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GOVERNOR

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**STATE OF HAWAII**  
**OFFICE OF THE LIEUTENANT GOVERNOR**  
**OFFICE OF INFORMATION PRACTICES**

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**TESTIMONY OF THE OFFICE OF INFORMATION PRACTICES**  
**OFFICE OF THE LIEUTENANT GOVERNOR**  
**PROGRAM ID: LTG 105**

**SUPPLEMENTAL BUDGET REQUEST FOR FY 2008-2009**

**HOUSE COMMITTEE ON FINANCE**

**Monday, January 7, 2008**  
**State Capitol, Conference Room 306**

Chair Oshiro, Vice-Chair Lee, and members of the House Committee on Finance, my name is Paul Tsukiyama and I am the director of the Office of Information Practices ("OIP").

As you know, OIP's role is to administer our state's public records law, the Uniform Information Practices Act (Modified) ("UIPA"), chapter 92F, Hawaii Revised Statutes, and, since 1998, our state's open meetings law, part I of chapter 92, Hawaii Revised Statutes, (the "Sunshine Law"). In administering these laws, OIP performs a wide range of duties, from providing education and legal guidance to government agencies and the public about these laws, to assisting the public in obtaining access to government records, to overseeing compliance with both laws through investigation of alleged Sunshine Law violations and ruling on public appeals from agency denials of access.

Additionally, OIP monitors and may participate in litigation involving the UIPA or Sunshine Law. During the legislative session, OIP may recommend legislative changes to the UIPA and Sunshine Law. It also assists others with drafting legislation and offers testimony on legislation, where such legislation concerns the government's information practices, public access to government records and meetings, and the privacy rights of individuals.

OIP continues to look for ways to streamline its procedures to provide timely legal guidance and assistance to the public and government agencies, boards and officials. OIP is most successful in providing timely assistance through its Attorney-of-the-Day ("AOD") program. Through this program, members of the

public and government personnel, officers or board members can receive legal guidance and assistance from an OIP staff attorney usually within the same day. OIP has also placed emphasis on training and has generally satisfied all requests for training and educational materials made by government boards and agencies. Because of the breadth of its duties and staffing levels, OIP's largest struggle continues to be reducing the backlog of UIPA appeals, requests for formal advisory opinions, and requests for investigations.

**I. Department-Wide Budget Summary Information:**

**1. Totals for department FY08 budget with restrictions (where applicable) and emergency requests and FY09 proposed operating budget adjustments by means of financing.**

MOF	FY08			Total FY08 (a)+(b)+(c)
	Act 213/07 Appropriation (a)	Restriction (b)	Emergency Request (c)	
A	411,475	-	-	411,475
Program Total	411,475	0	0	411,475

MOF	FY09			Total FY09 (d)+(e)+(f)
	Act 213/07 Appropriation (d)	Reduction (e)	Addition (f)	
	411,507	-		411,507
Program Totals	411,507	-		411,507

2. Identify any emergency requests (by title and amount) that your department will be seeking for the current fiscal year. None
3. Provide a summary of your FY09 proposed operating budget adjustments by Program ID. None
4. Provide a description of all FY09 proposed operating budget adjustments by Program ID. None
5. Provide a listing of all proposed FY09 capital improvement projects. None
6. Briefly discuss specific budget adjustments of concern for your agency. N/A

7. Provide a summary of your department's request to the Department of Budget and Finance, the funding decisions made by the Department of Budget and Finance, and the funding decisions finalized by the Governor. N/A
8. Explain the process used to identify priorities (requests for additional operating and capital improvements program funding) for your department. N/A
9. Discuss how requests for additional operating and capital improvements program funding were prioritized. N/A
10. Briefly discuss which actions your department has taken or is planning to take to reduce operating costs, and how those actions will translate into savings that may be reduced from your budget. N/A
11. Identify all positions that are vacant as of December 1, 2007. For each of these positions please indicate if authority for your department to hire was or was not granted.

Date of Vacancy	Program I.D.	Position Title	Position No.	Exempt (Y/N)	Budgeted Amount	Actual Salary Last Employee Paid	MO F	Program ID	Authority to Hire (Y/N)
5/15/07	LTG105	Staff Attorney	117247	Y	\$51,000.00	\$51,000.00	A	LTG105	Y

12. Provide a listing of all instances of your department's expenditures exceeding the federal fund ceiling for FY07 and FY08. N/A
13. Provide a listing of all budget appropriations transferred to another Program ID and/or another department in FY07 and FY08. N/A
14. Provide a listing of all deployed positions. N/A

**II. Program I.D. and Title:**

**1. Introduction:**

**a. Summary of program objectives.**

To implement and oversee compliance with the UIPA and the Sunshine Law in accordance with its powers and duties set forth in sections 92F-42, HRS, and 92-1.5, HRS.

**b. Description of program objectives. Present your summary of the objectives and activities as discussed in the Multi-Year program and Financial Plan.**

1. Provide guidance and assistance to the public and government entities through its "Attorney of the Day" service and through the issuance of written advisory opinions.
2. Provide education and guidance through the publication of advisory opinions, educational materials, and newsletter.
3. Provide education through training workshops for government agency employees and officials and government board members.
4. Receive and resolve complaints regarding alleged violations of the Sunshine Law.
5. Accept and rule on appeals made by members of the public from agency denials of access to government records.
6. Monitor litigation raising issues under the UIPA or Sunshine law with possible intervention in those cases concerning the UIPA.
7. Make recommendations for, assist with drafting of and providing comment regarding legislation concerning government information practices, public access to government records and meetings, and the privacy rights of individuals.
8. Administer "Records Report System" and assist agencies with meeting their annual statutory obligations to maintain their reports under section 92F-18.

