



DEPT. COMM. NO. 3

August 31, 2016

VIA HAND DELIVERY

✓ The Honorable Ronald D. Kouchi
President of the Senate
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Joseph M. Souki
Speaker of the House of Representatives
State Capitol, Room 431
Honolulu, Hawaii 96813

Re: Follow-Up on Recommendations in Report No. 13-04, *Procurement Examination of the Department of Transportation*

Dear Mr. President and Mr. Speaker:

I am transmitting a copy of our Report No. 16-07, *Follow-Up on Recommendations Made in Report No. 13-04, Procurement Examination of the Department of Transportation*. Copies of the report have been provided to the Office of the Governor and the Department of Transportation as well as to each member of the Senate and the House of Representatives via email. The report is also accessible through our website at <http://files.hawaii.gov/auditor/Reports/2016/16-07.pdf>.

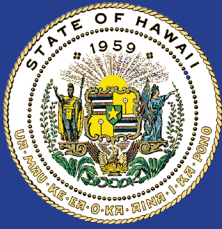
Should you have any questions or wish to discuss the report, please do not hesitate to contact me.

Very truly yours,

Leslie H. Kondo
State Auditor

c: Legislative Reference Bureau Library
Kevin Kuroda, House Sergeant-At-Arms
Brian L. Takeshita, House Chief Clerk

Enclosure



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Leslie H. Kondo
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State of Hawai'i

Status of Recommendations

Open
1

Closed
8

**Open but
in progress**
5

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Airports Division Needs Clearer Guidance: *Follow-Up on Recommendations Made in Report No. 13-04, Procurement Examination of the Department of Transportation*

Report No. 16-07, August 2016

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 an audited agency. The objectives of this review are to:

1. Validate the claims made by the Department of Transportation (DOT) regarding implemented audit recommendations.
2. Report to the Legislature on audit recommendations not yet implemented.

Scope and Methodology

Our review, conducted in May through June 2016, focused on the DOT's implementation of the recommendations in Report No. 13-04, *Procurement Examination of the Department of Transportation*, which we issued in May 2013. In reviewing DOT's implementation efforts, we interviewed department personnel, examined relevant documents and records, and assessed and evaluated whether the department's actions adequately addressed our recommendations. Our efforts were limited to the inquiry, testing, and reporting on implementation of recommendations made in Report No. 13-04. We did not explore new issues or revisit old ones that did not relate to our original recommendations.

Definition of terms

Closed: Recommendation has been addressed and implemented.

Open: Work on the recommendation has not started or cannot start because a precursor event has not occurred.

Open but in progress: Agency has taken action, but implementation of the recommendation is not complete.

Open and likely not to be pursued: Agency has no intention of pursuing implementation of the recommendation.

Not applicable: Recommendation is no longer applicable.

Did not assess: Did not assess recommendation implementation.

Background on Report No. 13-04

Our 2013 report on DOT procurement was requested by the Legislature under Act 162, Session Laws of Hawai'i 2009. The Auditor was mandated to perform a financial audit of DOT, including an analysis of procurement practices. We procured the services of certified public accounting firm Accuity LLP to conduct the examination, which took place from July 2010 through March 2011. Several of the report's findings stemmed from the Airports Division's (Airports) hiring of a third-party program manager for the \$1.7 billion Terminal Modernization Program (TMP) at the Honolulu International Airport. Parsons Transportation Group, Inc. (Parsons) was awarded a \$90 million contract to provide program management services for the TMP, which began in September 2006 and is scheduled to be completed in December 2018. Exhibit 1 shows an airport overseas terminal rooftop replacement project that is part of the TMP.

Exhibit 1
Honolulu International Airport Overseas Terminal Rooftop Replacement Project



Photos by: Office of the Auditor

We reviewed the 14 recommendations that we made in Report No. 13-04 and found that DOT has addressed or is in the process of addressing the majority of the audit recommendations. Of the 14 recommendations, 8 were deemed to be closed, 5 were open but in progress, and 1 was considered open. However, our follow-up review found that Airports' lack of clear guidance may affect its ability to fully implement recommendations relating to:

- Procuring program management services;
- Improving contract planning and monitoring to ensure new agreements take effect once current contracts expire; and
- Monitoring airport security services costs to ensure the costs are reasonable.

