

DAVID Y. IGE  
GOVERNOR



CURT T. OTAGURO  
COMPTROLLER  
AUDREY HIDANO  
DEPUTY COMPTROLLER

**STATE OF HAWAII**  
**DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES**

P.O. BOX 119, HONOLULU, HAWAII 96810-0119

TESTIMONY OF  
CURT T. OTAGURO  
COMPTROLLER, DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
BEFORE THE  
SENATE COMMITTEE ON GOVERNMENT OPERATIONS

February 5, 2019, 3:15 PM  
Conference Room 225, State Capitol

On the following measures:

- SB 290 - RELATING TO THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
- SB 1110 - MAKING AN APPROPRIATION TO THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES.
- SB 1111 - RELATING TO THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
- SB 1112 - RELATING TO THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

Chair Thielen, and members of the Committee, thank you for the opportunity to testify before you on SB 290, SB 1110, SB 1111 and SB 1112.

**DEPARTMENT'S POSITION**

The Department of Accounting and General Services (Department or DAGS) appreciates the intent of SB 290, SB 1111 and SB 1112, and offers comments and proposed amendments.

The Department supports the intent of SB 1110 and offers comments.

DAGS appreciates the legislature's desire to move the state towards performance-based budgeting and the related assignment of certain programs and appropriations for further evaluation by their respective subject matter committees. We express concerns that if the base budget and requested biennium budget increases are not contained in one budget measure, such as the Governor's executive biennium budget as proposed in SB 126 or HB 964, there may

be a risk of funding errors which can negatively impact a department's ability to operate and carry out its mission and mandates. As such, it is our hope that the final budget numbers will be consolidated into one budget measure after department requests and base budgets have been considered by the various committees.

## **OVERVIEW OF DAGS**

The mission of the Department is to attain maximum value for the state taxpayers in providing physical, financial, and technical infrastructure support for state departments and agencies, so they may accomplish their missions. The Department's goal is to strive for quality and consistency in the delivery of essential support services and our activities reflect a continuing commitment towards cost efficiency, productivity, relevancy and timeliness of services. DAGS has the following twenty-seven program IDs in its budget\*:

- AGS-101 Accounting System Development & Maintenance
- AGS-102 Expenditure Examination
- AGS-103 Recording and Reporting
- AGS-104 Internal Post Audit
- **AGS-105 Enforcement of Information Practices**
- AGS-111 Archives-Records Management
- AGS-130 Enterprise Technology Services - Governance and Innovation
- AGS-131 Enterprise Technology Services - Operations and Infrastructure Maintenance
- AGS-203 State Risk Management and Insurance Administration
- AGS-211 Land Survey
- AGS-221 Public Works-Planning, Design, and Construction
- AGS-223 Office Leasing
- AGS-231 Central Services -Custodial Services
- AGS-232 Central Services-Grounds Maintenance
- AGS-233 Central Services-Building Repairs and Alteration
- **AGS-240 State Procurement**
- **AGS-244 Surplus Property Management**
- AGS-251 Automotive Management - Motor Pool
- AGS-252 Automotive Management - Parking Control
- AGS-807 School Repair and Maintenance, Neighbor Island Districts
- **AGS-818 King Kamehameha Celebration Commission**
- **AGS-871 Campaign Spending Commission**

- **AGS-879 Office of Elections**
- **AGS-881 State Foundation on Culture and the Arts**
- **AGS-889 Spectator Events & Shows-Aloha Stadium**
- **AGS-891 Wireless Enhanced 911 Board**
- AGS-901 General Administrative Services

\* Attached agencies shown in bold font.

**SB 290:** SB 290 appears to be a vehicle to appropriate state general funds only for the Department in FY 2019 - 2020 and FY 2020 – 2021.

If the measure is intended to appropriate the base budget for the Department, it should be noted that the Department’s current base budget is comprised of multiple means of financing and includes special, trust, revolving, interdepartmental and federal funds. However, if the intent of SB 290 is to provide a vehicle to capture all the necessary appropriations of the department for the fiscal biennium (FB) 2019-2021, we propose the following to reflect our budget as contained in the Governor’s executive biennium budget, which is the base budget as appropriated in Act 53, Session Laws of Hawaii (SLH) 2018, plus base budget adjustments and add-on items as presented in our budget briefing in front of the Joint Senate Committee on Ways and Means and your committee on January 14, 2019:

**Proposed DAGS budget as included in Governor’s executive FB 2019 -2021 budget**

		Fiscal Year 2020			Fiscal Year 2021		
MOF	Act 53/18 Appropriation	Reductions *	Additions *	Total FY20	Reductions *	Additions *	Total FY21
A	\$ 108,548,609.00	\$ (1,275,275.00)	\$ 5,344,429.00	\$ 112,617,763.00	\$ (1,275,275.00)	\$ 5,996,491.00	\$ 113,269,825.00
B	\$ 24,944,239.00	\$ (265,000.00)	\$ 1,634,196.00	\$ 26,313,435.00	\$ (265,000.00)	\$ 1,452,020.00	\$ 26,131,259.00
N	\$ 856,496.00	\$ -	\$ -	\$ 856,496.00	\$ -	\$ -	\$ 856,496.00
P	\$ 606,936.00	\$ -	\$ -	\$ 606,936.00	\$ -	\$ -	\$ 606,936.00
T	\$ 375,336.00	\$ -	\$ 38,466.00	\$ 413,802.00	\$ -	\$ 38,466.00	\$ 413,802.00
U	\$ 15,866,694.00	\$ (100,000.00)	\$ 10,874.00	\$ 15,777,568.00	\$ (100,000.00)	\$ 10,874.00	\$ 15,777,568.00
W	\$ 37,914,680.00	\$ -	\$ 193,105.00	\$ 38,107,785.00	\$ -	\$ 206,387.00	\$ 38,121,067.00
<b>Total</b>	<b>\$ 189,112,990.00</b>	<b>\$ (1,640,275.00)</b>	<b>\$ 7,221,070.00</b>	<b>\$ 194,693,785.00</b>	<b>\$ (1,640,275.00)</b>	<b>\$ 7,704,238.00</b>	<b>\$ 195,176,953.00</b>
	* Includes base budget adjustments for non-recurring and CB costs.						

