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Audit Report Number 2010-LA-1005
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TO: Rodger J. Boyd, Deputy Assistant Secretary, Office of Native American Programs, PN

*Joan S. Hobbs*

FROM: Joan S. Hobbs, Regional Inspector General for Audit, Region IX, 9DGA

SUBJECT: The Department of Hawaiian Home Lands Generally Had Capacity To Manage; However, It Needs To Improve Controls Over Its Administration of Recovery Act Funds

## **HIGHLIGHTS**

### **What We Audited and Why**

As part of the Office of Inspector General's annual audit plan, we completed a capacity review of the Department of Hawaiian Home Lands' (Department) American Recovery and Reinvestment Act of 2009 (Recovery Act) funding.

Our objective was to determine whether the Department had sufficient capacity to manage and administer its Recovery Act funding. Specifically, we reviewed and assessed the Department's capacity in the following areas: internal controls, financial operations, and procurement.

### **What We Found**

The Department generally had sufficient capacity to manage its Recovery Act funding. It had a plan for and had begun the use of program funds and had adequate records to support accounting transactions as well as a majority of its procurement activities. However, the Department could improve its controls by (1) developing a more comprehensive set of written policies and procedures to describe its drawdown and disbursement process, (2) ensuring that its contractors had not been debarred or suspended before awarding federally funded contracts, (3) obtaining the tax clearance

certificates from its subcontractors, and (4) performing adequate reviews of weekly certified payrolls to ensure that its contractors and subcontractors paid their employees proper wages and fringe benefits in accordance with the Davis-Bacon Act and Hawaii Revised Statutes. In general, the Department attributed its weaknesses to staff oversight.

### **What We Recommend**

We recommend that the Deputy Assistant Secretary, Office of Native American Programs, require the Department to ensure that it (1) develops detailed written policies and procedures regarding its drawdown and disbursement process, (2) performs a search on the General Services Administration's Excluded Parties List System and the State of Hawaii's List of Debarred and Suspended Persons before it awards its federally funded contracts, (3) obtains tax clearance forms to show that all delinquent taxes against the contractor's subcontractor have been paid, and (4) performs adequate reviews of the weekly certified payrolls in compliance with the Davis-Bacon Act and Hawaii Revised Statutes.

For each recommendation without a management decision, please respond and provide status reports in accordance with U.S. Department of Housing and Urban Development (HUD) Handbook 2000.06, REV-3. Please furnish us copies of any correspondence or directives issued because of the audit.

### **Auditee's Response**

We provided the Department a discussion draft report on December 22, 2009, and held an exit conference with the Department's officials on January 13, 2010. The Department provided written comments on January 14, 2010, and generally agreed with our finding.

The complete text of the auditee's response can be found in appendix A of this report.

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## BACKGROUND AND OBJECTIVE

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On February 17, 2009, the American Recovery and Reinvestment Act of 2009 (Recovery Act) was enacted to make supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, State and local fiscal stabilization for the fiscal year ending September 30, 2009, and other purposes.

The Recovery Act funds, awarded for the Native Hawaiian Housing Block Grants, shall be used for new construction, acquisition, rehabilitation including energy efficiency and conservation, and infrastructure development. All funds must be obligated within 1 year of the date the funds are made available in the Line of Credit Control System. In addition, at least 50 percent of the funds must be expended within 2 years, and funds must be fully expended within 3 years of the date that funds are available. Failure to comply with either the 2- or 3-year expenditure requirements will result in the recapture of all remaining funds originally awarded. The Recovery Act funds were made available to the Department of Hawaiian Home Lands (Department) on May 7, 2009. Accordingly, funds must be obligated and expended by the dates listed below.

100 percent obligation due date	May 6, 2010
50 percent expended due date	May 6, 2011
100 percent expended due date	May 6, 2012

The Department was created by the Hawaii State Legislature in 1960 to administer the Hawaiian Homes Commission Act of 1920 (Act). The Act designated certain public lands as Hawaiian home lands, which are used to serve Hawaiians or individuals of at least 50 percent Hawaiian blood.

