



## MINUTES

**Audit/Legal Matters Committee Meeting  
July 21, 2011, 8:00 AM  
Mission Memorial Annex Conference Room  
550 South King Street  
Honolulu, Hawaii**

PRESENT: Ivan Lui-Kwan  
Don Horner  
Carrie Okinaga

ALSO IN ATTENDANCE: Toru Hamayasu Michael Levine  
Edwina Tabata Kekoa McClellan  
Phyllis Kurio Joseph Magaldi, Jr.  
Gary Takeuchi Nelson Koyanagi  
Joyce Oliveira Dennis Galolo  
Jeanne Mariani-Belding

### I. Call to Order by Committee Chair

At 8:00 A.M., the meeting of the Audit/Legal Matters Committee was called to order by Committee Chair Ivan Lui-Kwan.

### II. Public Testimony

No public testimony was offered.

### III. Briefing on Pending Litigation

Deputy Corporation Counsel Gary Takeuchi presented a briefing on pending litigation. Mr. Takeuchi explained that two lawsuits relating to the rail project have been filed: Kaleikini vs. Yoshioka et al. and HonoluluTraffic.com et al. vs. FTA et al.; and another lawsuit is of interest to the project: Asato vs. Procurement Policy Board, State of Hawaii.

Mr. Lui-Kwan questioned Mr. Takeuchi on the expected timeline for compiling a record and the number of parties and firms involved in the HonoluluTraffic.com case. Mr. Lui-Kwan also asked Mr. Takeuchi to identify the staff members from the Department of the Corporation Counsel who have been assigned to these cases.

Mr. Takeuchi responded that the record in the HonoluluTraffic.com case is currently being compiled, but will take time to complete. Mr. Takeuchi listed the attorneys and firms representing the defendants and plaintiffs in the two cases involving the rail project.

Mr. Takeuchi indicated that there are also adversarial proceedings on other fronts, including protests on the Core Systems procurement, and offered a briefing on the protests by Bombardier and Sumitomo in that matter.

Mr. Lui-Kwan asked about the expected timeline for the procurement protests, and which attorneys were representing Ansaldo and the City in these protests.

Mr. Takeuchi responded that the hearings officer must issue a ruling within 45 days, which would be on or before August 15 for the Sumitomo case. He also indicated that there are additional timelines for further appeals to the Circuit Court if a party is dissatisfied with the decision of the hearings officer. In response to the question on legal representation, Mr. Takeuchi named the lawyers representing Ansaldo and the City.

Committee Vice Chair Horner requested more information on the Asato case.

Mr. Takeuchi summarized the facts of the case, and noted that there are no City defendants in that matter, which is solely between the Plaintiff and the State Procurement Policy Board.

#### IV. Briefing on Past Audits of RTD

Nelson Koyanagi, Deputy Director of BFS, was introduced by Mr. Lui-Kwan to give a briefing on the four past audits of RTD.

Mr. Koyanagi explained that prior to the creation of HART, transit activities were funded by the Transit Fund and the Transit Improvement Bond Fund. These funds were thoroughly examined in the Comprehensive Annual Financial Report (CAFR) put together by BFS, and also by the external auditing firms Nishihama & Kishida from 2007-2009 and Accuity from 2009-2010. Mr. Koyanagi stated that the transit funds from day one have been audited by an external auditor and found to be free of misstatements.

Mr. Horner asked whether HART is required to hire a different auditor than that used by the City, and inquired as to whether the Board of Water Supply uses the same auditor as the City.

Mr. Koyanagi replied that the Board of Water Supply is a semi-autonomous agency, so its audit appears as a separate part of the City's financial statements, as will HART's audit next year. He also explained that Section 17-111 of the City Charter only requires that HART conduct an audit and does not set out any qualifications for an auditor. He further explained that since HART is using the City's financial system, it may be logical for the same auditor to be used since that firm would already be familiar with the City's controls.

Mr. Horner asked when the committee might expect the next audit report, covering FY2011.

Mr. Koyanagi replied that the report covering the fiscal year ending June 30, 2011 would arrive soon, as the year-end books were now being finalized.

Mr. Horner requested information on how much the Board of Water Supply pays for their annual audits.

Mr. Lui-Kwan asked Mr. Koyanagi to explain the different types of audits which can be conducted under the City Charter.

Mr. Koyanagi replied that while the HART Board hires an external auditor to conduct financial audits, HART can also be audited by the Managing Director through the Internal Control Division and the City Council through the City Auditor.

Mr. Lui-Kwan thanked Mr. Koyanagi for his presentation, and thanked Edwina Tabata, HART Internal Control Analyst, for preparing the background information provided to the committee.

#### V. Procurement for FY2012 Audit Service

Mr. Lui-Kwan invited Toru Hamayasu, HART Interim Executive Director, and Ms. Tabata to give a briefing on procurement for FY2012 audit service.

Mr. Hamayasu explained that after checking with FTA, the only permitted means of procurement for an auditor was the RFP method.

Ms. Tabata indicated that she has begun work on an RFP. She is defining the scope of contract for audit services and hopes to complete the scope by July. She further indicated her intent to advertise by the middle of August, receive proposals by mid-September, have the selection committee review the proposals, and make a selection sometime in November.

Mr. Horner asked about the process to prepare criteria, assign weights, and score proposals, and whether factors such as size, experience, or familiarity with Hawaii can be considered.

Ms. Tabata replied that the Hawaii Administrative Rules prescribe the procedures for weights and scoring, although some latitude is given to selection committees on the lowest criteria.

Mr. Hamayasu replied that the Hawaii Administrative Rules allow those factors to be taken into account, and noted that in all cases, HART must adhere to the Procurement Code.

Mr. Horner recommended that the HART Board be able to familiarize itself with the procurement process for audit service.

Mr. Lui-Kwan concurred with the recommendation, and stated that in the next meeting of the committee, the Board would like to become more familiar with the process and criteria. He also made clear that in its deliberations, the Board will comply with the Procurement Code.

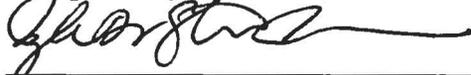
Mr. Hamayasu pledged to assist the Board in understanding the procurement process, and recommended that the Board be open to going into executive session in future meetings if the Hawaii Administrative Rules or Federal requirements call for confidentiality.

Mr. Lui-Kwan thanked Ms. Tabata, Mr. Hamayasu, Mr. Koyanagi, and BFS Director Mike Hansen for providing information to the committee. He also thanked Mr. Takeuchi and the Department of the Corporation Counsel for providing information on the pending litigation.

VI. Adjournment

Having no other pending business, the meeting was adjourned by Chair Lui-Kwan at 9:16 A.M.

Respectfully Submitted,



Tyler Dos Santos-Tam  
Board Administrator

Approved:



Ivan M. Lui-Kwan, Esq.  
Chair, Audit/Legal Matters Committee

DEC - 1 2011

Date