March 4, 2022, stating:

“The State of Hawaii is self-insured. All property owned by ADC is included in its inventory, and is afforded coverage. Additionally, all ADC tenants are required to carry liability, and if applicable, property insurance, to name ADC as an additional insured under their policies, and to provide proof of insurance on an annual basis. To the extent that a tenant has an extraordinary activity being conducted on ADC property, ADC can require additional riders as conditions of a tenant’s tenure.”

Recommendation

Status of Recommendation

(24.) ADC should obtain an opinion from the State Procurement Office as to whether the corporation’s practice of offering negotiated rent credits to tenants and prospective tenants in exchange for services in common areas, unoccupied properties, or properties occupied by other tenants, such as road and reservoir construction, and/or materials is permitted under the Hawai’i Procurement Code.

2023: ADC reports **Implemented**

Self-reported November 16, 2023.

2023: ADC reports **Implemented**

Self-reported February 14, 2023.

2022: ADC reports **Not Implemented - Disagree**

Self-reported March 4, 2022, stating:

“ADC has requested advice from the Department of the Attorney General on this recommendation.”

(25.) ADC should attend training on the Hawai’i Procurement Code, Chapter 103D, HRS.

2023: ADC reports **Implemented**

Self-reported November 16, 2023.

2023: ADC reports **Implemented**

Self-reported March 16, 2023*.

*Status submitted March 16, 2023, but response dated March 4, 2022.

2022: ADC reports **Implemented**

Self-reported March 4, 2022.

(26.) ADC should fill vacant staff positions with qualified persons in a timely manner.

2023: ADC reports **Implemented**

Self-reported November 16, 2023.

2023: ADC reports **Implemented**

Self-reported February 14, 2023.

2022: ADC reports **Implemented**

Self-reported March 4, 2022.

(27.) ADC should develop and document annual performance goals and measures for each staff.

2023: ADC reports **Implemented**

Self-reported November 16, 2023.

2023: ADC reports **Implemented**

Self-reported February 14, 2023.

2022: ADC reports **Implemented**

Self-reported March 4, 2022.

Recommendation	Status of Recommendation
<p>(28.) ADC should evaluate each staff’s performance annually and document that evaluation.</p>	<ul style="list-style-type: none"> <li data-bbox="797 363 1211 436"> • 2023: ADC reports Implemented Self-reported November 16, 2023. <li data-bbox="797 468 1211 541"> • 2023: ADC reports Implemented Self-reported February 14, 2023. <li data-bbox="797 573 1211 646"> • 2022: ADC reports Implemented Self-reported March 4, 2022.
<p>(29.) The Board of Directors should develop and document annual goals and performance measures for the Executive Director that allow the Board to evaluate the Executive Director’s work, annually, to ensure compliance by the corporation with statutory requirements and achievement of its statutory purposes, among other things.</p>	<ul style="list-style-type: none"> <li data-bbox="797 688 1211 762"> • 2023: ADC reports Implemented Self-reported November 16, 2023. <li data-bbox="797 793 1211 867"> • 2023: ADC reports Implemented Self-reported February 14, 2023. <li data-bbox="797 898 1211 951"> • 2022: ADC reports Implemented Self-reported March 4, 2022.
<p>(30.) The Board of Directors should evaluate the Executive Director’s performance annually based on the annual goals, performance measures, and other relevant criteria; document that evaluation.</p>	<ul style="list-style-type: none"> <li data-bbox="797 1014 1211 1087"> • 2023: ADC reports Implemented Self-reported November 16, 2023. <li data-bbox="797 1119 1211 1192"> • 2023: ADC reports Implemented Self-reported February 14, 2023. <li data-bbox="797 1224 1211 1276"> • 2022: ADC reports Implemented Self-reported March 4, 2022.
<p>(31.) The Board of Directors should document the specific authority delegated to the Executive Director, including, but not limited to, the types of access and use of ADC property for which the Executive Director can approve without notice to or approval by the Board; and the rent credits and other amendments to Board-approved contract terms for which the Executive Director can approve without notice to or approval by the Board.</p>	<ul style="list-style-type: none"> <li data-bbox="797 1339 1211 1413"> • 2023: ADC reports Implemented Self-reported November 16, 2023. <li data-bbox="797 1444 1211 1518"> • 2023: ADC reports Implemented Self-reported February 14, 2023. <li data-bbox="797 1549 1211 1602"> • 2022: ADC reports Implemented Self-reported March 4, 2022.

