

March 31, 2021

TO Scott K. Saiki, Speaker  
**HOUSE OF REPRESENTATIVES**  
STATE OF HAWAI'I  
STATE CAPITOL, ROOM 431  
415 SOUTH BERETANIA STREET  
HONOLULU, HAWAI'I 96813

FROM: State Auditor Working Group

Dear Speaker Saiki,

Pursuant to House Rule 2, a Working Group was created to review the Office of the Auditor (hereinafter Office of the State Auditor) to determine whether the Office of the State Auditor is in compliance with art. VII, section 10 of the Hawaii Constitution. The Working Group was authorized to analyze documents, interview individuals and conduct other necessary research. The Working Group was asked to submit its report to the House on or before April 1, 2021.

The findings of the Working Group were to assist the members of the State House of Representatives to determine whether the State Auditor is in need of guidance in prioritizing his work and the scope of his work, and to identify opportunities for improving the timeliness of reports and operations of the Office of the State Auditor. The Working Group members served without compensation.<sup>1</sup>

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<sup>1</sup> Some members of the House of Representatives may be unfamiliar with the members of the Working Group. Edwin Young, who served as the Working Group Chair, has about 50 years in auditing. He has extensive federal, state, and city governments experience in auditing and multiple certifications<sup>1</sup> in the auditing profession. He recently retired as the City Auditor for the City and County of Honolulu and is currently an adjunct professor in accounting at the University of Hawai'i Manoa. During his tenure as City Auditor, he was responsible for the City and County of Honolulu HART audits.

Wesley Machida has worked in the Office of the State Auditor and was formerly a Certified Public Accountant (CPA). He worked for three CPA firms; served as the former Director for the State of Hawai'i, Department of Budget and Finance, Executive Director of the Employees' Retirement System of the State of Hawai'i (ERS); and many other important positions in the Hawai'i State government. He currently serves as a member of the ERS Board of Trustees. Upon the request of the Speaker of the House, he had monthly meetings with the State Auditor and Deputy State Auditor for about a year or more to discuss the status of requests from their office and other issues.

Colleen Hanabusa has served in many prominent roles in the federal, state and local governments, including the Hawai'i State Senate, the U.S. Congress House of Representatives, and the City and County of Honolulu. She held leadership positions in the Senate, including the

All of the Working Group members believe in the constitutional purpose of the Auditor. At the outset of this report, the Working Group wishes to make clear that the word “audits” entails several types of audits.<sup>2</sup>

### **Scope Impediments and Methodology**

The Working Group encountered scope limitations because the State Auditor (1) refused to meet with the Working Group, (2) refused to respond to Working Group communications, questions, or requests for information, and (3) refused to provide background and other information requested by the Working Group, such as organizational charts, personnel contact info, access to formal, written policies and procedures, and access to audit guides. The State Auditor refused to answer questions asked by the Working Group regarding State Legislature resolutions, why audits were not performed and/or cancelled, and refused to allow current employees to talk to the Working Group. Although we informed the State Auditor what we would be doing, the State Auditor attacked the Working Group by weaponizing the media with inaccurate information and mischaracterized the Working Group requests for information. The State Auditor sent two letters that questioned the authority of the Speaker of the State House of Representatives to form the Working Group.

To conduct the review, the Working Group used alternative audit techniques and methods to gather and analyze information available in open, public sources and conducted interviews with persons who were familiar with State Auditor operations. During the review, we researched Hawaii State Constitution and committee reports/debates and testimonies, reviewed HRS statutes and hearings, and reviewed Legislature resolutions. We reviewed OHA litigation, legal briefs, court decisions, legal proceedings, and information related to the OHA lawsuits, conducted research and case law related to the OHA litigations. We reviewed Generally Accepted Government Auditing Standards (GAGAS) requirements related to financial and performance audits, accessed and analyzed public information related to the Office of the State Auditor salaries, production, and personnel turnover, reviewed and analyzed State Auditor website data. We contacted and interviewed former employees, consultants, contractors, and peers.

### **Background and Findings<sup>3</sup>**

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Senate President, Senate Vice President and Senate Majority Leader. In city government, she served on the HART Board of Directors and as Chair of the HART Board.

<sup>2</sup> The two most common audit categories requested and/or statutorily mandated are financial (statement) audits and performance audits.

- Financial Audits are conducted by Certified Public Accountants (CPAs) under the auspices of the Office of the State Auditor and are usually contracted out to external accounting firms. Financial audits require a CPA to sign off on the audit results and to express opinions on financial statements.
- Performance audits are conducted by the Office of the State Auditor staff and may, depending upon the technical difficulties, also require some outsourcing. For example, the HART audit authorized in Act 1 of the 2017 First Special Session was conducted by the Office of the State Auditor staff, and technical portions of the audit were contracted out to BKD, an external consulting firm.

<sup>3</sup> The State Auditor’s refusal to provide access to files and other information prevented the Working Group from addressing issues related to contracts, use of the media, and its independence and

The Hawaii Constitutional Convention established the Office of the State Auditor in the State Constitution in 1950. The Office of the State Auditor is a legislative audit function under the auspices of the Hawaii State Legislature. As a legislative service agency, the State Auditor is supposed to provide objective, unbiased, evidence-based assessments of State programs. Among other things, the audits are supposed to provide meaningful answers to the effectiveness and efficiency of State programs and whether the programs are achieving the purposes intended by the Legislature. The audits also help the Legislature hold the State agencies accountable for their performance and use of public funds.