**SB 1110:** The purpose of SB 1110 is to appropriate funds for capital improvement projects of the Department.

We support this measure as it proposes to fund the capital improvement projects as requested in the Governor’s executive biennium budget:

<u>Prog ID</u>	<u>Project Title</u>	<u>MOF</u>	<u>FY20 \$\$\$ (000)</u>	<u>FY21 \$\$\$ (000)</u>
AGS111	KEKAULUOHI HALON REPLACEMENT, OAHU	C	\$ 650	\$ -
AGS111	KEKAULUOHI BACKUP GENERATOR, OAHU	C	\$ 500	\$ -
AGS130	KALANIMOKU DATA CENTER UPS REPLACEMENT AND UPGRADE ELECTRICAL CIRCUIT PANEL, OAHU	C	\$ 1,800	\$ -
AGS130	ETS CYBERSECURITY CAPABILITY ENHANCEMENTS, OAHU	C	\$ 3,000	\$ 218
AGS131	LUMP SUM HEALTH AND SAFETY, INFORMATION AND COMMUNICATION SERVICES DIVISION, STATEWIDE	C	\$ 4,650	\$ 6,000
AGS131	RADIO SYSTEM ENHANCEMENT, STATEWIDE	C	\$ 365	\$ -
AGS221	LUMP SUM MAINTENANCE OF EXISTING FACILITIES, PUBLIC WORKS DIVISION, STATEWIDE	C	\$30,000	\$ -
AGS221	STATE CAPITOL BUILDING, OAHU	C	\$ 1,480	\$ -
AGS221	WASHINGTON PLACE, HEALTH AND SAFETY AND QUEEN'S GALLERY RENOVATION, OAHU	C	\$ 100	\$ 2,000
AGS233	LUMP SUM FIRE ALARM SYSTEMS REPLACEMENT & UPGRADE,	C	\$ 300	\$ 2,000
AGS881	No.1 CAPITOL DISTRICT BUILDING, SITE & ACCESSIBILITY IMPROVEMENTS, OAHU	B	\$ -	\$ 1,200
AGS889	LUMP SUM HEALTH AND SAFETY, ALOHA STADIUM, OAHU	C	\$20,000	\$10,000
	<b>TOTAL REQUEST</b>		<b>\$62,845</b>	<b>\$21,418</b>

The following provides details for the capital improvement projects under review by this committee, with these exceptions:

- Attached agencies, specifically AGS 881 and AGS 889 (the State Foundation on Culture and the Arts and the Spectator Events and Shows-Aloha Stadium respectively), will present testimony separately regarding their budget requests for capital improvement projects.
- While we understand that the Senate Committee on Technology (TEC) may review requests for the Enterprise Technology Services (ETS) programs (AGS 130 and AGS 131), ETS will also submit testimony separately for your consideration.

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING AGENCY		FISCAL YEAR	M O F	FISCAL YEAR	M O F
			APPROPRIATION (IN 000'S)		2019-2020		2020-2021	

AGS111 - ARCHIVES-RECORDS MANAGEMENT

1. AR101

KEKAULUOHI HALON REPLACEMENT, OAHU

DESIGN, CONSTRUCTION, AND EQUIPMENT TO REPLACE HALON GAS FIRE SUPPRESSION SYSTEM WITH NON-OZONE DEPLETING GAS (FM-200 OR EQUIVALENT).

DESIGN	89
CONSTRUCTION	560
EQUIPMENT	1
TOTAL FUNDING	AGS 650C

Design, Construction, and Equipment to replace the Halon Gas Fire Suppression system with non-ozone depleting gas (FM-200 or equivalent). Existing fire detection/control system (control panel, smoke detectors, and tank ignitors) have already been upgraded in 2018 to be compatible with the new system. The current fire suppression system in the State Archives Vault uses Halon 1301 agent that has been banned from manufacturers since 1994 as a known ozone depletant. Alternative to replacing the current system is recharging the current Halon tanks with more halon, which would cost more than replacing the entire system with a more modern, safer alternative and require removing the tanks and shipping them by boat to California for recharge and shipping them back, maintaining a 24-hour fire watch in the interim. If the system deploys, recharging the fire suppression system will be extremely difficult as the remaining Halon 1301 agent is extraordinarily expensive if it can be found at all. Improvement to include relocating the tanks to a centralized location that provides access that does not require dismantling shelving to access tanks.

AGS111 - ARCHIVES-RECORDS MANAGEMENT

2. AR102

KEKAULUOHI BACKUP GENERATOR, OAHU

DESIGN, CONSTRUCTION, AND EQUIPMENT TO INSTALL A BACKUP GENERATOR FOR ARCHIVAL STORAGE AREA CHILLER SYSTEM.

DESIGN	1
CONSTRUCTION	69
EQUIPMENT	430
TOTAL FUNDING	AGS 500C

The scope of the project is to add a backup generator into the existing ATS that was added in 2018 as part of the State Archives Chiller upgrade to provide continued operation of the environmental controls of Archival Storage during power outages at the State Archives. Currently, there is no redundant power options available at the State Archives. If power is out for more than a day or two, mold bloom on very important legal and historic records are a real and present possibility. Once mold starts, cleanup becomes a health hazard, a public records access issue (denial of access) and very expensive long-term treatment. An ATS power transfer unit was added

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	APPROPRIATION (IN 000'S) TITLE	EXPENDING AGENCY	FISCAL		FISCAL	
				YEAR	M	YEAR	M
				2019-2020	O F	2020-2021	O F

with the 2018 chiller upgrade to the Archival Storage Environmental controls, but to utilize this alternate means of providing power would require bringing in a generator from a third-party contractor. Secondary power source will ensure continued environmental control over the most important legal and historic records in Hawaii Government in the event of an extended natural disaster.

