

OFFICE OF THE CITY AUDITOR

City and County of Honolulu
State of Hawai'i

Audit of the Honolulu Authority for Rapid Transportation (HART) Public Involvement Programs



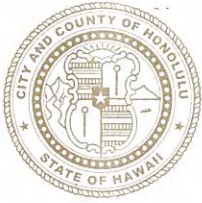
Audit of the Honolulu Authority for Rapid Transportation (HART) Public Involvement Programs

A Report to the
Mayor
and the
City Council
of Honolulu

Submitted by

THE CITY AUDITOR
CITY AND COUNTY
OF HONOLULU
STATE OF HAWAII

Report No. 13-03
December 2013



OFFICE OF THE CITY AUDITOR
CITY AND COUNTY OF HONOLULU

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EDWIN S.W. YOUNG
CITY AUDITOR

December 13, 2013.

The Honorable Ernest Y. Martin, Chair
and Members
Honolulu City Council
530 South King Street, Room 202
Honolulu, Hawai'i 96813

Dear Council Chair Martin:

A copy of our final report on the *Audit of the Honolulu Authority for Rapid Transportation (HART) Public Involvement Programs* is attached. The audit was conducted pursuant to Council Resolution 12-149 which requested the city auditor to conduct a performance audit of the HART contracts and spending for public relations and public involvement services. Among other audit tasks, the resolution requested that the audit determine what specific public involvement service(s) each employee, contractor and subcontractor provided, and an opinion on whether the service(s) and the amount paid (individually and collectively) were objective, required by federal law, and justified. This audit was performed in accordance with generally accepted government auditing standards from October 2012 to December 2013.

The city voters approved a fixed guideway system for the City and County of Honolulu in 2008 and approved an amendment to the city charter in 2010 that established the HART. HART was formed on July 1, 2011. Prior to its establishment, the Rapid Transit Division (RTD) in the City and County of Honolulu's Department of Transportation Services performed the functions, duties and responsibilities that HART assumed in 2011.

As a semi-autonomous agency of the City and County of Honolulu government, HART is responsible for completing one of the largest and most expensive public works projects ever for Honolulu. The \$5.2 billion, 20-mile fixed rail system will connect West O'ahu with downtown Honolulu and Ala Moana Center via Honolulu Airport in a time of 42 minutes. Rail will be a new mode of transportation for O'ahu residents who currently rely on cars and buses that use congested highways for daily transportation. Project construction started in 2012 and is projected for completion in 2019.

The HART public involvement team is tasked with keeping the public informed with timely and accurate information about the project and also with facilitating meaningful information and idea exchange among agency staff, property owners, business owners, residents, and the project technical staff. The U.S. government entities funding the project, including the Federal Highways Administration and the Federal Transit Administration (FTA), consider public involvement or public participation as an integral part of the transportation process which helps to ensure that decisions are made in consideration of and benefit public needs and preferences.

HART has two primary contracts related to public involvement.

- The General Engineering Consultant (GEC) contract with Parsons Brinckerhoff (PB) provides construction related tasks and technical expertise (e.g. engineers, planners, architects, etc.) for the rail project. The contract also includes public involvement-related tasks and support staff.

- The second contract with InfraConsult provides project management expertise, contracts for expert personnel, and covers public involvement task requirements.

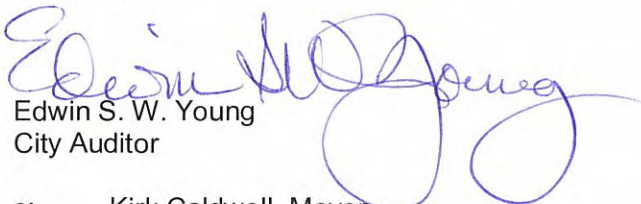
During our review, we found:

- Public involvement expenditures totaled nearly \$13.9 million and most conformed with federal requirements. Federal guidelines allowed coloring books and novelties. A blogger's questionable public involvement technique was the exception. The new HART Executive Director has improved the public involvement program by reducing staff and public involvement costs by more than \$2.8 million. Some program improvements are still needed.
- HART relies on consultants for public involvement programs. Consultants fill key positions, control project operations and program data, and influence public involvement and other expenditures with minimal accountability. Consultant contracts call for the consultants to train city employees and to replace consultants. The FTA supports the transition to city employees. A staffing and succession plan developed by HART is only partially implemented. HART contends it will continue to rely on consultants. If HART retains consultants, it should be aware that violations of employer-independent contractor rules could result in unintended liabilities, and consultant and other risks may impact overhead rates and other costs.
- Improvements are needed in other areas. HART needs to re-examine implementation of prior audit recommendations and improve invoice documentation. HART can also improve internal controls, monitoring of consultant performance and work products, and should reconsider the use of cost-plus fixed fee contracts for public involvement programs.

HART disagreed with our audit findings and recommendations. Based on our audit work and supporting work papers we stand by our audit results, audit conclusions, and audit recommendations. We believe HART should be less reliant on consultants as the project progresses and should be able to produce documents and data requested without the intervention of the consultants.

We express our appreciation for the cooperation and assistance provided us by the staffs of HART, its consultants, contractors and sub-contractors, the Office of the Managing Director, the Department of Budget and Fiscal Services, and the many others who provided inputs for this review. We are available to meet with you and your staff to discuss the review results and to provide more information. If you have any questions regarding the audit report, please call me at 768-3130.