Based on its amended fiscal year 2008-2009 Native Hawaiian housing plan, the Department planned to use the \$10.2 million it was awarded under the Recovery Act for these projects:

Project	Used for	Amount
Kaupuni Village	Infrastructure development	\$1.7 million
East Kapolei II, increments B and C	Infrastructure development	\$8.5 million

Although the Department had not been able to contract the entire \$10.2 million immediately after the funds were awarded due to unforeseen circumstances, it provided us with information throughout our review of its progress and plans to expedite its obligation of those funds.

As of October 2009, \$1.7 million of the Recovery Act funds had been obligated and nearly \$1 million had been expended for Kaupuni Village. While the Department anticipated completing

the infrastructure development on the Kaupuni Village project by December 31, 2009, it had encountered delays with the East Kapolei II mass grading project, which it attributed to the enactment of a new State law that resulted in the suspension of all of its solicitation for bids. Further, the U.S. Department of Housing and Urban Development (HUD) had questions and concerns regarding the environmental assessment that contributed to the delay in awarding the contract. While drafting this report, HUD stated that all questions and concerns had been resolved.

Because the lowest bid (\$4.1 million) for the East Kapolei II mass grading contract was significantly lower than the estimated cost of \$8.5 million, the Department plans to reallocate \$4.4 million of the Recovery Act funds to other potential projects. It is considering using \$3 million to build a detention basin on East Kapolei I and \$1.4 million on house construction at Kaupuni Village or Kumuhau Subdivision or the Kaupuni Village retention wall. HUD also has concerns regarding environmental issues with the East Kapolei I detention basin project. The Department anticipates resolving this issue in the coming weeks.

Our objective was to determine whether the Department had sufficient capacity to manage and administer its Recovery Act funding. Specifically, we reviewed and assessed the Department's capacity in the following areas: internal controls, financial operations, and procurement.

## RESULTS OF AUDIT

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### Finding: The Department Generally Had Sufficient Capacity To Manage; However, Controls Over the Administration of Its Recovery Act Funds Had Weaknesses

Although the Department demonstrated that it generally had sufficient capacity to manage its Recovery Act funds, we found control weaknesses that could be detrimental to its administration and management of HUD funds. Based on our review, the Department did not (1) develop sufficient written policies and procedures for its disbursement process, (2) ensure that its contractors had not been debarred or suspended, (3) obtain the tax clearance certificates from its subcontractors, and (4) ensure that its contractors and subcontractors paid their employees proper wages and fringe benefits in accordance with the Davis-Bacon Act and Hawaii Revised Statutes. In general, the Department attributed its weaknesses to staff oversight. Although the outcome of our review did not result in a material effect to HUD, failure to perform these steps could increase the risk of fraud, waste, and abuse.

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#### **Program Expenditures Were Eligible and Supported With Adequate Documentation**

We tested program expenditures by reviewing the entire grant draws related to the Recovery Act (totaling almost \$1 million) and HUD Native Hawaiian Housing Block Grant (totaling more than \$1 million) for both the Kaupuni Village and Kumuhau Subdivision projects, respectively, to review for eligibility and supporting documentation. We determined that (1) there were no unusual charges included in the contract, (2) expenditures were allocated properly between the original and supplemental contracts, (3) accounting mischarges were properly identified and corrected, (4) voucher payment records were reviewed by appropriate personnel, and (5) the Department followed its internal policies and procedures during its drawdown of Recovery Act grant funds.

#### **The Department Did Not Develop Comprehensive Drawdown and Disbursement Policies and Procedures**

The Department lacked detailed written policies and procedures for its drawdown of grant funds and disbursement process. The Department provided us with written policies and procedures that described the drawdown of a lump-sum grant and the return of unexpended Native Hawaiian Housing Block Grant funds to the Line of Credit Control System after 2 years. However, they did not describe in detail, how funds were drawn

down from the system to pay a contractor from Native Hawaiian Housing Block Grant and Recovery Act funds.