Recommendation

Status of Recommendation

(32.) The Board of Directors should attend training on the State’s open meetings law (the Sunshine Law), Part I of Chapter 92, HRS.

• **2023: ADC reports **Implemented****

Self-reported November 16, 2023.

• **2023: ADC reports Implemented**

Self-reported February 14, 2023.

• **2022: ADC reports Implemented**

Self-reported March 4, 2022.

(33.) The Board of Directors should ensure that the Board’s minutes sufficiently document “[t]he substance of all matters proposed, discussed, or decided,” among other things, as required by Section 92-9(a) (3), HRS.

• **2023: ADC reports **Implemented****

Self-reported November 16, 2023.

• **2023: ADC reports Implemented**

Self-reported February 14, 2023.

• **2022: ADC reports Implemented**

Self-reported March 4, 2022.



PHOTO: DEPARTMENT OF PUBLIC SAFETY

REPORT NO. 22-05 *Audit of the Department of Public Safety*

Number of Recommendations: 4	<h3 style="margin: 0;">Audit Recommendations by Status</h3> <p style="margin: 0;">In Report No. 22-05, we made a total of 4 recommendations to the agency.</p> <div style="display: flex; align-items: center; gap: 10px;"> <div style="width: 15px; height: 15px; background-color: green; border: 1px solid black;"></div> <div style="width: 15px; height: 15px; background-color: green; border: 1px solid black;"></div> <div style="width: 15px; height: 15px; background-color: green; border: 1px solid black;"></div> <div style="width: 15px; height: 15px; background-color: red; border: 1px solid black;"></div> </div>	<ul style="list-style-type: none"> ■ Implemented ■ Partially Implemented ■ Not Implemented ■ Not Implemented - N/A ■ Not Implemented - Disagree
Number of Recommendations Partially or Fully Implemented: 3		Source: Office of the Auditor
Percent Partially or Fully Implemented: 75%		

IN REPORT NO. 22-05, *Audit of the Department of Public Safety*, we found that the Department of Public Safety (PSD) used an outdated shift relief factor that was calculated more than five decades ago. To determine the number of security staff positions (Adult Correctional Officers or ACOs) needed to safely operate facilities without having to close posts, suspend inmate programs, re-assign ACOs, and rely on significant amounts of overtime, correctional institutions employ a staffing multiplier called a shift relief factor, an important metric that accounts for staff absences. PSD also had not developed a process to accurately and consistently collect the data needed to calculate the shift relief factor. Without an up-to-date and accurate shift relief factor, the department does not know the number of ACO positions it needs to operate its correctional facilities, and as a result, its wardens must routinely resort to “band-aid” solutions to cover security posts in their facilities: closing posts,

suspending inmate programs, re-assigning staff, and excessive overtime.

In 2023, we issued a formal request for information to PSD on the status of audit recommendations from Report No. 22-05. The agency reported that three of our recommendations had been implemented, and one recommendation was not implemented.

In 2024, we issued another formal request for information on the status of audit recommendations. The Department of Public Safety was reorganized earlier this year, so the request was directed to the Department of Corrections and Rehabilitation (DCR). The agency still reported the one recommendation as not implemented.

The following is a list of recommendations made and a chronological summary of our follow-up efforts. Any findings by the Office of the Auditor are highlighted in yellow.

Recommendation

(1.) The Department should update its shift relief factor using actual ACO leave and attendance data (instead of calculating the shift relief factor based on the amount of leave an ACO is legally entitled to use). In addition to when ACOs are out on scheduled and unscheduled leave, the data should include the number of hours (or days) ACOs are unable to work at their assigned posts because of required training or other temporary reassignments, among other things.