Sincerely,



Edwin S. W. Young
City Auditor

c: Kirk Caldwell, Mayor
Ember Shinn, Managing Director
Dan Grabauskas, Executive Director and Chief Executive Officer, HART
Diane Arakaki, Chief Financial Officer, HART
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Glossary of Acronyms

CEO	Chief Executive Officer	ODC	Other Direct Costs
CFO	Chief Financial Officer	PB	Parsons Brinckerhoff
CMS	Contract Management Software	PMSC	Project Management Support Consultant
FTA	Federal Transit Authority	RTD	Rapid Transit Division (Department of Transportation Services)
GEC	General Engineering Consultant		
HART	Honolulu Authority for Rapid Transit		

Chapter 1

Introduction

This audit was performed in response to City Council Resolution 12-149, which requested an audit of the Honolulu Authority for Rapid Transportation (HART) contracts and spending for public relations and public involvement services. The resolution requested that the audit determine what specific public involvement service(s) each employee, consultant and sub-consultant provided, and an opinion on whether the service(s) and the amount paid (individually and collectively) were objective, required by federal law, and justified. This audit was included in the Office of the City Auditor's Work Plan for FY 2012-13. The audit was performed in accordance with generally accepted government auditing standards between August 2012 and November 2012, and again between April 2013 and November 2013.

Background

Honolulu is the capital of the State of Hawai'i and is located on the island of O'ahu. The city and county has a population of almost one million residents spread over 600 square miles. Tourism is the city's principal industry and tourists increase the city's de facto population. Honolulu contains over 70% of the state population which relies on cars and buses using congested highways for daily transportation.

The city voters approved a fixed guideway system for the City and County of Honolulu in 2008 and approved an amendment to the city charter in the 2010 general election that established the Honolulu Authority for Rapid Transportation (HART). HART was formed on July 1, 2011. Prior to its establishment, the Rapid Transit Division (RTD) in the City and County of Honolulu's Department of Transportation Services performed the duties and responsibilities that HART assumed in 2011. HART is a semi-autonomous agency of the City and County of Honolulu government.

HART's responsibilities include:

- Directing the planning, design, and construction of the fixed guideway system,

- Operating and maintaining the system,
- Preparing and adopting annual operating and capital budgets,
- Applying for and receiving grants of property, money and services, and other assistance for capital or operating expenses,
- Making administrative policies and rules to effectuate its functions and duties, and
- Promoting, creating, and assisting transit-oriented development projects near fixed guideway system stations that promote transit ridership.

HART is responsible for completing a \$5.2 billion, 20-mile fixed rail system that will run from East Kapolei on the western end of the island to Ala Moana Center via the Honolulu International Airport. Project construction started in 2012 and is projected for completion in 2019. Project details are shown in Appendix A.

Exhibit 1.1 Map of Honolulu Fixed Rail System



Source: Honolulu Authority for Rapid Transportation

The city's fixed guideway system will be funded through a combination of federal grants and local general excise tax and use tax surcharges. Local funding is forecast to provide the majority (66%) of project funds. Exhibit 1.2 shows projected revenue sources through 2018.

Exhibit 1.2
Funding for the Honolulu Fixed Guideway System

<i>Fiscal Year</i>	<i>Federal</i>			<i>Local^d General Excise Tax</i>	<i>Total</i>
	<i>ARRA Funds^a</i>	<i>New Starts Funds^b</i>	<i>Urbanized Area Formula Funds^c</i>		
2012 and Prior	\$4,000,000	\$319,990,000	-	\$616,751,367	\$940,741,367
2013	-	\$250,000,000	\$32,941,432	\$538,610,806	\$821,552,238
2014	-	\$250,000,000	\$33,733,543	\$540,118,678	\$823,852,221
2015	-	\$250,000,000	\$34,543,557	\$541,660,631	\$826,204,188
2016	-	\$250,000,000	\$35,373,020	\$543,239,607	\$828,612,627
2017	-	\$230,010,000	\$36,221,856	\$506,802,251	\$773,034,107
2018	-	-	\$37,090,493	\$70,605,921	\$107,696,414
Total	\$4,000,000	\$1,550,000,000	\$209,903,901	\$3,357,789,261	\$5,121,693,162

^a Federal government awarded American Recovery and Reinvestment Act (ARRA) funds for the project.

^b Section 5309 program to supplement formula funding for buses and bus-related facilities in both urbanized and rural areas, discretionary program for new starts projects, and a formula funding program for fixed guideway modernization.

^c Section 5307 Urbanized Area Formula Grant Program.

^d Sources of local funding include: local general excise and use tax surcharge revenues dedicated to the rail project.

Source: Honolulu Authority for Rapid Transportation

Several U.S. government entities that provide federal funds (as well as federal rules, laws, policies, and guidance) require public involvement. For example, as of March 2013, the Federal Transit Administration (FTA) provided approximately \$320 million in federal funds under a *Full Funding Grant Agreement* to support Honolulu's fixed-rail project. As a part of the federal requirements, HART must administer a public involvement program. The Federal Highway Administration's and FTA's guidance for public involvement programs is detailed in *Public*

Involvement Techniques. Other federal agencies have similar requirements:

- The National Environmental Policy Act of 1969 mandates that federally funded transportation projects must include public participation.
- *Guidance from Section 6002 of the Safe, Accountable, Flexible, Efficient, Transportation Equity Act-A Legacy for Users* provides federal guidance for federally funded projects.

Federal Requirements for Public Involvement

The Federal Highways Administration (FHWA) and FTA define public involvement or public participation as an integral part of the transportation process that helps to ensure that decisions are made in consideration of, and benefit to, public needs and preferences.