Although the Department had a systematic process in place, it should have established and continually revised its procedures to help ensure uninterrupted operation during employee absences or turnover and guide staff in accomplishing their roles and responsibilities.

**The Department Did Not Ensure That Contractors Were Not Debarred or Suspended**

According to 24 CFR (Code of Federal Regulations) 85.35 and Hawaii Administrative Rules, sections 3-126-17 and 3-126-18, agencies are prohibited from awarding federally funded contracts to debarred or suspended persons. The Department's staff confirmed that it did not perform a search on the United States General Services Administration's Excluded Parties List System or the State of Hawaii's List of Debarred and Suspended Persons to ensure that the contractors to be awarded the contracts selected in our review had not been debarred or suspended. Department staff members stated that they failed to perform this step due to staff oversight and the Department's established relationship with the contractor, which reportedly had a solid reputation in the industry. Moreover, the staff members stated that they were not aware of the Web address to access either the Federal or State debarred and suspended listings. Although the contractors were not debarred or suspended at the time the contract was awarded or during our fieldwork, the Department placed itself at serious risk of awarding contracts to contractors that might not have been eligible to receive a federally funded contract. We provided Department staff with the General Services Administration's Excluded Parties List System link, which was disseminated to appropriate persons throughout the Department, along with a message informing them of the need to verify that contractors awarded contracts are not on the State and/or Federal debarred lists.

**The Department Did Not Obtain Required Tax Clearance Certificates From Subcontractors**

Contrary to the general conditions of the invitation for bids for the Kaupuni Village and Kumuhau Subdivision projects, the Department failed to obtain the tax clearance certificates from the contractors' subcontractors. Details regarding each project are listed below.

### Kaupuni Village Project Contractor - Royal Contracting

Royal Contracting listed nine subcontractors on its bid; however, the Department did not obtain any of the tax clearance certificates at the time it awarded the contract. After we inquired about the certificates, the Department provided the certificate of vendor compliance or tax clearance certificates for all nine subcontractors. The certificates showed that they were in compliance with the general conditions of the invitation for bids.

### Kumuhau Subdivision Project Contractor - Elite Pacific Construction

Elite Pacific Construction listed eight subcontractors on its bid; however, the Department did not obtain any tax clearance certificates at the time it awarded the contract. After we inquired about the certificates, the Department provided the certificate of vendor compliance or tax clearance certificates for six of the eight subcontractors. The certificates showed that they were in compliance with the general conditions of the invitation for bids. Based on a December 10, 2009, memorandum, Elite Pacific Construction stated that it did not use two of the subcontractors that were originally listed on its bid due to changes that occurred during construction. As a result, tax clearance certificates were not obtained for these two subcontractors (Island Heavy Equipment and RJA Precast).

The Department confirmed that it overlooked this requirement. Although the Department supplied the certificate of vendor compliance or tax clearance certificates for some of the subcontractors, these certificates could not determine that the subcontractors were compliant with the tax clearance requirements when the Department awarded the contracts to Royal Contracting and Elite Pacific Construction on February 10, 2009, and February 28, 2008, respectively. Further, had we not informed the Department of this requirement, it would not have requested certificates for any of the subcontractors.