For fiscal year 2020-2021, the Office of the State Auditor consisted of about 26 full time staff with an overall budget of about \$3.3 million. Funding for the Office of the State Auditor is supplemented by about \$2.8 million in the Audit Revolving Fund which was established under Section 23-3.6 of the HRS. The revolving fund is used to pay the cost of the annual State Comprehensive Annual Financial Report (CAFR), the Single Audit of federal funds, and the financial and single audits of 20 state departments and programs. Certain departments and programs reimburse the revolving fund for the audit costs.

The State Auditor is also required to comply with Generally Accepted Government Auditing Standards (GAGAS) as established by U.S. Comptroller (GAO) Government Audit Standards (Yellow Book). The Yellow Book requires independent and objective assessments of programs based on appropriate and sufficient evidence to support the audit conclusions and opinions. The Yellow Book also establishes audit standards for performance audits, as well as financial audits.

Between 2016 and 2019, the Legislature passed 25 resolutions that required the audit results to be submitted to the Legislature 20 days before the start of the legislative session. Only 15 of the 25 requested audits were completed and 10 of the 25 requested audits were not performed. Of the 15 audits completed, only 3 audits were issued on time and 12 audits were late. It is important to note that audits can also be mandated in law. Failure to comply with the deadlines are violations of law.<sup>4</sup>

The public media quoted the State Auditor as stating the audits were late or not done due to staff turnover and inadequate resources. The State Auditor was further quoted as claiming the office was independent and objective and not required to answer to the legislature. The Speaker of the House in the Legislature subsequently formed a Working Group to determine why the audits were late or not performed and what improvements were needed to improve the efficacy and timeliness of the State Auditor reports.

H.R. 189, SLH2020, *Authorizing and Empowering the Speaker to Perform and Carry out any*

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objectivity.

<sup>4</sup> A critical point must be raised to the Legislators. The Working Group assumes that when the Legislature requests audits, whether it be by resolution or statute (like Act 37 and Act 28 of Session Laws 2019), it is of critical concern and they would like to address the issue in the next legislative session. The common language is “The Auditor shall submit a report . . . no later than twenty days prior to the convening” [of the next legislative session]. When the Auditor fails to meet the deadlines, he is acting without authority by the Legislature and in violation of the enabling legislation. If the Auditor will be late, he must inform the legislative leaders and determine how to best proceed, not act unilaterally.

*Official Legislative Business During the Interim Between the 2020 and 2021 Regular Session*, provides in part that the Speaker be, and is hereby authorized and empowered during the interim 2020 and 2021 Regular Sessions, to establish and approve any action of standing, interim, select, and special committees.

House of Representatives, State of Hawai`i Rule 2 provides that the Speaker is authorized to notify members of the names of individuals nominated for or appointed to a task force, commission, working group, or similar position requiring the Speaker to nominate individuals for such a position. The Speaker shall not less than annually publish a list of those individuals nominated or appointed; and perform other duties required by law or these Rules.

Financial audits, which are performed by external accounting firms contracted by the State Auditor, comprised over 50% of the reports issued by the Office of the State Auditor each year (26-31 reports per year) over the past five years. The number of performance audit reports issued by the Auditor each year over the past five years ranged from a low of one report in FY 2016-2017 and one report in FY 2019-2020 to a high of eight reports in FY 2018-2019. Given the size and budget of the Office of the State Auditor, performance audit report productivity is considered low. By comparison, the Office of the Honolulu City Auditor, which has about 38% of the staff and a \$1.8 million budget, issues about one to five performance audits per year.

The lack of auditing experience among executive-level staff and other administrative issues are impacting compliance with government auditing standards and the timely submission of reports, as well as causing personnel turnover and unnecessary litigation.

Although the Office of the State Auditor has passed triennial peer reviews<sup>5</sup> as required by government auditing standards, the Working Group's analysis, research of public information, and interviews indicates more needs to be done to ensure the Office of the State Auditor is responsive to the needs of the Legislature. The Working Group therefore recommends the following:

- (1) To be successful, the State Auditor and its executives and audit managers must have several years of auditing experience before supervising and overseeing audits, regardless of their background, experience, and training. If the Office of the State Auditor personnel have prior audit experience and are properly trained in audit standards, techniques, and methods, timely and value-added audits can help the Legislature hold state agencies accountable for their performance and use of public funds;
- (2) Sound management practices, communication, and interpersonal skills are necessary to successfully operate and supervise the work and employees of the Office of the State Auditor; and
- (3) Legislative oversight is needed to ensure the Office of the State Auditor is responsive to the Legislature and fulfills its mandate to provide objective, unbiased, evidence-based assessments of state programs, meaningful answers to the effectiveness and efficiency of state programs, and whether the programs are achieving the purposes intended by the Legislature.

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<sup>5</sup> The peer reviews did not address the timeliness of the audit reports.

The attached report is provided to your office as requested. Should you have any questions or desire further details, please contact Edwin Young, Chair, Colleen Hanabusa, or Wesley Machida.

Sincerely,

*Edwin S. W. Young*

Edwin S.W. Young  
Working Group Chair