Status of Report No. 13-04 Recommendations

Recommendations to the Department of Transportation

(1) With respect to the Terminal Modernization Program and related program management contracts:			
RECOMMENDATION	PURPOSE	STATUS	COMMENTS
(1a) Review DOT's and Airports' construction management policies and procedures to ensure there is sufficient oversight of contractors performing management services.	The audit found that for larger projects, Airports personnel were not involved in negotiating contracts and were relying on multiple layers of consultants and contractors to monitor each other and the program on a daily basis.	Open but in progress	The engineering program manager agreed that program management services guidance is piecemeal. He said development of a manual with applicable procedures and policies for program management services will begin before the end of 2016.
(1b) Provide training to all divisions regarding the use of contractors for program, project, and construction management services.	The audit found multiple instances in which employees with procurement authority did not complete training for their responsibilities.	Open but in progress	DOT established a procurement refresher course policy in 2016. However, program management services training is inconsistently provided.
(1c) Ensure personnel in all divisions, particularly in Airports, are performing and documenting cost-benefit analyses when deciding to use contractors for management services-type contracts, especially for multi-year and multi-million dollar contracts.	Airports hired Parsons to manage its 12-year, \$1.7 billion program to modernize the Honolulu International Airport terminal, then removed itself from parts of the decision-making process and surrendered key oversight and management responsibilities to Parsons and other contracted consultants.	Closed	The professional services contract was amended so Parsons no longer has the authority to negotiate contractor fees. Airports performs an assessment of contractors' fee proposals to determine whether they are appropriate.
(1d) Review the terms of Parsons' contract and determine if providing free rents and allowing the maximum labor multiplier is in the best interest of the State.	The contract provided office space free of charge and allowed Parsons to apply the maximum labor multiplier, which increased its direct labor costs billed to the State.	Closed	The contract was amended to remove the rent-free office space provision and to allow Airports to adjust the labor multiplier.

Status of Report No. 13-04 Recommendations

Recommendations to the Department of Transportation

(1) With respect to the Terminal Modernization Program and related program management contracts:			
RECOMMENDATION	PURPOSE	STATUS	COMMENTS
(1e) Seek to amend the contract with Parsons to allow review and audit of the labor multiplier.	The contract provided Parsons with the highest labor multiplier and prohibited Airports from reviewing or auditing the application or appropriateness of the multiplier.	Closed	The contract was amended to allow Airports to review and revise the labor multiplier.
(1f) Ensure Airports personnel adequately review task orders and invoices under the program management contract to ensure costs are reasonable and allowable and that proper support documentation is included.	The audit did not find evidence that DOT personnel performed detailed reviews of task order proposals and invoices submitted by Parsons.	Closed	The contract requires Parsons to provide documentation to support monthly payment requests. Airports now follows a payment request process described in the DOT staff manual.
(1g) Ensure Airports personnel properly review and approve changes to contracts before related work is performed.	Parsons had taken the lead in negotiating large project contracts and other changes to existing contracts.	Closed	The contract was amended to no longer empower Parsons to make recommendations on change order requests. Airports has procedures in place that require all change orders to be approved by the state project manager, i.e., by Airports personnel.

Status of Report No. 13-04 Recommendations

Recommendations to the Department of Transportation

(1) With respect to the Terminal Modernization Program and related program management contracts:			
RECOMMENDATION	PURPOSE	STATUS	COMMENTS
(1h) For future contracts involving program, project, or construction management responsibilities, ensure Airports properly procures contracts in accordance with section 103D-304, HRS, and SPO Procurement Circular No. 2009-06, which state that procurement must be for a specified professional class and that the contract requires the professional to perform a substantial portion of the scope of work. Airports should consult with the Contracts Office and SPO if there is any uncertainty.	The contract allowed Parsons to provide construction services under a professional services contract.	Closed	DOT said this decision, made by the then-Airport's deputy director, was contrary to staff recommendations. The contract was amended to exclude contractor reimbursement for modification of office space.