### **The Department Did Not Perform Adequate Davis-Bacon Act Reviews**

The Department did not perform adequate reviews of the weekly certified payrolls to ensure that the contractors and subcontractors paid their employees the correct wages and fringe benefits in accordance with the Davis-Bacon Act and Hawaii Revised Statutes. These deficiencies occurred because the Department did not follow proper procedures as required. Based on our sample payroll for Royal Contracting and Elite Pacific Construction, we determined that

- One employee of RHS Lee, a Royal Contracting subcontractor, was classified as a mason and was paid less than the Davis-Bacon rate. However, the employee could have been an apprentice since “apprentice” was handwritten on the payroll. As a result, the employee was paid at a lower rate. The labor compliance

specialist did not obtain proof from RHS Lee to confirm that the employee was an apprentice. Although the Davis-Bacon Act does not contain a wage determination schedule for apprentices, the State of Hawaii does, and apprentices earn higher wages as they accumulate more experience. The labor compliance specialist did not have information to show in which pay step the employee belonged and, therefore, could not confirm whether RHS Lee paid the proper wage rate and fringe benefits as required by the State of Hawaii.

- The weekly certified payrolls from Elite Pacific Construction showed that it did not pay the proper Davis-Bacon wages, and the Department was aware of the deficiency but did nothing about it until the auditors pointed it out. Our sample results showed that Elite Pacific Construction had been underpaying its carpenters by \$.02 per hour since at least February of 2009. Moreover, the State of Hawaii increased the prevailing hourly wages for carpenter from \$55.22 to \$55.42 in the wage rate schedule, dated September 21, 2009. Because of the timing of our sample selection and availability of the weekly certified payroll, we were not able to review a certified payroll for a pay period after the new wage rate schedule came into effect to determine whether Elite Pacific continued to pay the same wage rate or a new wage rate to match the updated wage rate schedule. The increase in the wage rate schedule may have increased the underpayment rate of \$.02. The labor compliance specialist notified Elite Pacific Construction of the \$.02 rate mistake and informed the company to expect an adjustment.
- Two Elite Pacific Construction contracted employees did not have job classifications shown on the payrolls. Without the job classifications, the proper Davis-Bacon wage rates could not be determined. We asked the labor compliance specialist about this issue, and she said that since the contractor's other employees were carpenters, she assumed that the two employees without job classifications were also carpenters. Upon our request, she obtained from the contractor a revised payroll showing that the two employees were carpenters.
- Keeno Farms, an Elite Pacific Construction subcontractor, had payrolls showing two wage rates for each employee. The labor compliance specialist could not explain why two wage rates were shown and whether they included the correct fringe benefits for the job classifications. She needed to discuss the wage rates with Keeno Farms several times before she could explain Keeno Farms' payroll. Had she been verifying that the proper wages were paid on a weekly basis, she would have been able to show the auditors how she "audited" Keeno Farms' payroll and conclude immediately that there were no issues.

## Conclusion

The Department generally had sufficient capacity to manage its Recovery Act funds. However, it needs to strengthen its controls to fulfill the requirements under the Recovery Act program. It can do so by (1) developing detailed written policies and procedures for

its drawdown and disbursement process, (2) ensuring that its contractors have not been debarred or suspended, (3) obtaining the tax clearance certificates from subcontractors, and (4) ensuring that its contractors and subcontractors paid their employees proper wages and fringe benefits in accordance with the Davis-Bacon Act and Hawaii Revised Statutes. Although the outcome of our review did not result in a material effect to HUD, failure to perform these steps could increase the risk of fraud, waste, and abuse.

## **Recommendations**

We recommend that the Deputy Assistant Secretary, Office of Native American Programs, require the Department to

- 1A. Develop and maintain comprehensive written policies and procedures that describe its drawdown of grant funds and disbursement process in more detail.
- 1B. Perform a search on the General Services Administration's Excluded Parties List System and the State of Hawaii's List of Debarred and Suspended Persons to ensure that current and future contractors have not been debarred or suspended before being awarded federally funded contracts.
- 1C. Obtain tax clearance forms to show that all delinquent taxes levied or accrued against current and future subcontractors have been paid.
- 1D. Perform adequate reviews of certified payrolls to ensure that contractors and subcontractors paid their employees the correct wages and fringe benefits.