AGS221 - PUBLIC WORKS-PLANNING, DESIGN, AND CONSTRUCTION

3. P104

WASHINGTON PLACE, HEALTH AND SAFETY AND QUEEN'S  
 GALLERY RENOVATION, OAHU

PLANS, DESIGN, CONSTRUCTION, AND  
 EQUIPMENT TO ADDRESS IMMEDIATE  
 HEALTH & SAFETY NEEDS AT WASHINGTON  
 PLACE. PROJECT INCLUDES HAZARDOUS  
 MATERIAL ABATEMENT, BUILDING CODE  
 REQUIREMENTS, AND ADAAG REQUIREMENTS.  
 ASSOCIATED AND INTEGRAL TO THIS WORK  
 IS RENOVATION FOR BUILDING PRESERVATION  
 WITH THE RETENTION OF EXISTING  
 HISTORICAL MATERIAL.

PLAN		1	1
DESIGN		97	1
CONSTRUCTION		1	1,997
EQUIPMENT		1	1
TOTAL FUNDING	AGS	100C	2,000C

Project includes lead-based paint abatement/encapsulation, building code requirements (structural, electrical, plumbing, ventilation, and building envelope), and ADAAG requirements for primary access routes. Due to the broad nature of this project, associated and integral to this work is renovation for building preservation with the retention of existing historic material.

Washington Place, a prime representation of American Greek revival style, is historically highly significant in Hawaii's history as "Beretania," the site of early British settlement in Hawaii; later as the home of Queen Liliuokalani and home of the Governors of Hawaii since 1919. It is the oldest home in Hawaii that was still in use as a residence up to 2002 and one of the oldest and most historically valuable Governor's mansions in the United States. Certain elements are believed to be the finest examples of 1840's American architectural detailing in existence. Washington Place is listed in the National and State Historic Registries and received recognition as a registered National Landmark in 2007.

The primary goal in the renovation is to perpetuate the public benefit and safe enjoyment of Washington Place through its preservation, with the retention of existing historic material.

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	EXPENDING		FISCAL YEAR		M	
			AGENCY		2019-2020	F	2020-2021	F

AGS221 - PUBLIC WORKS-PLANNING, DESIGN, AND CONSTRUCTION

4. P19184

STATE CAPITOL BUILDING, OAHU

DESIGN, CONSTRUCTION, AND EQUIPMENT FOR REFURBISHMENT, RENOVATION, INSTALLATION, CONSTRUCTION, INFRASTRUCTURE, REPAIR FOR THE HAWAII STATE CAPITOL; EQUIPMENT AND APPURTENANCES.

DESIGN			149
CONSTRUCTION			1,330
EQUIPMENT			1
TOTAL FUNDING	AGS		1,480C

Work will include critical health and safety and/or operational improvements essential to the safe, effective, and efficient operation of this historic facility to meet its unique function. Projects may include, but not be limited to, elevator upgrades, HVAC system upgrades, and structural renovation or upgrades.

The Hawaii State Capitol is approaching the 50<sup>th</sup> anniversary of its original construction and work must continue to provide critical health and safety renovations and upgrades to ensure safe, effective, and efficient operation of this historic facility to meet its unique function.

AGS221 - PUBLIC WORKS-PLANNING, DESIGN, AND CONSTRUCTION

5. Q101

LUMP SUM MAINTENANCE OF EXISTING FACILITIES, PUBLIC WORKS DIVISION, STATEWIDE

PLANS, LAND ACQUISITION, DESIGN, CONSTRUCTION, AND EQUIPMENT FOR IMPROVEMENTS AND MAINTENANCE OF PUBLIC FACILITIES AND SITES, STATEWIDE. PROJECTS MAY INCLUDE REPAIRS AND IMPROVEMENTS.

PLANS			1
LAND			1
DESIGN			2,997
CONSTRUCTION			27,000
EQUIPMENT			1
TOTAL FUNDING	AGS		30,000C

CAPITAL IMPROVEMENT PROJECTS

ITEM NO.	CAPITAL PROJECT NO.	TITLE	APPROPRIATION (IN 000'S)			
			EXPENDING AGENCY	FISCAL YEAR 2019-2020	M O F	FISCAL YEAR 2020-2021

Building systems and sites will receive necessary major upgrades and maintenance that is required to protect our facilities and occupants from damage or injury due to deteriorated conditions. Repair/upgrade will be more comprehensive than would be possible under routine maintenance and will help allay larger costs to address future failure if nothing is done. Future maintenance costs to repair items such as air conditioning systems, large potholes, leaking roofs and leaking fire sprinkler pipes in public facilities will be eliminated for those facilities that receive work. These projects will reduce the State's exposure to lawsuits and their associated costs and required manpower requirements.

These construction projects are essential to maintain DAGS-managed public facilities. The operational life span of many of our building systems has long-passed, and costs continue to escalate to maintain the obsolete systems. Failure of obsolete systems that are beyond repair pose health and safety risks for facility occupants. Urgent health and safety and mandated needs are included in this lump sum fund. This project will also ensure that those systems that are not being immediately replaced or upgraded will continue to function. Just as importantly, this project will be the stepping stone to allowing DAGS to proactively properly maintain all systems to protect our asset inventory.