(2) With respect to other violations and procurement concerns identified in the Airports Division:			
RECOMMENDATION	PURPOSE	STATUS	COMMENTS
(2a) Ensure Airports implements formal procedures to regularly (i.e., monthly) and actively monitor the costs of security services incurred in all districts to ensure costs appear reasonable and in line with management's expectations, rather than merely relying on the practices of individual district managers.	Airports did not have formal or centralized procedures for estimating security needs and costs or for monitoring and assessing the reasonableness of regular or overtime hours incurred.	Open but in progress	According to the Airports' Certification, Security and Safety Specialist, Airports still does not have centralized procedures for monitoring and assessing the reasonableness of regular or overtime hours regarding airport security services. The specialist self-initiated efforts to obtain budget requests from district airports and invoices from the airport security services contractor.

Status of Report No. 13-04 Recommendations

Recommendations to the Department of Transportation

(2) With respect to other violations and procurement concerns identified in the Airports Division:			
RECOMMENDATION	PURPOSE	STATUS	COMMENTS
(2b) Examine Airports' use of pre-engineered kit homes to provide field offices for construction managers and evaluate the cost-benefits of constructing such homes versus buying or renting mobile offices; also examine the practice of bundling kit home construction with large construction projects rather than procuring via a separate competitive procurement process.	<p>The construction of three airport field offices was bundled with larger construction projects at those same locations.</p> <p>Separate procurements would have encouraged competition and likely resulted in lower bids by other vendors.</p>	Closed	<p>Airports established a policy that prohibits purchasing kit homes for use as project field offices.</p> <p>The last Airports' project to bundle the construction of a field office was in 2008.</p>
(2c) Seek guidance from SPO in determining what actions can and should be taken against Ted's Wiring Service, Ltd. (Ted's Wiring Service) to recover damages for the extensive delays in completing the automated vehicle identification (AVI) project and to prevent such situations from recurring.	Airports failed to properly monitor and take action against Ted's Wiring Service when it failed to install and maintain an AVI system for monitoring taxi activity and fees at the Honolulu International Airport.	Open but in progress	<p>Ted's Wiring Service sued the State and was awarded more than \$112,000. The court also denied the State's counterclaim for damages.</p> <p>The State plans to appeal the judge's order.</p>
(2d) Ensure Airports implements formal procedures to improve monitoring and planning for contracts and services agreements so that new agreements are procured prior to and begin upon the expiration of existing agreements.	<p>Airports allowed AMPCO to operate a taxi management concession at the Honolulu International Airport via a revocable permit for more than seven years without a formal extension.</p> <p>AMPCO also was permitted to operate a separate parking concession under a revocable permit for more than 11 years, without a formal agreement.</p>	Open	Airports' concession unit does not follow any written procedures for planning contracts or service agreements.

Status of Report No. 13-04 Recommendations

Recommendations to the Department of Transportation

(3) To address procurement non-compliance identified at the various divisions:			
RECOMMENDATION	PURPOSE	STATUS	COMMENTS
(3a) Ensure personnel with procurement authority attend required training and that the Contracts Office centrally monitors their attendance at procurement training activities.	Employees with procurement authority did not complete training for their procurement responsibilities.	Closed	DOT established a new policy that requires applicable refresher training courses every five years or sooner. The Business Management Office helps track DOT employee training records.
(3b) Develop a process to ensure contract awards are posted in a timely fashion, which may involve having those responsible for issuing award letters also be responsible for publicly posting awards. This would require having access and authority to post to SPO's website.	Fourteen DOT professional services contracts from FY2007 through FY2009 were not posted within seven days as required by law. The failure to post contract awards in a timely fashion diminishes transparency of the procurement process.	Open but in progress	DOT reassigned the responsibility for posting awarded professional services contracts from the divisions to the Contracts Office. The Contracts Office provided the divisions guidance on the contract awards posting process but did not clarify that documents must be submitted in a timely fashion to meet the posting deadline.