## SCOPE AND METHODOLOGY

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We performed our on-site work at the Department, located on the island of Oahu, HI, in the city of Kapolei, between August and November 2009. Our review generally covered the period July 1, 2007, through June 30, 2009. We expanded our scope as necessary.

To accomplish our objective, we

- Reviewed and obtained an understanding of the Recovery Act, the Department's grant agreements with HUD, and its planned activities under the Recovery Act.
- Reviewed applicable financial management and procurement criteria.
- Reviewed relevant Department policies and procedures.
- Reviewed the Davis-Bacon Act and Hawaii Revised Statutes.
- Interviewed HUD and Department employees regarding the Department's operations.
- Reviewed Department financial records and procurement files for the Kaupuni Village (Recovery Act contract) and Kumuhau Subdivision (Native Hawaiian Housing Block Grant contract) projects. Because the Department spent less than \$1 million (9.6 percent) of its Recovery Act funds, we determined that this amount would not provide a sufficient test to determine the Department's ability to administer its grant funds. Moreover, no new activities had occurred with respect to the second Recovery Act project. Therefore, we expanded our scope to include a review of the Kumuhau Subdivision contract. We based our selection on the following factors:
  - The sum of the original and supplemental contracts exceeded \$100,000.
  - The original contract was executed during our review period.
  - Factors such as time constraints, number of supplemental contracts, and contract amount already expended were also considered.

Although our selection was not based on a statistical sample, we expect it to be representative of the Department's most recent expenditure and procurement activities, which closely resemble the activities of the Recovery Act contract at Kaupuni Village.

- Tested payroll for Royal Contracting (Kaupuni Village project's contractor), Elite Pacific Construction (Kumuhau Subdivision project's contractor), and their subcontractors. We selected sample payroll periods between November 2007, through the present. There were two payroll periods for Royal Contracting which included April 24 and August 7, 2009. There were also three payroll periods for Elite Pacific Construction (June 23, 2008, February 2, 2009, and May 11, 2009). Our objective was to determine whether there were any uncorrected systemic deficiencies.

- Reviewed the HUD environmental assessment report as well as other reports that describe the planned remediation efforts for the contaminated area on East Kapolei II.
- Reviewed job descriptions and the organizational chart.
- Reviewed the Department's most current annual plan.
- Conducted site visits at Kaupuni Village to observe the progress of infrastructure work.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

# INTERNAL CONTROLS

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Internal control is an integral component of an organization's management that provides reasonable assurance that the following objectives are achieved:

- Program operations,
- Relevance and reliability of information,
- Compliance with applicable laws and regulations, and
- Safeguarding of assets and resources.

Internal controls relate to management's plans, methods, and procedures used to meet its mission, goals, and objectives. They include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

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## Relevant Internal Controls

We determined that the following internal controls were relevant to our audit objective:

- Policies and procedures to ensure that internal controls, financial management, and procurement activities are adequate.
- Policies and procedures to ensure that grant expenditures are eligible and adequately supported.

We assessed the relevant controls identified above.

A significant weakness exists if internal controls do not provide reasonable assurance that the process for planning, organizing, directing, and controlling program operations will meet the organization's objectives.

## Significant Weaknesses

Based on our review, we believe that the following item is a significant weakness:

- The Department needs to improve controls over the administration of its Recovery Act funding.

# APPENDICES

## Appendix A

### AUDITEE COMMENTS

#### Ref to OIG Evaluation

#### Auditee Comments

LINDA LINGLE GOVERNOR STATE OF HAWAII		KAULANA H. R. PARK CHAIRMAN HAWAIIAN HOMES COMMISSION ANITA S. WONG DEPUTY TO THE CHAIRMAN ROBERT J. HALL EXECUTIVE ASSISTANT
STATE OF HAWAII DEPARTMENT OF HAWAIIAN HOME LANDS P.O. BOX 1879 HONOLULU, HAWAII 96805		
January 14, 2010		
Ms. Joan S. Hobbs Regional Inspector General for Audit, Region IX Office of Inspector General United States Department of Housing & Urban Development 611 West Sixth Street, Suite 1160 Los Angeles, CA 90017-3101		
<b>Re: OIG ARRA Draft Audit Report</b>		
Dear Ms. Hobbs,		
Thank you for opportunity to respond to the findings as identified in the draft audit report dated December 22, 2009. The Department generally agrees to the findings and recommendations and has provided comments in the attachment.		
If you have any questions, please contact Ms. Scottina Ruis of our office at (808) 620-9513.		
Aloha and Mahalo,		
		