Status of Recommendation

2024: DCR reports **Not Implemented**

Self-reported September 7, 2024, stating:

“Consistent with the detailed response dated 7/28/23, it remains difficult to determine an effective Shift Relief Factor (SRF) when utilizing factors that are unknown or not static. As of 6/30/2024, our ACO vacancy rate was at 30%, or 70% staffing. We do not have an adequate baseline to determine what our actual needs are. If a new SRF is formulated which would require a request to the legislature for additional staffing, DCR continues to believe it would be unreasonable and fiscally irresponsible towards the taxpayers of Hawaii since we are unable to fill our positions at our current SRF of 1.65 per seven (7) day post and 1.25 per five (5) day post. DCR continues to believe our SRF needs to be evaluated once we are at 90% staffing level to more accurately determine the effects on operations and proper levels of staffing. In 2024, DCR increased recruitment efforts for Adult Corrections Officer (ACO) positions and added additional ACO academy classes in an effort to increase our staffing levels statewide.”

2023: PSD reports **Not Implemented**

Self-reported July 28, 2023, stating:

“The shift relief factor may be better known by utilizing this methodology, however the term ‘unscheduled’ will be so inconsistent, the changes will bring instability in the calculations. Vacancies are also not factored in and even if they were, the unpredictability of them will distort the data even more since they are not static. It is difficult to determine an effective SRF when utilizing factors that are unknown or not static.

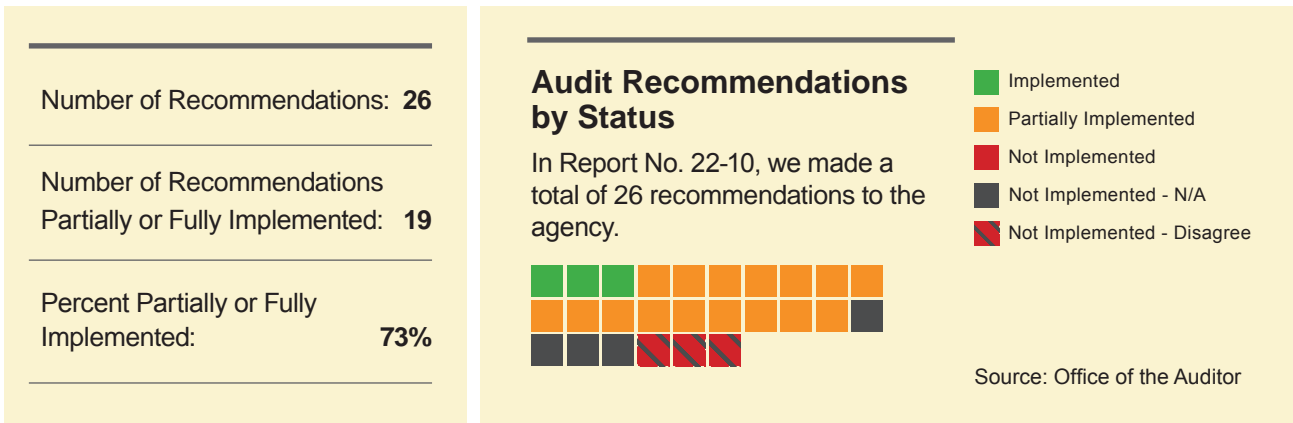
PSD is only able to extract data from August of 2021, that is the date PSD started using the Hawaii Information Portal system (HIP) that is now used to collect and track time and attendance data. The NIC model will require three years of data to formulate the SRF.”

Recommendation	Status of Recommendation
<p>(2.) The Department should prioritize the collection of accurate and timely ACO leave and attendance data needed to calculate an accurate and up-to-date shift relief factor and communicate that priority as well as the purpose and objective of collecting the data to correctional facility wardens and other department personnel who are responsible for the leave and attendance data.</p>	<p>2023: PSD reports Implemented Self-reported July 28, 2023.</p>
<p>(3.) The Department should develop policies, procedures, and processes to ensure each correctional facility operated by the department collects and compiles complete and consistent time and attendance data necessary to compute an accurate and up-to-date shift relief factor.</p>	<p>2023: PSD reports Implemented Self-reported July 28, 2023.</p>
<p>(4.) The Department should develop an automated process or processes to collect and compile the leave and attendance data needed to calculate an accurate and up-to-date shift relief factor. If the department re-purposes the existing Kamakani tool to collect and compile the leave and attendance data needed to compute its shift relief factor, we recommend that the department consider Kamakani to be an interim measure to determine its actual staffing requirements. An automated process or processes is needed to replace the current process or processes that require department personnel to manually copy and input leave and attendance information from certain forms to other forms.</p>	<p>2023: PSD reports Implemented Self-reported July 28, 2023.</p>