AGS233 - CENTRAL SERVICES-BUILDING REPAIRS AND ALTERATIONS

6. CSD09

LUMP SUM FIRE ALARM SYSTEMS REPLACEMENT & UPGRADE, STATEWIDE

PLANS, DESIGN, CONSTRUCTION, AND EQUIPMENT TO REPLACE AND UPGRADE FIRE ALARM SYSTEMS TO MEET CODE REQUIREMENTS, STATEWIDE.

PLANS		1	1
DESIGN		299	1
CONSTRUCTION			1,997
EQUIPMENT			1
TOTAL FUNDING	AGS	300C	2,000C

Fire alarm system upgrades initially completed in select areas of buildings during partial renovation work would be completed for the remainder of the building. This provides more complete, effective coverage for the building to protect life and property.

Work is required to meet requirements as established by County Fire Departments during review and approval of building permits for State facility renovations. If work is not completed within established deadlines, fire alarm system permits for completed renovation may be revoked. The alternative may be to ask for time extensions to complete the upgrades, however, the State risks reduced performance of building-wide fire alarm systems in the interim.



**SB 1111:** The Department supports this measure which establishes additional amounts to be appropriated and authorizes additional positions in the FB 2019-2021 operating budget for the Department.

However, as compared with the Governor’s executive budget, several items have not been included in SB 1111:

- AGS 101’s request for position conversion,
- AGS 130’s request for special fund ceiling increase, and
- AGS 233’s U-fund reduction request.

Additionally, although funded in SB 1111, it is our understanding that the addition of full funding for positions funded only for six months in Act 53, SLH 2018 should not be considered by the subject matter committees; as such, the summary justification that follows for the requested items will not include the half-year funding request for AGS 232.

Also, as noted in the SB 1110 discussion above, the AGS 130 and 131 requests as well as those for attached agencies will be separately presented in their own testimonies or through other committee’s measures (e.g., HB 1218 and SB 799 for the AGS 881 item).

<u>Prog ID</u>	<u>Description of Addition</u>	<u>MOF</u>	<u>Pos (P)</u>	<u>Pos (T)</u>	<u>\$\$\$</u>	<u>Pos (P)</u>	<u>Pos (T)</u>	<u>\$\$\$</u>
AGS102	Conversion of 1.00 Temporary Position to Permanent	A	1.00	(1.00)	\$ -	1.00	(1.00)	\$ -
<p>Two permanent positions authorized in Act 124, SLH 2016 with 6 months funding, for additional support for the Expenditure Examination program, were approved for full funding in Act 53, SLH 2018; however, both positions were also converted from Permanent to Temporary status. One of the positions was filled as of April 2017, while still a permanent position as authorized. This request is to convert the position back to permanent status from temporary as this position is a critical resource needed to meet ongoing operational needs of Central Payroll and provide support due to the increased complexity of collective bargaining agreements, federal and state reporting requirements, and statewide training requirements, as well as to implement and support new systems. The position performs functions that are permanent in nature.</p>								

Prog ID	Description of Addition	MOF	FY20			FY21		
			Pos (P)	Pos (T)	\$\$\$	Pos (P)	Pos (T)	\$\$\$
AGS231	Add one Building Manager Position and Funds	A	1.00	-	\$ 26,478	1.00	-	\$ 52,956
<p>Currently 3 Building Managers oversee the servicing of some 70+ state facilities that require building management services that address custodial cleaning services, building machinery problems such as air conditioning, elevator operation etc. State buildings have also been impacted by homeless and vagrants using the buildings as a temporary resting area resulting in health and safety concerns/complaints from building occupants. One additional building manager to our existing three building managers will enable the geographical area to be split more equitably and increase efficiency and response time to building occupant concerns and lead to faster resolution to problems.</p>								
AGS232	Add funds for Motor Vehicle Purchase - Replacement of 3/4 ton Refuse Truck	A	-	-	\$ 300,000	-	-	\$ -
<p>The existing refuse truck is 15 years old and has nearly 145,000 miles. The program has only one refuse truck and mechanical breakdowns are occurring more frequently. When the refuse truck is down, the use of private vendors is not a viable option because their existing equipment cannot pickup the state's trash bins. A replacement truck is sought as the truck has exceeded its useful life of 10 years and the program is facing increasing repair costs.</p>								
AGS221	Add 3.00 Permanent Positions and Funding for P3 Staffing and Related Requirements	A	3.00	-	\$ 156,453	3.00	-	\$ 300,906
<p>The request is to provide for three positions and related furnishings and equipment to staff a P3 (public-private partnership) office within the Public Works Division (PWD), Public Works Administrator's office. The requested positions will provide internal staffing to provide assistance to other State departments and agencies for the identification, definition, procurement and oversight of the development of P3 structures and the related contractual arrangements of such public-private partnerships on behalf of the State. Other support will include developing guidelines and related templates, training, and other resource support to other State departments and agencies. As many of these projects will include a planning, design, and construction component to the overall structure of these arrangements, this function is expected to closely coordinate their efforts with the existing Planning, Project Management, Construction Management and Leasing branches within PWD.</p>								