Kaulana H. R. Park, Chairman Hawaiian Homes Commission		

Department of Hawaiian Home Lands  
Response to OIG ARRA Draft Audit Report

**Finding: The Department generally had sufficient capacity to manage; however, controls over the administration of its Recovery Act funds had weaknesses:**

**The Department did not develop comprehensive drawdown and disbursement policies and procedures.**

Response: We concur with the finding. The Department will improve developing and maintaining written policies and procedures describing the drawdown of grant funds and the disbursement process in more detail. In addition, the detailed written policies and procedures covering its receipts and disbursements will be NHHB and ARRA funds specific.

**The Department did not ensure that contractors were not debarred or suspended.**

Response: We concur with the finding. The Department will perform a search on the General Services Administration's Excluded Party List System and the State of Hawaii's List of Debarred and Suspended Persons to ensure that current and future contractors were not debarred or suspended before being awarded federally funded contracts. Documentation of this search will be included in the procurement file.

**The Department did not obtain required tax clearance certificates from subcontractors.**

Response: We concur with the finding. The Department has implemented the collection of the appropriate tax clearance certification(s) from all subcontractors of federally funded contracts prior to contract certification. Documentation of this certification will be kept in the procurement file.

**The Department did not perform adequate Davis-Bacon Act reviews.**

Response: We concur with the finding. The Department is taking action to reassigning staff to solely manage the Davis-Bacon Act reviews for the NHHB and ARRA funds.

## Appendix B

### CRITERIA

**24 CFR 85.35.** Subawards to debarred and suspended parties.

Grantees and subgrantees must not make any award or permit any award (subgrant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, “Debarment and Suspension.”

**Hawaii Administrative Rules, section 3-126-17.** Effect of debarment decision.

A debarment decision will take effect upon issuance and receipt by the debarred person. After the debarment decision takes effect, that person shall remain debarred until a court or the chief procurement officer, or designee who issued the decision, orders otherwise or until the debarment period specified in the decision expires.

**Hawaii Administrative Rules, section 3-126-18(b).** List of debarred and suspended persons.

Should a debarred or suspended person have a contract awarded prior to the effective date of the list, the chief procurement officer shall make a written determination as to whether to allow a debarred or suspended contractor to continue performance on that contract.

**General Conditions, Invitation for Bid, part 6.** Subcontracts and Assignments.

The contractor shall not assign or subcontract any of the contractor’s duties, obligations, or interest under this contract and no such assignment or subcontract shall be effective unless i) the contractor obtains the prior written consent of the state, and ii) the contractor’s assignee or subcontractor submits to the state a tax clearance certificate from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the contractor’s assignee or subcontractor have been paid.

**Section 1606 of the Recovery Act.**

Requires the payment of Davis-Bacon Act (40 U.S.C. (United States Code) 31) wage rates to “laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government” pursuant to the Recovery Act.

**29 CFR 3.4(a) and (b).** Submission of weekly statements and the preservation and inspection of weekly payroll records.

(a) Each weekly statement required under section 3.3 shall be delivered by the contractor or subcontractor, within seven days after the regular payment date of the payroll period, to a representative of a Federal or State agency in charge at the site of the building or work, or, if there is no representative of a Federal or State agency at the site of the building or work, the statement shall be mailed by the contractor or subcontractor, within such time, to a Federal or State agency contracting for or financing the building or work. After such examination and check as may be made, such statement, or a copy thereof, shall be kept available, or shall be

transmitted together with a report of any violation, in accordance with applicable procedures prescribed by the United States Department of Labor.