PHOTO: OFFICE OF THE AUDITOR

REPORT NO. 22-10 *Audit of the Office of Language Access*



IN REPORT NO. 22-10, *Audit of the Office of Language Access*, we found that the Office of Language Access (OLA) has done little of consequence to address the language access needs of limited English proficient persons or to ensure meaningful access to services, programs, and activities offered by state agencies and covered entities. We found an agency whose efforts to review and monitor language access plans, which should ensure that agencies have a process through which they will provide people who are limited English proficient meaningful access to services, programs, and activities, is nothing more than a paper exercise. In addition, OLA’s Language Access Resource Center (LARC) is required by statute to maintain a publicly available roster of language interpreters and translators that includes each individual’s qualifications and credentials based on OLA guidelines and in consultation with the Language Access Advisory Council. However, the roster maintained by OLA does not

include any OLA-approved qualifications and credentials, and we found that applicants are not required to show proof of their qualifications and competency before they are added to the roster.

In 2023, we issued a formal request for information to OLA on the status of audit recommendations from Report No. 22-10. The agency reported that 19 of our recommendations had been at least partially implemented, four recommendations were not applicable, and four recommendations were not implemented because they disagreed.

The following is a list of recommendations made and a chronological summary of our follow-up efforts. Any findings by the Office of the Auditor are highlighted in yellow.

Recommendation

Status of Recommendation

(1.a.i.) The Office of Language Access should adopt administrative rules that implement and interpret the language access law, Chapter 321C, HRS, prescribing the procedures and requirements agencies and covered entities must follow to comply with the statute. Specifically, the administrative rules should include the following regarding Language Access Plans: The specific information or types of information that state agencies and covered entities must include in their language access plans, including the language access plans required to be submitted every two years by Section 321C-4, HRS.

2023: OLA reports **Partially Implemented**

Self-reported November 30, 2023.

(1.a.ii.) The Office of Language Access should adopt administrative rules that implement and interpret the language access law, Chapter 321C, HRS, prescribing the procedures and requirements agencies and covered entities must follow to comply with the statute. Specifically, the administrative rules should include the following regarding Language Access Plans: The process and procedure state agencies must follow to consult with the Executive Director when establishing their language access plans as required under Section 321C-4, HRS.

2023: OLA reports **Partially Implemented**

Self-reported November 30, 2023.

(1.a.iii.) The Office of Language Access should adopt administrative rules that implement and interpret the language access law, Chapter 321C, HRS, prescribing the procedures and requirements agencies and covered entities must follow to comply with the statute. Specifically, the administrative rules should include the following regarding Language Access Plans: The process and procedure for submitting a language access plan for approval by the Executive Director.

2023: OLA reports **Partially Implemented**

Self-reported November 30, 2023.

Recommendation

Status of Recommendation

(1.a.iv.) The Office of Language Access should adopt administrative rules that implement and interpret the language access law, Chapter 321C, HRS, prescribing the procedures and requirements agencies and covered entities must follow to comply with the statute. Specifically, the administrative rules should include the following regarding Language Access Plans: The criteria applied by the Executive Director in reviewing, approving, and monitoring an agency or covered entity’s language access plan for compliance with Chapter 321C, HRS.

2023: OLA reports **Partially Implemented**

Self-reported November 30, 2023.

(1.a.v.) The Office of Language Access should adopt administrative rules that implement and interpret the language access law, Chapter 321C, HRS, prescribing the procedures and requirements agencies and covered entities must follow to comply with the statute. Specifically, the administrative rules should include the following regarding Language Access Plans: The requirement that the Executive Director must approve state agencies’ language access plans.

2023: OLA reports **Not Implemented - Disagree**

Self-reported November 30, 2023, stating:

“OLA disagrees with this recommendation due to the lack of enforcement authority. However, in the final draft of the HARs, §11-220-15, titled 'Compliance Score, Findings, and Recommendations,' a process and procedure are established to assist state agencies in achieving desirable outcomes while fostering working relationships among each other.”