Prog ID	Description of Addition	MOF	FY20			FY21		
			Pos (P)	Pos (T)	\$\$\$	Pos (P)	Pos (T)	\$\$\$
AGS111	Add 1.00 permanent Office Assistant and Additional Operating Funds	A	1.00	-	\$ 92,240	1.00	-	\$ 107,940
<p>Personnel - The State Archives is requesting one additional FTE position due to increased utilization of the Public Research Room and State Archives' Services; increase in service requests has pushed the turnaround time from a target 7-10 days out to 6-8 weeks, with up to three months in the case of large orders. Other Current Expenses - funds for a contracted security guard to provide monitoring of the public research room and security cameras. This will provide a level of security corresponding to the importance of the items stored in the State Archives, reduce theft in the Public Research Room, and ensure that research room protocols are enforced. Funds are also requested for a) document shredding; insufficient funds has resulted the periodic annual deferral of destruction of eligible boxes, resulting in a multi-year backlogs that has greatly reduced capacity for incoming boxes, and b) specialty archival supplies for the rehousing of archival photographs and records.</p>								
AGS111	Add Funds for IT Services	B	-	-	\$ 200,000	-	-	\$ -
<p>The Digital Archives is moving into production and is requesting a \$200,000 one-time expenditure authority for testing and rollout of the Digital Archives preservation system. As the system has the responsibility of preserving digital records of enduring legal, historical and fiscal value in an authentic state in perpetuity, it is essential that the system function as designed to international standards. Having a set of outside analysts review, comment and improve the system is an important part of ensuring the highest quality product we can produce.</p>								
AGS233	Eliminate Interdepartmental Transfer "U" Fund for AAFES Building Maintenance	U	-	-	\$ (100,000)	-	-	\$ (100,000)
<p>With the AAFES building turned over to OHA, the fund which had set aside \$100,000 for yearly maintenance of the building is no longer necessary.</p>								

**SB 1112:** This measure appears to be a vehicle to appropriate general revenues only for the Department's FB 2019-2021 operating budget, and general obligation bond funds only for capital improvement projects for the Department in fiscal year 2019 - 2020.

Similar to SB 290, if the intent of this measure is to provide a vehicle to capture all the necessary appropriations of the Department for FB 2019-2021, we propose the budgets as

contained in the Governor's executive biennium budget, which is the base budget as appropriated in Act 53, SLH 2018, plus base budget adjustments and add-on items (as detailed in the table in the SB 290 discussion above) which were presented in our budget briefing in front of the joint Senate Committee on Ways and Means and your committee on January 14, 2019.

**SUMMARY:**

DAGS appreciates the efforts of Senator Thielen and her staff for proposing these measures. As previously mentioned, the Department hopes that the final budget numbers will be consolidated into one budget measure after our requests and base budget have been reviewed and considered by your committee. Thank you for the opportunity to submit testimony.

# OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII  
NO. 1 CAPITOL DISTRICT BUILDING  
250 SOUTH HOTEL STREET, SUITE 107  
HONOLULU, HAWAII 96813  
TELEPHONE: 808-586-1400 FAX: 808-586-1412  
EMAIL: oip@hawaii.gov

To: Senate Committee on Government Operations

From: Cheryl Kakazu Park, Director

Date: February 5, 2019, 3:15 p.m.  
State Capitol, Conference Room 211

Re: Testimony on S.B. No. 290  
Relating to the State Budget

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Thank you for the opportunity to submit testimony on this bill, which is a short-form bill that the state Office of Information Practices (“OIP”) hopes will be amended to include OIP’s budget request approved by the Governor for 8.50 positions in FB 2019-2021, and \$806,037 in general funds for FY 2019-20, and \$799,837 in general funds for FY 2020-21.

OIP appreciates the Legislature’s additional appropriation last session of \$100,000 for salary parity for its employees, which has tremendously helped morale and employee retention. This amount, however, was less than half of what OIP had initially requested of the Governor in 2017. The Governor’s budget this year has included an additional \$100,000 in general funds for OIP for the upcoming fiscal biennium to help OIP reach salary parity, along with \$6,200 in general funds to replace old and slow computers.

The same reasons that OIP gave last year for seeking salary parity funds apply to this year’s request. As the attached budget chart shows, **OIP has been underfunded for decades.** See attached Figures 1 and 2 of OIP’s budget history from OIP’s FY 2018 Annual Report. OIP was created in June 1988 to

administer the Uniform Information Practices Act (UIPA). At its height in FY 1994, OIP had 15 authorized positions and an allocated budget of \$827,537, which is the inflation-adjusted equivalent of \$1,403,003 today. Five years later, in FY 1999, OIP was given the additional responsibility of administering the Sunshine Law, which essentially doubled its work, but OIP's positions and budget had already started to precipitously decline. Thanks to last session's legislative appropriation and collective bargaining allocation, OIP currently has a budget of \$699,837 for this fiscal year and 8.5 FTE positions. **Nevertheless, OIP's current budget is still \$127,700 less in non-inflation adjusted dollars and \$703,166 less than what it had on an inflation-adjusted basis 25 years ago. In short, OIP has been doing more than double the work with half the resources that it had 25 years ago.**

While other agencies have received large or steady pay increases along the way, **last year's additional appropriation was OIP's first big boost in decades.** Other than collective bargaining allocations that were sometimes insufficient to match the pay increases provided to other units, **OIP did not receive additional funding in prior years when other agencies received large pay increases**, such as in FY 2016 when the Attorney General's Office received a \$1.94M for pay increases and the Honolulu Corporation Counsel's office received 5% pay increases. This year, the Honolulu Corporation Council's and Prosecutor's offices received 4% pay increases on July 1, 2018. State salary levels are also expected to increase once the 2018 State Commission on Salaries presents its recommendations to the Legislature this March. As the attached Good Government Comparison Chart from last year shows, **OIP has the least funding and personnel of all state good government agencies. Thus, despite the \$100,000 increase from last session, OIP's salaries still remain substantially**

**below those of comparable government employees, even though OIP's employees' have extensive experience and expertise regarding two essential open government laws providing public access and government accountability.**

The general public and all state, county, and independent agencies (including UH, OHA, and HTA), as well as all branches of government—Executive (including the Governor, Lt. Governor, and all mayors), Legislative (including the Legislature and county Councils), and Judicial (excluding only the courts' nonadministrative, *i.e.*, judicial, functions)—rely upon OIP's neutral and uniform advice, training, and dispute resolution services regarding Hawaii's open records and open meetings laws. OIP's attorneys and personnel, therefore, have highly transferable knowledge and skills. **To keep OIP's personnel and their unparalleled institutional memory at the single, statewide agency that provides uniform and neutral advice and services throughout Hawaii, OIP respectfully requests that its additional budget appropriation be passed out of this committee.**

Please note, however, that **the additional funding requested is only sufficient to help retain OIP's existing employees and continue its current level of work. For OIP to do more work faster, it will need additional personnel and funding.** The extent of the additional resources required will depend upon what is expected of OIP.