According to the FHWA, early and continuous public involvement brings diverse viewpoints and values into the decision-making process. This process enables state and local agencies to make better informed decisions through collaborative efforts and builds mutual understanding and trust between those agencies and the public they serve. According to the FHWA:

- Public involvement and participation is a continuous process consisting of a series of activities and actions to both inform the public and stakeholders, and to obtain input from them, which influence decisions that affect their lives.
- The public, in any one area or jurisdiction, may hold a diverse array of views and concerns on issues pertaining to their own specific transportation needs.
- Conducting meaningful public participation involves seeking public input at specific and key points in the decision-making process on issues where such input has a real potential to help shape the final decision or set of actions.
- Public involvement and participation activities provide more value when they are open, relevant, timely, and

appropriate for the intended goal of the public involvement process.

- Public involvement should provide a balanced approach with representation of all stakeholders and include measures to seek out and consider the needs of all stakeholders, especially those that are traditionally underserved by past and current transportation programs, facilities, or services.

Rail Project Contracts

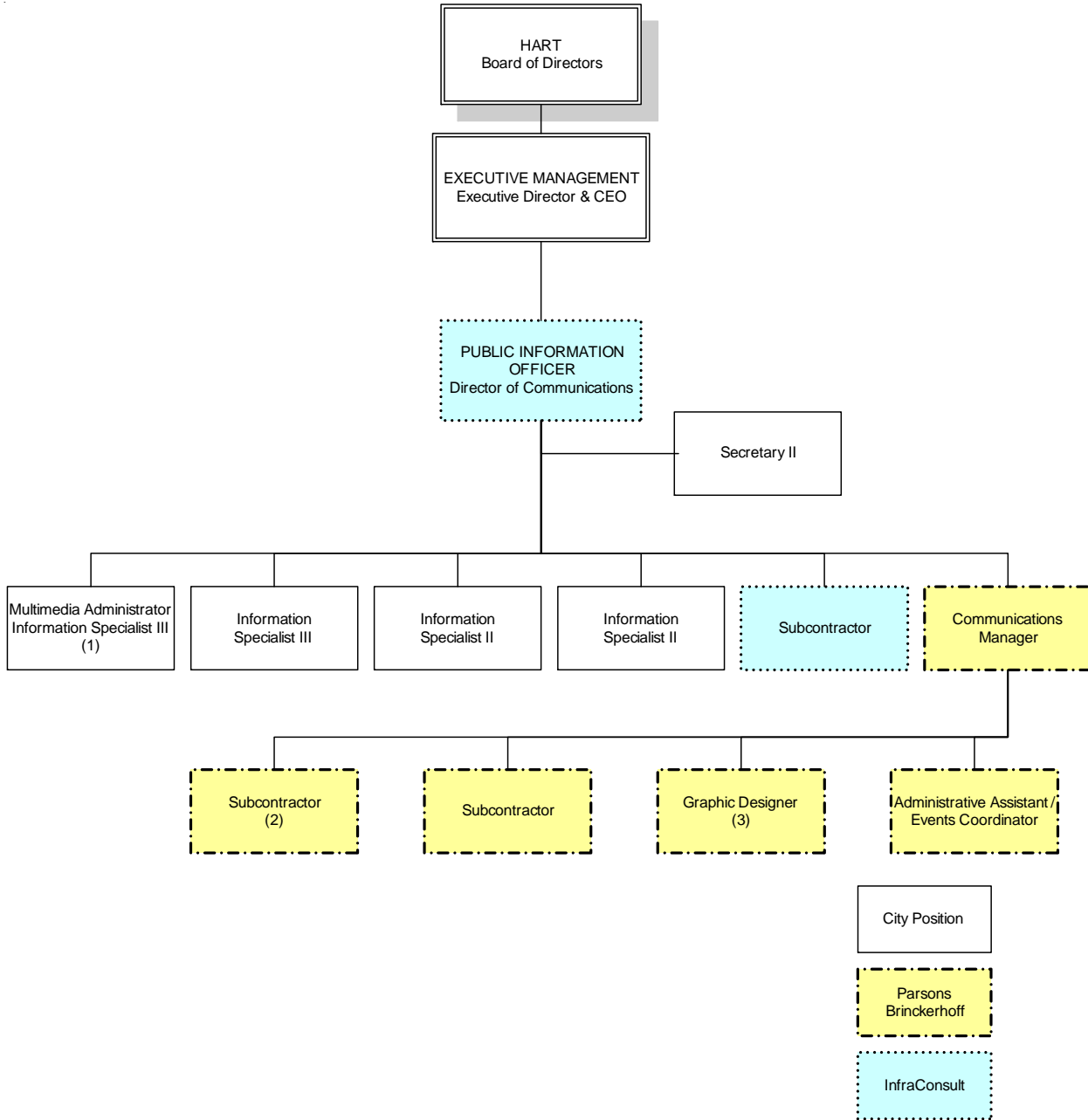
HART currently has two primary contracts related to public involvement.

- The *General Engineering Consultant* (GEC) contract with Parsons Brinckerhoff (PB) provides construction-related tasks and technical expertise (e.g. engineers, planners, architects, etc.) for the rail project. The contract also includes public involvement-related tasks and support staff.
- The *Program Management Support Consultant* (PMSC) contract with InfraConsult, LLC (InfraConsult) provides project management expertise, contracts for expert personnel, and covers public involvement task requirements.

HART and Public Involvement Team Organizational Chart

As of December 2012, HART's public involvement team consisted of 12 staff (5 full-time HART employees, 2 full-time consultants, and 5 part-time sub-consultants). The team is led by a Public Information Officer who is an InfraConsult employee. Exhibit 1.3 shows the public involvement team's organizational chart.