The following is a report on recommendations we deemed to be *open and open but in progress*.

Recommendation No. 1a: Review the department's and Airports' construction management policies and procedures to ensure there is sufficient oversight of contractors performing management services.

The audit recommended that DOT review Airports' construction management policies and procedures to ensure there is sufficient oversight of contractors performing management services. Our review found that in 2013, Airports established a policy that requires state personnel to approve any decision involving the obligation, negotiation or approval of funds, or changes in contract scope of work. In addition to the policy, Airports acknowledged that sections of other documents, including the construction management manual and the department staff manual, may also provide guidance. Airports plans to use a computerized system called UNIFIER, which is currently being developed for contract administration. Based on our review, we deem Recommendation No. 1a as **open but in progress**.

Recommendation No. 1b: Provide training to all divisions regarding the use of contractors for program, project, and construction management services.

The audit reported that a lack of training and monitoring of training compliance were the primary cause of the procurement deficiencies and violations found within DOT divisions. In our follow-up, the Contracts Office supervisor clarified that her office provided training to Airports project managers in 2014, but the training did not specifically address procuring program management services or any aspect of contract administration. Further, while we found that some Airports' training courses may apply to program management consultants, those courses are inconsistently offered. Based on our review, we deem Recommendation 1b as **open but in progress**.

Recommendation No. 2a: Ensure Airports implements formal procedures to regularly (i.e., monthly) and actively monitor the costs of security services incurred in all districts to ensure costs are reasonable and in line with management's expectations, rather than merely relying on the practices of individual airport district managers.

The audit reported that Airports had no formal or centralized procedures for estimating security needs or costs. It also noted that Airports' monitoring of actual security costs was too informal, raising concerns about whether the State was overpaying for services. Our review found that there are still no centralized procedures for estimating security needs, costs, or monitoring expenditures. However, we found Airports initiated a collective effort in July 2016 to ensure monitoring and oversight procedures and forms are uniform and memorialized to ensure consistency. A proposed draft of these procedures and policies will be discussed with Transportation Security Administration representatives and the security services vendor in August 2016. Based on our review, we deem Recommendation No. 2a as **open but in progress**.

Recommendation No. 2c: Seek guidance from the State Procurement Office in determining what actions can and should be taken against Ted's Wiring Service to recover any damages for the extensive delays in completing the AVI project and to prevent such situations from recurring.

The audit raised concerns regarding a nearly \$1.5 million contract with Ted's Wiring Service to install and maintain an AVI system to monitor taxi activity and fees at the Honolulu International Airport. Our review found that Ted's Wiring Service sued DOT for breach of contract in July 2013. In November 2015, a circuit court judge ruled in favor of Ted's Wiring Service and awarded more than \$112,000 in damages. The judge also denied the State's counterclaim for damages. The Department of the Attorney General intends to appeal the court's order. Since litigation is ongoing, we deem Recommendation No. 2c as **open but in progress**.

Recommendation No. 2d: Ensure Airports implements formal procedures to improve monitoring and planning for contracts and services agreements so that new agreements are procured prior to and begin upon the expiration of existing contracts.

The audit reported that the parking and taxi management concessions at the Honolulu International Airport in FY2009 and FY2010 operated under expired revocable permits in lieu of formal agreements. In our follow-up, we found that there are no formal written procedures to monitor or plan for the renewal of services agreements, which would ensure that new agreements are procured before the expiration of existing ones. Therefore, we deem Recommendation No. 2d as **open**.

Recommendation No. 3b: Develop a process to ensure contract awards are posted in a timely fashion, which may involve having the individuals responsible for issuing award letters also be responsible for posting awards. This would require having access and authority to post to SPO's website.

The report cited multiple instances in which professional services contract awards were not posted on the State Procurement Office website within the required seven-day time frame. Our review found that the responsibility to post professional services contract awards were reassigned in 2013 from the divisions to the Contracts Office; however, we understand that the responsibility to post contract awards may again be returned to the divisions. Based on our review, we deem Recommendation No. 3b as **open but in progress**.