OIP is already at its maximum capacity with its existing personnel and resources and expeditiously resolves most of the requests for assistance that it receives each year. **In FY 2018, OIP resolved over 95% (1,074 of 1,127) of all FY 2018 formal and informal requests for assistance in the same year they**

**were filed, and nearly 84% (945 of 1,127) within the same day they were filed.**

**Although the backlog of formal cases is directly related to the number of new cases filed each year and OIP has no control over cases filed with it, OIP has substantially reduced its backlog to 99 pending formal cases as of January 31, 2019, which is a 24% reduction from the end of FY 2018 (131 pending cases) and a 34% reduction from one year ago (151 pending cases).**

Not only has OIP substantially reduced its formal case backlog, **OIP has also kept down the age of the its oldest cases that are not pending in litigation.** OIP ended FY 2018 with its oldest case being one that was filed in FY 2015, only because a litigation involving the same issue is still pending in court and OIP will resolve any issues remaining after the litigation concludes; the rest were filed in FY 2016 or later. This is a considerable improvement since FY 2011 when OIP's oldest outstanding case was 12 years old. It took years for OIP to bring down the age of its oldest cases to where it is now, and barring another huge increase in new formal case filings (as OIP experienced in FY 2017) and with its current level of resources, OIP hopes to be able to resolve appeals within one year of filing before FY 2023.

OIP's formal cases consist of different types of cases filed by requesters, with "appeal" being one of them. "Appeals" to OIP are opened when an agency denies a request for UIPA records or a person seeks to determine if a board is subject to or has complied with the Sunshine Law, which typically require the most time and work by OIP to resolve and often result in written opinions. "Requests for Opinions" (RFO) are also labor intensive as they are opened when there is no live case or controversy and a requester seeks an advisory opinion. If a



requester seeks reconsideration of an OIP decision, then a RECON file is opened and may result in either a dismissal or a new opinion. In contrast, “Requests for Assistance” (RFA) do not require written opinions and are opened when requesters have not received a response to a record request from an agency, and they typically resolved within the same fiscal year. Other types of formal cases are for “Correspondence” and “UIPA” record requests made to OIP, which also do not require written opinions by OIP, although some of the Correspondence may be written advice equivalent to other states’ “opinions.”

**OIP already takes steps to “triage” its formal cases and appeals** to give priority to those that may be readily resolved without an opinion, are of great public importance, or for other compelling circumstances. Unless circumstances change, the remaining cases are resolved on a first in, first out basis to be fair to those who have been waiting longer. As of January 31, 2019, OIP has closed 129 formal cases, of which 39 were appeals; 33 of the appeals closed were for cases filed before FY 19 and 6 were filed in FY 19. **Without the 97 older appeals that were pending at the start of this fiscal year, OIP would have resolved more appeals (39) than have been filed to date in FY 2019 (25).**

**Requesters who do not wish to wait their turn always have the option to go directly to the circuit court,** which is supposed to provide an expedited review process. Even the courts, however, could take years to resolve an appeal from a denial of a record request. In fact, OIP’s oldest appeal filed in FY 2015 is on hold, along with four newer ones, awaiting the court’s decisions on UIPA or Sunshine Law issues in those cases.

**Focusing only on appeals ignores all the other work that OIP does for many, many more requesters in the same year, if not the same day, and which often prevent the escalation of disputes into more appeals.**

Eighty-four percent of the total requests are typically resolved within the same day through OIP's Attorney of the Day (AOD) service, whereby a staff attorney provides informal advice and guidance to the requester. *See* attached Figure 1 of the OIP Service Overview from OIP's 2018 Annual Report. The AOD service resolves many issues before they become problems and turn into appeals, and it is a much used and appreciated service provided by OIP. Oftentimes, OIP will provide written advice in emails or letters in response to AOD inquiries, which would be considered "opinions" in other states.

In addition to responding to formal and informal requests for assistance, OIP has many other duties, including training, monitoring and testifying on legislation, tracking lawsuits, keeping agencies and the public informed of open government issues, rulemaking, initiating special projects on its own, and preparing annual reports, including two summarizing all State and County UIPA Record Request Logs.

**For OIP to resolve appeals faster without neglecting its other duties, it will need three additional personnel positions; \$345,000 in general fund appropriations for salary, equipment and training; and time to hire and train them.** OIP is already living on the edge with its lean workforce of five staff attorneys (one of whom is half-time), 2.5 FTE administrative personnel, and one director, each of whom is crucial to OIP's operations. If any one of its employees leaves OIP or goes on extended sick, vacation, or family leave, OIP would lose 13% of its workforce and institutional memory that, in the case of one attorney, goes back as far as 1988. Thus, to ensure that it will have the trained and experienced workforce to resolve appeals at a faster pace, OIP needs three additional positions now. OIP would also need time to hire and train the new positions, and anticipates the productivity of its experienced attorneys to go down

while they train the new hires. Note, too, that even with these additional positions and appropriations, OIP would still have less resources than it did 25 years ago when it had 15 positions and was allocated \$1,403,003 on an inflation-adjusted basis.