**Exhibit 1.3
HART Public Involvement Organization Chart (as of December 2012)**



- (1) Effective May 8, 2013, Multimedia Administrator/Information Specialist III no longer part of public involvement team.
- (2) Sub-consultant was re-directed to other non-PI task areas and had no chargeable public involvement hours in January and February 2013. Sub-consultant's position title remains Public Involvement Consultant.
- (3) Graphics designer is used in all task areas of the project requiring specialized skills, not only public involvement. Graphics Designer reports to Communications Manager.

Source: Honolulu Authority for Rapid Transportation and Office of the City Auditor

Audit Objectives, Scope, and Methodology

City Council Resolution 12-149 authorized a performance audit of the Honolulu Authority for Rapid Transportation's (HART) contracts and spending for public relations and public involvement services. Specifically, the council requested the city auditor to determine what specific public involvement service(s) each employee, consultant, and sub-consultant provided, and an opinion on whether these services, and the amount paid for these services were objective, required by federal law, and therefore justified.

The audit objectives were to assess the organization's public relations and public involvement services, including the monitoring and oversight of contracts and subcontracts, to determine if operations are efficient, effective, and economical, to review public relations and involvement personnel data, and to evaluate public involvement deliverables.

We reviewed the General Engineering Consultant (GEC), *Parsons Brinckerhoff*, and the Project Management Support Consultant (PMSC), *InfraConsult*, contracts and the public relations and involvement subcontracts. We reviewed the GEC public relations and public involvement sub-consultant monthly progress reports. We also reviewed and assessed the public relations and public involvement deliverables.

From a judgmental sample, we reviewed and assessed invoices from the GEC and the PMSC. These invoices included employee consultant labor, sub consultant, and other direct costs related to the public involvement program.

We interviewed public involvement personnel and administrators from the GEC and PMSC, and applicable public involvement sub-consultants. We also interviewed HART administrators and staff, and personnel from the Department of Transportation Services.

We reviewed applicable city, state, and federal laws, rules and guidelines. These included the Federal Transit Administration and Federal Highway Administration's public involvement legislation, regulations, and guidance, and the Federal Transit Administrator's Project Management Oversight Monthly Reports to the Department of Transportation Services Rapid Transit Division (RTD) and HART. In addition, we referred to our *Audit of the Department of Transportation Services' Honolulu High Capacity Transit Corridor Project Contracts*, Report No. 09-02, which recommended that RTD should develop guidelines for

providing supporting documentation of any work performed to verify that the contract-related tasks and invoices submitted by sub-consultants are valid.

Our review covered public relations and public involvement services data and performance from FY 2008 to FY 2013. The audit was performed in accordance with generally accepted government auditing standards from August 2012 to November 2012, and again from April 2013 to November 2013. Those standards require that we plan and perform the audit to obtain sufficient and appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Audit Results

The Honolulu Authority for Rapid Transportation's (HART) public involvement team is tasked with keeping the public informed with timely and accurate information about the project and facilitating meaningful information and idea exchanges among all parties. Public involvement efforts, totaling nearly \$13.9 million, generally complied with federal and program requirements, with one exception. As the project moves forward, there are several areas where improvements are needed.

Consultants hold key management and related functions at HART due to several factors related to Hawai'i's geographic isolation, salary limits, high cost of living, and difficulty in recruiting qualified individuals. As a result, consultants are able to control project and program data and influence public involvement expenditures with minimal accountability. If HART continues to use consultants, oversight and monitoring improvements are needed. HART needs to ensure that invoices are properly monitored and approved; invoices have adequate support and documentation as recommended in a prior audit; verify work performed by consultants and sub-consultants; and develop a basis to evaluate consultant performance and work products for efficiency and accountability. We also contend that HART should continue to transition public involvement positions to city positions in accordance with their Staffing and Succession Plan and federal guidance.

HART has committed to deliver the project *on time and on budget* and has reduced public involvement costs by more than \$2.8 million. In many aspects, HART has met requirements as required by the FTA and its various contracts, but needs to

provide taxpayers assurance that their tax dollars are used prudently and efficiently. Our audit report recommendations will continue HART's best efforts to be more efficient and accountable as the project moves forward.

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Chapter 2

Public Involvement Requirements Were Satisfied With One Exception

The Rapid Transit Division (RTD) and Honolulu Authority for Rapid Transportation (HART) generally complied with public involvement requirements through their development and implementation of a public involvement program that includes compliance with tasks and information materials. We found one exception where a sub-consultant used questionable public involvement techniques for writing a blog that appeared to be non-informative and political in nature. More oversight and accountability needs to occur at HART to justify the millions spent on public involvement. Evaluations of sub-consultant deliverables lack quantifiable goals or objectives.

Public Involvement Expenditures Totaled Nearly \$13.9 Million

Since 2005, the city has spent nearly \$13.9 million on public involvement programs and activities. RTD and HART used a series of six contracts with Parsons Brinckerhoff (General Engineering Consultant) and InfraConsult (Project Management Support Consultant) to fulfill public involvement requirements.

Exhibit 2.1 shows the distribution of public involvement expenditures. See Appendix B for a description of each contract's public involvement tasks and requirements.