(1.a.vi.) The Office of Language Access should adopt administrative rules that implement and interpret the language access law, Chapter 321C, HRS, prescribing the procedures and requirements agencies and covered entities must follow to comply with the statute. Specifically, the administrative rules should include the following regarding Language Access Plans: The requirement that the Executive Director must approve covered entities’ language access plans.

2023: OLA reports **Not Implemented - Disagree**

Self-reported November 30, 2023, stating:

“OLA disagrees with this recommendation due to the lack of enforcement authority.”

Recommendation	Status of Recommendation
<p>(1.b.i.) The Office of Language Access should adopt administrative rules that implement and interpret the language access law, Chapter 321C, HRS, prescribing the procedures and requirements agencies and covered entities must follow to comply with the statute. Specifically, the administrative rules should include the following regarding the Language Access Coordinator: The process and procedure state agencies must follow to designate a language access coordinator, including the time by which the agency must inform the Executive Director when the agency designates a new coordinator.</p>	<p>2023: OLA reports Partially Implemented Self-reported November 30, 2023.</p>
<p>(1.c.i.) The Office of Language Access should adopt administrative rules that implement and interpret the language access law, Chapter 321C, HRS, prescribing the procedures and requirements agencies and covered entities must follow to comply with the statute. Specifically, the administrative rules should include the following regarding the implementation of Language Access Plans: The process and procedure by which OLA will “[p]rovide oversight, central coordination, and technical assistance to state agencies in their implementation of language access requirements,” as required under Section 321C-6(1), HRS.</p>	<p>2023: OLA reports Partially Implemented Self-reported November 30, 2023.</p>
<p>(1.c.ii.) The Office of Language Access should adopt administrative rules that implement and interpret the language access law, Chapter 321C, HRS, prescribing the procedures and requirements agencies and covered entities must follow to comply with the statute. Specifically, the administrative rules should include the following regarding the implementation of Language Access Plans: The process and procedure by which OLA will “[p]rovide technical assistance to covered entities in their implementation [of Chapter 321C, HRS],” as required under Section 321C-6(2), HRS.</p>	<p>2023: OLA reports Partially Implemented Self-reported November 30, 2023.</p>

Recommendation

(1.c.iii.) The Office of Language Access should adopt administrative rules that implement and interpret the language access law, Chapter 321C, HRS, prescribing the procedures and requirements agencies and covered entities must follow to comply with the statute. Specifically, the administrative rules should include the following regarding the implementation of Language Access Plans: The time by which state agencies and covered entities must provide competent oral language services to limited English proficient persons who seek access to services, programs, or activities.

Status of Recommendation

2023: OLA reports **Not Implemented - N/A**

Self-reported November 30, 2023, stating:

“Under §321C-3, HRS, each entity is required to take reasonable steps to ensure meaningful access to services, programs, and activities for persons with limited English proficiency (LEP). However, the term 'reasonable steps' is subjective and can be challenging to define precisely and inclusively. The appropriate measures depend on the totality of the circumstances present at the time of the encounter.

Nevertheless, as a key element of the language access plan, §11-220-8(d) of the draft HARs requires agencies to address all components related to oral language services. This ensures that agencies are prepared and can respond appropriately when situations arise that necessitate the provision of competent oral language services to LEP individuals.”

(1.c.iv.A.) The Office of Language Access should adopt administrative rules that implement and interpret the language access law, Chapter 321C, HRS, prescribing the procedures and requirements agencies and covered entities must follow to comply with the statute. Specifically, the administrative rules should include the following regarding the implementation of Language Access Plans: The criteria state agencies and covered entities must apply in determining the number or proportion of limited English proficient persons served or encountered in the eligible service population.

2023: OLA reports **Partially Implemented**

Self-reported November 30, 2023.

Recommendation

Status of Recommendation

(1.c.iv.B.) The Office of Language Access should adopt administrative rules that implement and interpret the language access law, Chapter 321C, HRS, prescribing the procedures and requirements agencies and covered entities must follow to comply with the statute. Specifically, the administrative rules should include the following regarding the implementation of Language Access Plans: The criteria state agencies and covered entities must apply in determining the frequency with which limited English proficient persons come in contact with the services, programs, or activities.