**c. Explain how your program intends to meet its objectives in the upcoming supplemental year.**

OIP will continue with its current programs and publications. It will also continue its efforts to streamline its procedures in an effort to decrease its current backlog of pending requests for opinions, investigations, and appeals. OIP will

continue in its efforts to better utilize its existing staffing level, shifting job responsibilities, and utilizing other resources to create greater efficiency.

OIP will also continue to look to assisting communication and cooperation among the parties and, if necessary, serving as mediator. OIP will look for ways to better utilize its website to provide guidance and to expand on its training materials to reduce the requests for general guidance that it provides on a daily basis in order to devote more of its resources to meeting the demand for formal opinions, investigations and appeals.

## **2. Program Performance Results:**

### **a. Performance results achieved by each program in FY07.**

In FY07, OIP received over 1,100 inquiries and requests from the public, government agencies and boards. 772 inquiries were received through its AOD program. Of those, 201 inquiries (26%) were from members of the public, including 125 from private individuals, 32 from news media sources, and 15 from public interest groups. The remaining 571 requests (74%) came from government agencies and boards.

When possible, OIP responds to written requests through informal correspondence, generally within a very short timeframe. OIP handled 26 requests in this manner in FY07. For more factually detailed or legally complex issues, appeals, or Sunshine Law investigations, OIP opens formal case files. OIP will also open case files where a member of the public requires assistance in obtaining a response from a government agency.

In FY07, OIP opened 51 case files in response to written requests for opinions and investigations under the Sunshine Law, 23 investigations and 28 opinion requests (information regarding the investigations is detailed at pages 6-8 of the 2007 Annual Report). 62 files were opened in response to requests for assistance under the UIPA and 47 files were opened in response to requests for opinions under the UIPA or UIPA appeals. In FY07, OIP issued 13 formal opinions and 31 informal opinions (see summaries of opinions at pages 20-26 of the 2007 Annual Report). OIP also continued to monitor lawsuits involving the Sunshine Law or UIPA (see pages 8-10 of the 2007 Annual Report).

OIP introduced three bills in the last legislative session that recommended changes to the UIPA and Sunshine Law. OIP also provided assistance to agencies, boards, officials and the public in drafting legislations or in understanding the ramifications of proposed legislation. OIP also monitored and/or testified on 130 legislative initiatives that dealt with information practices and meetings (see page 27 of the 2007 Annual Report).

To provide education and guidance OIP continued its traditional print publications, including the *Openline* newsletter, annual report, UIPA handbook (to provide agency personnel with guidance in responding to record requests), an informational brochure to assist the public in understanding and using the UIPA, and an Open Meetings Guide. In addition to OIP's annual training workshops on the UIPA and the Sunshine Law for all state agency personnel and state board members and staff and similar workshops for the County of Hawaii, OIP conducted 33 smaller training sessions for various state and county agencies and boards (see page 34 of the 2007 Annual Report). OIP also held a Sunshine Law presentation for the public hosted by the Honolulu Advertiser in conjunction with national Sunshine Week.

**b. Explain how these results relate to the program's objectives and department's mission.**

OIP's activities described directly further its objective to provide assistance and uniform legal guidance in response to all requests, to provide education to the public as well as all government boards, agencies and officials, and to offer its expertise with legislation concerning issues within its purview.

**c. Explain how the effectiveness of the program is measured (i.e., outcomes, measures of effectiveness, benchmarks, etc.) and discuss the performance results achieved during the past two years.**

OIP has instituted a system to track the various types of requests made and completion dates. Effectiveness is measured by the number of requests for assistance or legal guidance fulfilled, the number of opinion letters issued and determinations made, and the number of training sessions completed. Performance results have generally remained fairly consistent, but the number of training sessions were significantly increased.

**d. Discuss the actions taken by each program to improve its performance results.**

OIP has streamlined its procedures, created and updated forms to improve efficiency, and improved its website to allow greater accessibility to information. In addition, OIP solicits feedback on its training methods.

**e. Please identify all modifications to your program's performance measures. None**

**3. Problems and Issues:**

**a. Discussion of problems and issues encountered, if any.**

OIP's limited staff has been taxed by the need to defend its determination against a suit brought by the County of Kauai arising from a UIPA appeal brought by a member of the public for the denial of access to county council minutes.

- b. Program change recommendations to remedy problems.** None
- c. Identify any program issues or problems that have affected or will affect the implementation of the program, and the corrective measures or remedies established or planned.** N/A

**4. Expenditures for FY08:**

**Provide the appropriation data, transfers, restrictions, available resources, and the estimated expenditures for FY08.**

	Appropriation Act 160/06 FY06-07	Collective Bargaining	Transfer in Transfer-out	Restriction	Estimated Total Expenditure
(Pos Counts)	5.00				
Personal Services	350,367	21,107			371,474
Current Expense	35,220				35,220
Equipment	0				0
Motor Vehicle	0				0
<b>TOTAL</b>	<b>385,587</b>	<b>21,107</b>			<b>406,694</b>

- a. Explain all transfers within the Program I.D. and the impact on the program.** None.
- b. Explain all transfers between Program I.D.'s and the impact on the program.** None.
- c. Explain any restrictions and the impacts on the program.** None

**5. Supplemental Budget Requests for FY09:** None

**6. Program Restrictions:** None

**7. Capital Improvement Program (CIP) Requests for FY09:** None

**8. Proposed Lapses of CIP projects:** None