Exhibit 2.1
Total Public Involvement Cost Estimate

Contract/Phase/Employer	Total (\$)
General Engineering Consultant Contract (GEC I: August 2007 to September 2011)	\$8,070,312 ^a
General Engineering Consultant Contract (GEC II: June 2011 to present)	\$4,330,611 ^b
Project Management Consultant - InfraConsult (Infra I: April 2007 to November 2009)	\$329,070 ^c
Project Management Consultant -InfraConsult (Infra II: November 2009 to present)	\$321,944 ^c
Project Management Consultant -InfraConsult (Infra III: February 2012 to present)	\$514,036 ^{c,d}
City (July 2012 to June 2013)	\$365,562
Total	\$13,931,535

^a Does not include public involvement costs for sub-consultant LKG-CMC, Inc.

^b As of April 22, 2013

^c Does not include General Excise Tax

^d As of May 31, 2013

Source: Honolulu Authority for Rapid Transportation

HART's two prime contracts related to public involvement are with Parsons Brinckerhoff and InfraConsult. Parsons Brinckerhoff, the General Engineering Consultant (GEC) provides construction-related tasks and technical expertise (e.g. engineers, planners, architects, etc.). The contract also includes public involvement-related tasks and support staff. The second consultant, InfraConsult, provides project management expertise. This contract also includes public involvement task requirements and expert personnel.

The scopes of services in both contracts include a variety of tasks and deliverables related to the rail project, including public involvement. In other words, there are no discrete, stand-alone public involvement contracts. Rather, public involvement is a component of larger contracts that cover a broad range of goods and services.

Most Public Involvement Programs Conformed With Federal Requirements

Through our review of the RTD and HART's public involvement techniques and deliverables, we found that public involvement activities, with one exception, were generally acceptable and in compliance with federal requirements and contract terms. Coloring books and other novelties were allowed by federal guidelines and included in public involvement planning procedures. To date, most public involvement tasks have been completed.

Federal rules and regulations

According to federal rules and regulations, an effective public involvement process provides for an open exchange of information and ideas between the public and transportation decision makers. The overall objective of an agency's public involvement process are providing proactive and complete information, providing timely public notice, full public access to key decisions, and providing opportunities for early and continuing involvement. The public involvement program must also institute mechanisms for the agency or agencies to solicit public comments and ideas, identify circumstances and impacts that may not have been known or anticipated by public agencies, and build support among the public, which is considered a stakeholder in transportation investments that impact their communities.

The Federal Highway Administration's and Federal Transit Administration's *Public Involvement Techniques Guide* provides a wide variety of public involvement techniques available to transportation agencies. The publication assists practitioners in coordinating a full public involvement program and provides a guide of how to design a public involvement program. According to the guide, information materials are objects, documents, and presentation of materials that use words and visual images to provide information about transportation programs or projects. The physical information materials recommended in the guide include brochures, fact sheets, logo items (magnets, mugs, pencils, etc.), newsletters, posters and display boards, public radio/television sponsorships, and surveys.

Exhibit 2.2
Photo of Public Involvement Team Members at the 2012 Health and Wellness Fair



In accordance with federal guidelines, public involvement team members distribute rail project brochures, fact sheets, and logo items at the 2012 Health and Wellness Fair. Posters and display boards are prominently featured throughout the booth.

Source: City and County of Honolulu Photobank

Federal guidelines allowed coloring books and other novelties

The Honolulu High-Capacity Transit Corridor Project's Programmatic Agreement requires the City to implement educational and interpretive programs, materials, and signage before revenue service begins. The agreement requires that the City prepare materials for children, such as a coloring book or child-friendly game, detailing the rail project's history. Materials were to be produced in a digital format for electronic and/or online distribution.

We reviewed RTD's and HART's public involvement materials or collateral to determine if they were properly approved and complied with the program agreement requirements. Our review consisted of approximately 500 collateral materials that included multiple proofs and drafts of graphics, newsletters, event posters, flyers, lanyards, bags, and their corresponding invoices. (See Appendix C for photos of collateral materials.) We found that the collateral materials were properly approved and warranted to comply with the public involvement requirements. For example,

HART produced a children’s activity *book* (a single 11x17 inch page folded in half) to comply with requirements in the Programmatic Agreement. The activity book also followed the federal guidance for public involvement techniques. Invoices showed that each book cost approximately \$1.02 for printing and folding.

**Exhibit 2.3
Children’s Activity Book**



Source: Honolulu Authority for Rapid Transportation

Most public involvement programs did not violate federal rules

The General Engineering Consultant (GEC I & II) contracts contained public involvement sub-tasks to ensure that the project complied with public involvement requirements. (See Appendix D for all tasks.)

- In GEC I, RTD completed 35 out of 39 public involvement tasks; 4 tasks are continuous and ongoing. The continuous and ongoing tasks from GEC I are Preliminary Station Design, Art in Transit, Landscape Plans, and a final summary of public involvement activities. (See Appendix D for all tasks.)
- In GEC II, HART completed 22 out of 24 public involvement tasks with 2 tasks that are continuous and ongoing.
 1. One continuous and ongoing task involves the formation of Public Involvement Committees. According to HART, the formation of committees was placed on hold in 2012 when project construction was halted. When construction resumes, the formation of public involvement committees with community stakeholders will also resume.
 2. The second continuous and ongoing task for GEC II is the creation of branding guidelines. According to HART, the creation of branding guidelines was also placed on hold at the direction of the HART CEO until construction resumes. Once construction resumes, HART plans to resume branding efforts.

Exhibit 2.4
HART Booth at the 2013 Food and New Products Show



Source: Office of the City Auditor

A Blogger's Questionable Public Involvement Technique Was the Exception

The *Public Involvement Plan* strategy involves using a variety of outreach methods and techniques to ensure that various constituencies are appropriately involved and provided with adequate opportunity to provide input and feedback. The plan states that care must be taken to ensure that the public receives current and accurate information on important issues.