Finally, if a time to resolve appeals is statutorily imposed, then OIP will also **need a dedicated source of funding** to ensure that it will be appropriated sufficient funding and personnel to do the work that will probably increase over time. A statute remains on the books forever, but adequate funding does not. **From OIP's experience with decades of underfunding, it knows that it could be starved of necessary resources to timely do its work if it does not have a dedicated source of funding to hire, equip, train, and retain sufficient personnel.** Rather than an unfunded mandate, OIP would need dedicated source of statutorily required appropriations to provide a reliable stream of funding and personnel that can fulfill statutorily imposed deadlines

Thus, depending on the Legislature's expectations and level of additional funding and personnel, OIP would welcome the challenge of completing more appeals in a shorter period of time, provided their underlying issues are not pending in litigation in the courts. Otherwise, OIP is simply seeking an additional \$100,000 and \$6,200, as this bill proposes, to retain its existing staff and to replace aged computers in order to keep up with its current level and pace of work.

Mahalo for considering OIP's testimony.

# Highlights of Fiscal Year 2018

## Budget and Personnel



OIP's budget allocation is the net amount that it was authorized to use of the legislatively appropriated amount, including any collective bargaining adjustments, minus administratively imposed budget restrictions. In FY 2018, OIP's total allocation was \$584,019, up 1.4% from \$575,984 in FY 2017.

OIP's allocation for personnel costs in FY 2018 was \$561,695. The allocation for operational costs was \$22,324. See **Figure 3** on page 17.

As in the prior year, OIP had a total of 8.5 FTE approved positions in FY 2018.