2023: OLA reports **Partially Implemented**

Self-reported November 30, 2023.

(1.c.iv.C.) The Office of Language Access should adopt administrative rules that implement and interpret the language access law, Chapter 321C, HRS, prescribing the procedures and requirements agencies and covered entities must follow to comply with the statute. Specifically, the administrative rules should include the following regarding the implementation of Language Access Plans: The criteria state agencies and covered entities must apply in determining the nature and importance of the services, programs, or activities.

2023: OLA reports **Not Implemented - N/A**

Self-reported November 30, 2023, stating:

“OLA is not the appropriate authority due to a lack of expertise in every subject matter. OLA will defer to each agency in determining the nature and importance of their services, programs, or activities, as they are subject matter experts in their respective areas. Each agency is unique, with different missions and priorities in operating their agencies. Therefore, they should be autonomous in determining their own programs, services, and activities.

Nevertheless, agencies can utilize the ‘OLA Language Assistance Services Self-Assessment Tool’ in applying the four-factor analysis, and OLA is available for technical assistance.”

(1.c.iv.D.) The Office of Language Access should adopt administrative rules that implement and interpret the language access law, Chapter 321C, HRS, prescribing the procedures and requirements agencies and covered entities must follow to comply with the statute. Specifically, the administrative rules should include the following regarding the implementation of Language Access Plans: The criteria state agencies and covered entities must apply in determining the resources available to the state agency or covered entity and the costs.

2023: OLA reports **Not Implemented - N/A**

Self-reported November 30, 2023, stating:

“OLA will defer this responsibility to each individual agency. This approach is taken because each agency is unique, possessing different levels of resources. Therefore, it is more appropriate for each agency to assess its own resources and costs related to the implementation of Language Access Plans.”

Recommendation

(1.c.v.) The Office of Language Access should adopt administrative rules that implement and interpret the language access law, Chapter 321C, HRS, prescribing the procedures and requirements agencies and covered entities must follow to comply with the statute. Specifically, the administrative rules should include the following regarding the implementation of Language Access Plans: The time by which state agencies and covered entities must provide written translation of vital documents to limited English proficient persons who seek access to services, programs, or activities if required to provide translation of those documents under Section 321C-3(c), HRS.

(1.c.vi.) The Office of Language Access should adopt administrative rules that implement and interpret the language access law, Chapter 321C, HRS, prescribing the procedures and requirements agencies and covered entities must follow to comply with the statute. Specifically, the administrative rules should include the following regarding the implementation of Language Access Plans: The process and procedure for agencies to inform OLA when they are unable to provide a person who is limited English proficient with reasonable access to the agency's programs, services, or activities.

Status of Recommendation

2023: OLA reports **Not Implemented - N/A**

Self-reported November 30, 2023, stating:

“Under §321C-3, HRS, each entity is required to take reasonable steps to ensure meaningful access to services, programs, and activities for persons with limited English proficiency (LEP). However, defining ‘reasonable steps’ precisely and inclusively is challenging due to its subjective nature. The appropriate measures largely depend on the specific circumstances encountered at the time.

In line with this, as a critical element of the language access plan, §11-220-8(e) of the draft HARs mandates that agencies address all components related to written language services. This provision aims to ensure that agencies are well-prepared and can respond effectively when situations require the provision of written language services or alternative modes of access for LEP individuals.”

2023: OLA reports **Partially Implemented**

Self-reported November 30, 2023.

Recommendation

Status of Recommendation

(1.c.vii.) The Office of Language Access should adopt administrative rules that implement and interpret the language access law, Chapter 321C, HRS, prescribing the procedures and requirements agencies and covered entities must follow to comply with the statute. Specifically, the administrative rules should include the following regarding the implementation of Language Access Plans: The information agencies must provide OLA about their efforts to eliminate barriers to language access when reasonable access to agency programs, services, or activities is not provided to a person who is limited English proficient.

2023: OLA reports **Partially Implemented**

Self-reported November 30, 2023.