The city paid over half-a-million dollars to a sub-consultant that used questionable public involvement techniques. In this one exception, we found numerous instances where a sub-consultant's blog contained posts that appeared to be editorial, political, and inappropriate in nature. The questionable language in the blog posts was inconsistent with the objectives and strategies of the Public Involvement Plan.

On the sub-consultant's required monthly progress report for July 2008, the sub-consultant stated that his additional responsibilities include creating a pro-rail blog. The sub-consultant's scope of services included maintaining a web log to promote the project on a continuing basis and to include daily postings if warranted by current events.

During our review of the sub-consultant's blogs from September 2008 to November 2012, we found 118 blog posts that used questionable public involvement techniques. Rather than providing informative, useful, and accurate information on important issues relating to the project, the blog posts were editorial in nature and used disparaging remarks about certain individuals whose views were different from the author.

The sub-consultant posts that appeared to be inappropriate, editorial, and political in nature violated the HART/RTD public involvement strategy. Exhibit 2.5 categorizes the 118 blog posts. Of the 118 blog posts, 53 (approximately 45%) were editorial, 23 (approximately 19%) were political, and 12 (approximately 10%) were inappropriate. We also found that of the 118 blog posts, 20 (approximately 17%) posts contained both editorial and political language, 9 posts (approximately 8%) contained editorial and inappropriate language, and 1 post contained political and inappropriate language.

**Exhibit 2.5
Summary of Blog Posts With Questionable Language**

Category	No. of Blogs
Editorial	53
Political	23
Inappropriate	12
Editorial & Political	20
Editorial & Inappropriate	9
Political & Inappropriate	1
Total	118

Source: <https://yes2rail.blogspot.com/> and Office of the City Auditor

The following examples illustrate the disparaging posts and language used.

- The Advertiser’s repetitious coverage of the rail project is parody material, since the lead reporter’s approach rarely strays from its view-with-alarm angle.
- The only way “up” for her is to the United States Senate, and it’s hard to see how blocking a project backed by a solid majority of Oahu residents (where most of the votes are) would do her any good.
- Voice pro-rail sentiments there and be prepared for an avalanche of invective. And God forbid that you’ve ever been associated with the City Administration in any way or identified as a supporter. That’s an automatic disqualification, according to the anti-rail crowd.
- Anti-Rail Manager Brings In a Rookie Closer, but His Best Pitch Was Still the Same Old Screwball
- We’ll recognize a few favorites for the local Honolulu Anti-Rail Awards...Best Actor in a Supporting Role...Best Original Screenplay...Best Original Song...Best Actor...

In our review of the sub-consultant's invoices for services, we found that RTD and HART approved payments totaling \$563,568 for services and deliverables that included the blog posts with inappropriate and questionable content. Furthermore, most of the sub-consultant's invoices lacked details on the actual services provided. Although HART lacked adequate documentation to determine if the blog services and posts were appropriate, the payments to the sub-consultant were approved.

New HART CEO Has Improved the Public Involvement Program

HART's first CEO was appointed in March 2012. Since then, the CEO has taken steps to improve the public involvement program, which include a reduction in both public involvement staff and expenditures. While the CEO's actions are commendable, other program improvements are still needed.

Public involvement staff was reduced

In July 2012, the CEO announced that HART had conducted a review of its public involvement program and expenditures to ensure that resources were deployed wisely. The CEO noted that while heavier levels of public outreach may have been needed in the early years for planning and during the extensive public input process for the Environmental Impact Statement, it was time to scale back public involvement resources.

As a result, HART reduced its public involvement workforce by:

- Eliminating 8 of 10 sub consultants, with the remaining 2 subcontracts cut in half;
- Eliminating 2 Parsons Brinckerhoff staff positions and reducing another to part-time status; and
- Consolidating 2 HART Information Specialist positions into a single position.

These actions reduced the public involvement staff and consultants from 23 to 9.5 full-time equivalent positions.

Public involvement costs were reduced by more than \$2.8 million

During the audit, HART eliminated 8 sub-consultant contracts that resulted in cost savings of nearly \$2.5 million. The cost reduction of 2 other sub-consultant contracts saved over \$201,000. By consolidating HART information specialist positions, the agency saved an additional \$72,168.

In addition to labor cost savings, the HART CEO also made cost-savings adjustments to its outreach program. The agency reformatted its 'Olelo broadcast program, which resulted in a savings of \$180,000. HART also reduced its newsletter distribution cost by \$75,000 a year through electronic distribution instead of mail. The combined public involvement labor and outreach reductions resulted in over \$2.8 million in savings.

Other Program Improvements Are Still Needed

Although only one exception was found, we believe HART could improve the effectiveness of its public involvement program. HART met the general requirements for public involvement, but it is unclear how effective its public involvement and outreach program has been because HART does not have any established and quantifiable goals or objectives for its public involvement activities. In other words, the public involvement team is conducting outreach activities as required by contract or internal guidelines, but they have no documented basis to determine whether their efforts are effective, what improvements are needed to improve the program, or what additional costs could be saved.

According to the public involvement team members:

- The team has not developed any quantitative or qualitative measures to evaluate the effectiveness of the public involvement programs.
- The team needs to set realistic and clear goals of what needs to be achieved before each public involvement project begins.
- Although informal discussions are held after events are finished, the team does not have any type of formal meetings to evaluate and assess each completed public involvement project.