(b) Each contractor or subcontractor shall preserve his weekly payroll records for a period of three years from date of completion of the contract. The payroll records shall set out accurately and completely the name and address of each laborer and mechanic, his correct classification, rate of pay, daily and weekly number of hours worked, deductions made, and actual wages paid. Such payroll records shall be made available at all times for inspection by the contracting officer or his authorized representative, and by authorized representatives of the Department of Labor.

**Hawaii Revised Statutes, section 104-2(b).** Applicability; wages, hours, and other requirements.

b) Every laborer and mechanic performing work on the job site for the construction of any public work project shall be paid no less than prevailing wages; provided that:

1) The prevailing wages shall be established by the director as the sum of the basic hourly rate and the cost to an employer of providing a laborer or mechanic with fringe benefits.

In making prevailing wage determinations, the following shall apply:

A) The director shall make separate findings of:

i) The basic hourly rate; and

ii) The rate of contribution or cost of fringe benefits paid by the employer when the payment of the fringe benefits by the employer constitutes a prevailing practice. The cost of fringe benefits shall be reflected in the wage rate scheduled as an hourly rate; and

B) The rates of wages which the director shall regard as prevailing in each corresponding classification of laborers and mechanics shall be the rate of wages paid to the greatest number of those employed in the State, the modal rate, in the corresponding classes of laborers or mechanics on projects that are similar to the contract work;

2) The prevailing wages shall be not less than the wages payable under federal law to corresponding classes of laborers and mechanics employed on public works projects in the State that are prosecuted under contract or agreement with the government of the United States; and

3) Notwithstanding the provisions of the original contract, the prevailing wages shall be periodically adjusted during the performance of the contract in an amount equal to the change in the prevailing wage as periodically determined by the director.

**Hawaii Revised Statutes, section 104-3(a).** Payrolls and payroll records.

Every contract subject to this chapter and the specifications for those contracts shall contain a provision that a certified copy of all payrolls and a certified copy of a fringe benefit reporting form supplied by the department or any certified form that contains all of the required fringe benefit information shall be submitted weekly to the governmental contracting agency for review. The fringe benefit reporting form shall itemize the cost of fringe benefits paid by the general contractor or subcontractor for:

- Health and welfare benefits;
- Pension and annuity benefits;
- Vacation benefits;

- Continuing education and training benefits; and
- Other fringe benefit costs paid by the general contractor or subcontractor.

The general contractor shall be responsible for the submission of certified copies of the payrolls of all subcontractors. The certification shall affirm that the payrolls are correct and complete, that the wage rates contained therein are not less than the applicable rates contained in the wage determination decision of the director of labor and industrial relations attached to the contract, and that the classifications set forth for each laborer or mechanic conform with the work the laborer or mechanic performed. Any certification discrepancy found by the contracting agency shall be reported to the general contractor and the director to effect compliance.

**Hawaii Revised Statutes, section 104-21.** Governmental contracting agency responsibilities.

The governmental contracting agency shall:

- 1) Pay or cause to be paid, within sixty days of a determination made by the director, directly to laborers and mechanics or to the director, from any accrued payment withheld under the terms of the contract, any wages or overtime compensation found to be due to laborers or mechanics under the terms of the contract subject to this chapter, or any penalty assessed;
- 2) Order any contractor to pay, within sixty days of a determination made by the director, any wages or overtime compensation which the contractor, or any of the contractor's subcontractors, should have paid to any laborer or mechanic under any contract subject to this chapter, or any penalty assessed which the contractor, or any of the contractor's subcontractors, should have paid to the director; and
- 3) Report to the director any violation of this chapter, the rules adopted thereunder, or the terms of the contract subject to this chapter.