(1.c.viii.) The Office of Language Access should adopt administrative rules that implement and interpret the language access law, Chapter 321C, HRS, prescribing the procedures and requirements agencies and covered entities must follow to comply with the statute. Specifically, the administrative rules should include the following regarding the implementation of Language Access Plans: The process and procedure to be used by the Executive Director in attempting to eliminate language access barriers to the agency's programs, services, or activities for a person who is limited English proficient.

2023: OLA reports **Partially Implemented**

Self-reported November 30, 2023.

Recommendation

Status of Recommendation

(1.c.ix.) The Office of Language Access should adopt administrative rules that implement and interpret the language access law, Chapter 321C, HRS, prescribing the procedures and requirements agencies and covered entities must follow to comply with the statute. Specifically, the administrative rules should include the following regarding the implementation of Language Access Plans: The requirement that agencies address and implement recommendations offered by the Executive Director to eliminate barriers to language access or, if an agency disagrees with the Executive Director's opinion and/or recommendations, the process and procedure by which the agency must notify the Executive Director of its disagreement.

2023: OLA reports **Partially Implemented**

Self-reported November 30, 2023.

(1.c.x.) The Office of Language Access should adopt administrative rules that implement and interpret the language access law, Chapter 321C, HRS, prescribing the procedures and requirements agencies and covered entities must follow to comply with the statute. Specifically, the administrative rules should include the following regarding the implementation of Language Access Plans: The process and procedure by which an agency must provide information about action taken to implement the Executive Director's recommendations.

2023: OLA reports **Partially Implemented**

Self-reported November 30, 2023.

(1.d.i.) The Office of Language Access should adopt administrative rules that implement and interpret the language access law, Chapter 321C, HRS, prescribing the procedures and requirements agencies and covered entities must follow to comply with the statute. Specifically, the administrative rules should include the following regarding the Language Access Resource Center: The requirements to be included on LARC's roster of language interpreters and translators, including the necessary qualifications and credentials established by OLA.

2023: OLA reports **Partially Implemented**

Self-reported November 30, 2023.

Recommendation

Status of Recommendation

(1.d.iii.) The Office of Language Access should adopt administrative rules that implement and interpret the language access law, Chapter 321C, HRS, prescribing the procedures and requirements agencies and covered entities must follow to comply with the statute. Specifically, the administrative rules should include the following regarding the Language Access Resource Center: The process and procedure to test and certify language interpreters and translators.

2023: OLA reports **Not Implemented - Disagree**

Self-reported November 30, 2023, stating:

“Currently, OLA lacks the capacity and subject matter expertise to become a credentialing body for certifying language interpreters and translators. This is because certification is a formal process that validates an individual's proficiency and competence in language interpretation. It typically involves a rigorous assessment of the interpreter's skills, knowledge, and ethical understanding of the profession. Certification often pertains to specific fields, such as legal, medical, or community interpreting.

Therefore, OLA defers this process to more appropriate entities, like the National Board of Certification for Medical Interpreters (NBCMI) and the Certification Commission for Healthcare Interpreters (CCHI), which certify medical interpreters, as well as state court interpreter certification programs.

Nevertheless, OLA does provide language proficiency tests as a basic foundation for those interested in becoming language service providers and offers periodic skill-building training to enhance the abilities of current providers.”

(2.a.) The Office of Language Access should develop and document policies, procedures, and processes to provide direction and consistency in OLA's performance of the following responsibilities: OLA's review and monitoring of language access plans for compliance with Chapter 321C, HRS, and administrative rules adopted by OLA, notification of non-compliance, and follow-up with agencies and covered entities on corrective measures.

2023: OLA reports **Implemented**

Self-reported November 30, 2023.

Recommendation

Status of Recommendation

(2.b.) The Office of Language Access should develop and document policies, procedures, and processes to provide direction and consistency in OLA's performance of the following responsibilities: Tracking and monitoring agency language access plans, including notification to agencies that they are not in compliance with filing requirements and the deadline for two-year updates.

2023: OLA reports **Implemented**

Self-reported November 30, 2023.

(2.c.) The Office of Language Access should develop and document policies, procedures, and processes to provide direction and consistency in OLA's performance of the following responsibilities: Review of qualifications and credentials of interpreters and translators requesting to be included on the roster maintained by the Language Access Resource Center.

2023: OLA reports **Implemented**

Self-reported November 30, 2023.