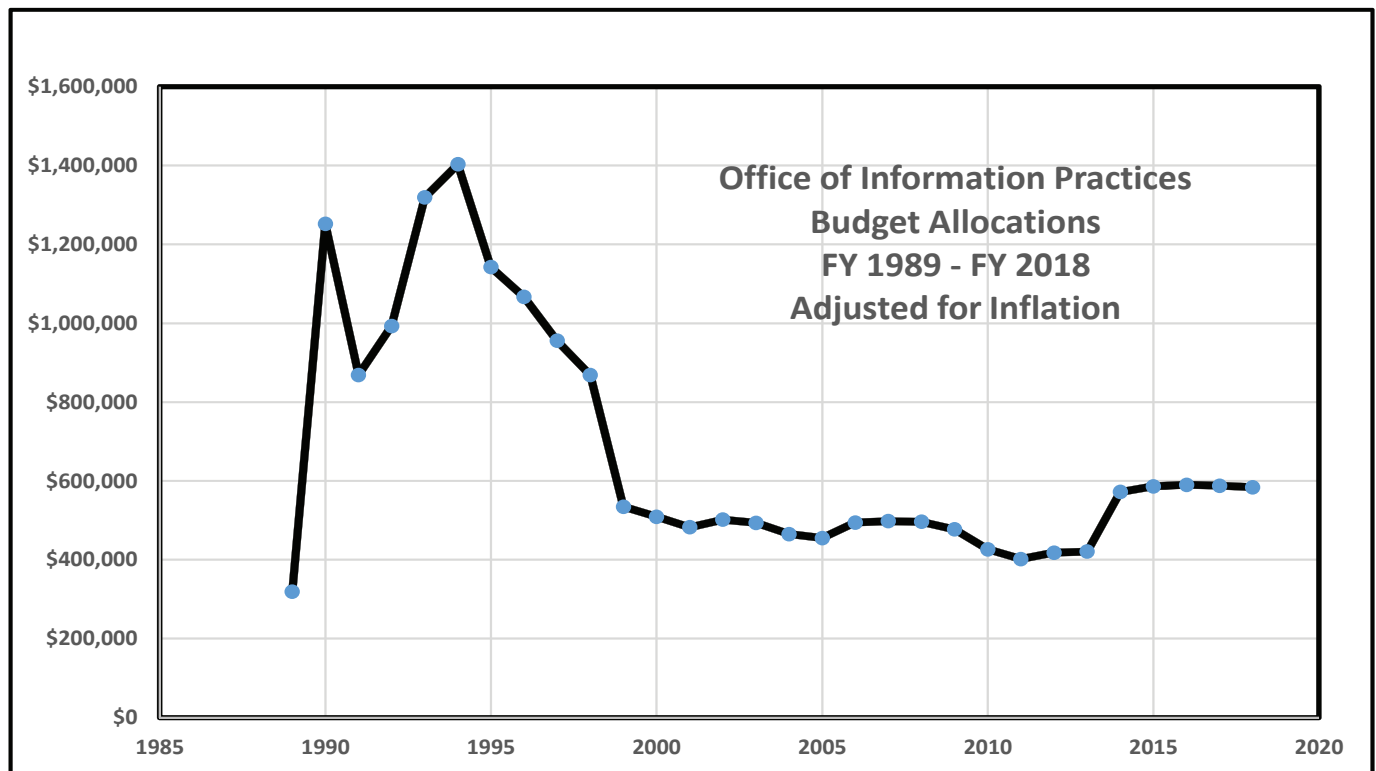


Figure 2



Office of Information Practices  
Budget FY 1989 to FY 2018

Fiscal Year	Operational Expense Allocation	Personnel Allocation	Total Allocation	Allocations Adjusted for Inflation**	Approved Positions
<b>FY 19</b>	<b>22,324</b>	<b>677,513</b>	<b>699,837</b>	<b>699,837</b>	<b>8.5</b>
FY 18	22,324	561,695	584,019	584,019	8.5
FY 17	22,324	553,660	575,984	587,909	8.5
FY 16	31,592	532,449	564,041	590,112	8.5
FY 15	45,228	507,762	552,990*	586,494	8.5
FY 14	88,862	450,895	539,757*	571,948	8.5
FY 13	18,606	372,327	390,933	420,789	7.5
FY 12	30,197	352,085	382,282	418,040	7.5
FY 11	42,704	314,454	357,158	401,991	7.5
FY 10	19,208	353,742	372,950	426,615	7.5
FY 09	27,443	379,117	406,560	477,272	7.5
FY 08	45,220	377,487	422,707	496,376	7.5
FY 07	32,686	374,008	406,694	498,014	7.5
FY 06	52,592	342,894	395,486	494,341	7
FY 05	40,966	309,249	350,215	455,200	7
FY 04	39,039	308,664	347,703	465,356	7
FY 03	38,179	323,823	362,002	493,826	8
FY 02	38,179	320,278	358,457	501,692	8
FY 01	38,179	302,735	340,914	482,588	8
FY 00	37,991	308,736	346,727	509,136	8
FY 99	45,768	308,736	354,504	534,813	8
FY 98	119,214	446,856	566,070	868,255	8
FY 97	154,424	458,882	613,306	955,489	11
FY 96	171,524	492,882	664,406	1,066,608	12
FY 95	171,524	520,020	692,544	1,142,107	15
FY 94	249,024	578,513	827,537	1,403,003	15
FY 93	248,934	510,060	758,994	1,319,281	15
FY 92	167,964	385,338	553,302	993,086	10
FY 91	169,685	302,080	471,765	879,759	10
FY 90	417,057	226,575	643,632	1,252,238	10
FY 89	70,000	86,000	156,000	319,300	4

Sunshine Law added to OIP's duties →

→

←

\*Total allocation for FY 2014 and 2015 includes the additional appropriation through Act 263, SLH 2013, to assist with open data and open government matters.

\*\*Adjusted for inflation, using U.S. Bureau of Labor Statistics CPI Inflation Calculator.

Figure 3



# Executive Summary



OIP's mission statement is "ensuring open government while protecting individual privacy." More specifically, OIP seeks to promote government transparency while respecting people's privacy rights by fairly and reasonably administering the UIPA, which provides open access to government records, and the Sunshine Law, which provides open access to public meetings.

Additionally, following the enactment of Act 263, SLH 2013 (see HRS § 27-44) (Open Data Law), OIP was charged with assisting the State Office of Information Management and Technology (now known as the Office of Enterprise Technology Services, or ETS) to implement Hawaii's Open Data policy, which seeks to increase public awareness and electronic access to non-confidential and non-proprietary data and information available from state agencies; to enhance government transparency and accountability; to encourage public engagement; and to stimulate innovation with the development of new analyses or applications based on the public data made openly available by the State.

Besides providing relevant background information, this annual report details OIP's performance for fiscal year 2018, which began on July 1, 2017, and ended on June 30, 2018.

	2013	2014	2015	2016	2017	2018
<b>Total Requests for OIP's Services</b>	1,227	1,313	1,307	1,162	1,234	1,127
<b>Informal Requests (AODs)</b>	1,050	1,109	1,074	964	956	945
<b>Formal Requests Opened</b>	177	204	233	198	278	182
<b>Formal Requests Resolved</b>	142	195	142	208	241	201
<b>Live Training</b>	16	19	11	11	9	6
<b>Training Materials Added/Revised</b>	19	23	16	12	6	9
<b>Legislation Monitored</b>	134	181	101	175	108	93
<b>Lawsuits Monitored</b>	7	17	39	44	40	38
<b>Public Communications</b>	30	35	33	30	30	25
<b>Rules Adopted</b>	0	1	0	0	0	0
<b>Special Projects</b>	14	14	15	8	2	0

Figure 1

**STATE GOOD GOVERNMENT AGENCIES COMPARISON CHART (Based on 2018 data)**

Agency	Jurisdiction	FY 2018-19 Total State Gen. Funds Appropriation	Personnel Services	Authorized FTE Positions
<b>OIP</b> HRS 92F-3, -41, -42; 92-1.5, -2, -10	HRS State, counties (including Mayors, Councils, and departments), independent agencies (UH, OHA), and <b>including</b> Executive branch (Gov, Lt. Gov. and agencies), Legislature, and Judiciary (except courts' nonadministrative functions), for UIPA (open records) ; also all Sunshine Law boards of state, county, and independent entities			
<b>OIP Budget</b>		\$576,855	\$563,855	8.5 (includes 6 attorneys)
<b>Auditor</b> Constit. Art. VII, Sec. 10; HRS 23-1, -2, -3, -8	State and its political subdivisions, <b>except</b> Legislature			
<b>Auditor Budget</b>		\$3,007,127	\$2,630,927	37 (26 actual)
<b>Ombudsman</b> HRS 96-1, -2, -3	Administrative acts of agencies, <b>except</b> Legislature, Judiciary, federal govt. , multistate govt'l entity, Gov. and personal staff, Lt. Gov. and personal staff, mayors, councils			
<b>Ombudsman Budget</b>		\$1,330,834	\$1,256,599	14.0
<b>LRB Director</b> HRS 23G-1, -2	Serves Legislature			
<b>LRB Budget</b>		\$3,459,738 excl. dues	\$2,917,394 incl. session staff & OT	38.0
<b>State Ethics Exec Dir.</b> 84-2, -3, - 35	HRS State only: all nominated, appointed, or elected officer, employee, and candidate to elected office, but <b>excluding</b> justices and judges			
<b>State Ethics Budget</b>		\$1,112,093	\$944,402	11.0
<b>State Campaign Spending Commission Executive Director</b> HRS 11-314(12)	Candidates			
<b>State CSC Budget</b>		\$505,585	\$443,962	5.0
<b>Chief Election Officer</b> 11-1, -1.6,	HRS Elections			
<b>Elections Budget</b>		\$3,071,898, not inclu. fed. funds	\$2,234,383	27.44, inclu. 9.44 temp.