From our review of event wrap-up summary reports for select events, we found that the reports provided a general summarization of the event, but lacked evaluations of benchmarks and quantitative or qualitative performance measures. There was no indication of any clear goals or objectives that were set prior to the event.

For example, HART staffed a booth at the Auto Show. Prior to the show, HART did not establish any measurable goals or

objectives that would measure the effectiveness of their public involvement technique. Gathering quantifiable data (for example, the number of contacts made, emails collected, brochures handed out, or attendees at the events) would have provided measurable results for the event. After the event was over, an event wrap-up was written with a general summary of the event as a whole. However, the summary did not discuss any specific quantitative or qualitative measures, the effectiveness of techniques used, and whether or not any goals or objectives were met.

In our opinion, public involvement performance measures and benchmarks could help the public involvement team measure how successful or unsuccessful their various techniques are, as well as identify areas that need improvement. After establishing quantitative or qualitative measures and benchmarks, formal event evaluations of the measures and benchmarks could determine program effectiveness.

Recommendations

The Honolulu Authority for Rapid Transportation should:

1. Establish and formalize specific performance measures and benchmarks for public involvement activities and staff so that public involvement outreach can be evaluated, measured, and adjusted; and
2. Formally measure and record the impact and effectiveness of the public involvement activities and events by conducting formal evaluations of the techniques used after the activities or events are completed.

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Chapter 3

HART Relies on Consultants for Public Involvement Program

The fixed guideway system should be constructed economically, efficiently, and effectively. A rail administrator stated that the city lacked the expertise to develop the project and therefore hired consultant employees under the General Engineering Contracts (GEC I and GEC II) to provide the expertise needed to build the project. The city also relies on consultants from InfraConsult to manage and oversee the rail project and to train city employees so that city employees can eventually manage the project independently. The Federal Transit Authority (FTA) also supports the transition of management functions from consultant to city employees.

HART continues to rely on consultants for many key management functions. These consultants have significant control over project operations and program data. Consultants also influence public involvement and other project expenditures with minimal accountability. HART developed a staffing and succession plan and has transitioned some management positions to city employees; other positions remain with consultants. The public involvement team consists of both consultants and city employees. The public involvement officer, who leads the public involvement team, is a consultant, and that position should be transitioned to a city employee. HART contends that it will continue to rely on consultants in order to successfully construct Honolulu's rail line and continues to closely supervise them.

If HART continues that reliance, it should be aware of cost implications, employer-independent consultant liabilities, and other risks.

Background

According to a HART administrator, the city does not have staff with the experience and expertise needed to build a rail project. This is the first of its kind in the state of Hawai'i and HART needed to fill certain positions with qualified consultants. While this is a common practice with projects of this magnitude, the

Federal Transit Administration Project Management Oversight Consultant¹ cautioned that the city should make an effort to staff key management positions with its own people rather than rely on consultant staff. If done properly, the use of city employees could reduce cost and strengthen the management team.

Public Involvement Contracts

The rail project relied on several contracts (see Appendix B for details).

GEC I (Preliminary Engineering/Environmental Impact Statement) - The contract with PB Americas included the development, creation, and maintenance of an ongoing process for project communication between the division, consultant, key stakeholders, agency representatives, and the general public through a public involvement plan.

GEC II (General Engineering, Planning, Construction Management and Other Consultant Services) - The contract with PB provided general engineering, planning, construction management, and other consultant services. The public involvement contract requirements included oversight of consultant public involvement teams; providing personnel to support the city's community outreach, media, and public information efforts; and city, public and agency outreach related to environmental compliance requirements.

InfraConsult (Infra) I, II and III - The contracts with InfraConsult LLC provided in-house project management support and consulting. InfraConsult would function as an extension of the city's staff by providing professional, technical, managerial, and other support services.

¹ The Project Management Oversight Consultant (PMOC) reviews the city's technical capacity and capability to perform preliminary engineering for the project as required by the FTA.

Infra contracts call for consultants to train city employees and transition them to replace consultants

The Infra I and II contracts reaffirm the need to transition to city employees. Both contracts state that consultants are to train and develop city employees to take over the project. More specifically:

- Infra I states that it is the city's intent that the Project Management Support Consultant (PMSC) administrative/ clerical support be replaced by city staff and that key PMSC personnel will pass on their technical expertise to city staff. Overall, PMSC technical services will taper off toward the end of the Preliminary Engineering/ Environmental Impact Statement phase.
- Infra II reiterates that the city intends to hire employees to perform the functions of *secunded*² consultant staff and that consultant staff will train city employees as necessary. Contract language also states that the consultant agrees that a demobilization of individual secunded staff shall occur after replacement city staff are adequately trained, as determined by the project manager. Secunded staff are consultants who fill positions and function as if they were city employees.

Infra III does not contain any reference to the transition or training of city staff by secunded staff. The GEC contracts do not contain any reference to transitioning to, or training of, city employees since those consultants provide technical, engineering, and construction expertise that the city lacks. Thus, the city must rely on its staffing and succession plan to ensure that appropriate consultant staff is transitioned to city employment where applicable.

To date, only 4 of 16³ management positions filled by InfraConsult employees have been transitioned to city employees. Recruiting qualified candidates has, and continues to be, a challenge for HART. As a result, HART will likely have to rely on consultants for the duration of the project and to ensure that it meets the technical capacity and capability for constructing the rail system. In our view, consultants have significant influence over rail project operations and how taxpayer dollars are spent, but have minimal accountability for their actions or decisions. If

² Secunded is defined as the separation of a person from their regular organization for temporary assignment elsewhere.

³ One of the 16 positions identified in HART's Staffing and Transition Plan was eliminated in 2012 and an additional position is under recruitment.

**Federal Transit
Administration supports
transition to city
employees**

HART continues to rely on consultants to help manage and implement the rail project, it should improve its oversight and accountability of the consultants.

A HART administrator noted that no one in the state of Hawai'i has worked on a rail project and that consultants provide experience and expertise that city employees lack. While consultants play an integral role in the rail project, long-term reliance on consultants pose certain risks. The Federal Transit Administration (FTA) cautioned the city since 2008 about its reliance on consultants.

In October 2008, an outside consultant issued a Project Management Oversight Program Report in accordance with FTA requirements to provide overall project status. In its staffing review, the consultant recommended that the city strive to fill key management positions currently occupied by consultants as soon as possible. The report also recommended developing a staffing plan that addresses the transition by consultant staff to city staff with dates for staffing each position.

In October 2010, another outside consultant issued a Project Management Oversight Report which reiterated similar concerns expressed two years prior, and made more specific recommendations. The report identified *capacity* issues as key city management positions remained vacant or were vacated due to retention challenges. The report:

- Recommended that the city establish a five-year timetable to perform the recruitment, selection and training for replacing consultants with city staff,
- Identified significant technical capacity issues as several key city management positions remained filled by consultant employees (22 of 25 positions),
- Recommended that the city identify additional key positions that should be filled by city employees, and
- Recommended that the city give priority to the staffing plan and recruitment.

The June 2012 Project Management Oversight Report continued to express concerns about the project's management structure.

The report:

- Expressed concern that the city may continue to experience difficulty attracting and retaining the experienced staff needed for the long-term project and permanent employment,
- Advised the city to adhere to the staffing plan and address the transition of staff from consultants to city staff, and
- Strive to transition key management positions currently occupied by consultants as early as possible.

The latter was necessary in order for HART to have more ownership and to maintain stronger continuing control of the project without having to rely too heavily on consultants. That same month (June 2012), FTA's consultant also released the *Project Delivery Method Review*. In this report, the consultant noted that InfraConsult staff is supposed to assist the city in a number of management support and oversight functions, but acknowledges that they had become, in effect, an extension of city staff due to the difficulty of recruiting permanent staff.

In July 2012, FTA's consultant released its final *Project Management Plan Review* and *Technical Capacity and Capability Review*. The consultant concluded that HART demonstrated sufficient technical capacity and capability during the preliminary engineering and final design phases. It also noted that HART implemented several staff and procedural adjustments that have improved its technical capacity. HART received its Full Funding Grant Agreement from the FTA in December 2012.

Although the grant was awarded, the FTA consultant reiterated its prior concern that HART may continue experiencing difficulties in attracting and retaining the experienced staff needed for long-term project assignment. Hawai'i's geographic isolation, salary limits, and high cost of living relative to the mainland impacted HART's ability to recruit and retain qualified candidates. The consultant recommended that HART adhere to its staffing plan to address staff transition during the final design and construction phases for positions currently occupied by consultant staff to city staff. In other words, the FTA consultant did not give tacit approval for HART to keep its current staffing structure in place. Rather, it continued to emphasize that HART needs to continue its efforts to transition from consultants to city employees, despite the challenges it faces.

HART Developed a Staffing and Succession Plan

In April 2010, HART established a *Staffing and Succession Plan* to transition consultant positions to city employees as recommended by the Federal Transit Administration. HART's Plan addresses five key personnel-related elements: planning, acquisition, training, tracking, and transition. The purpose of the plan is to ensure that HART's goals are met in an efficient and timely manner and that it has the appropriate technical capacity and capability required during each phase of the rail project. The plan also emphasizes succession planning to ensure qualified city employees are replacing the temporary project management consultant employees.

According to the plan, use of consultants permits immediate mobilization of an experienced project management team while the city recruits and trains qualified employees. Consultants are utilized when HART staff does not possess the necessary qualifications for specific focus areas or the services are of an urgent or temporary nature. HART intends to utilize consultants through 2015, with a two-year contract extension option.

In the area of succession planning and replacement staff, the plan emphasizes that consultant staff will be phased out as city employees are hired to replace them. HART's organizational structure is set up to allow for shadowing of consultant staff by city employees who will then be able to perform the duties of the consultant. The plan identifies 16 key InfraConsult positions that should transition to city employees.

Consultants fill key positions

In 2007, the city's Department of Transportation Services established the rail project management team with 26 staff positions. Of that amount, 21 positions were filled by staff from InfraConsult. As of April 2013, the management team consisted of 16 InfraConsult employees, including the Public Involvement Officer. According to HART's contract with InfraConsult, consultants are seconded, or function as city employees. HART's public involvement organizational chart as of April 2013 can be found on page 6.

Consultants control project and program data

During the course of our fieldwork, we made several requests to review documents and interview key staff. We expected that HART would have proper documentation on-hand. On most occasions, however, we were referred to consultants to obtain the information we needed.

For example, we requested HART to provide a list of invoices related to public involvement. Instead of providing us with a list, HART staff referred us to the GEC I and GEC II consultant (PB) because they were unable to produce a list of public involvement-related invoices. We spoke with an account manager at PB, who provided us with a list of invoices. We then brought that list to HART and it was able to pull invoices from its document control room for us to review. HART's reliance on a third party to provide and obtain information hindered HART from providing the oversight and monitoring needed to prevent fraud, waste, and abuse, as well as to control the project costs.

We could not readily assess HART's invoice management and oversight of the invoices because HART relied on a third party to provide the information. That is, HART could not ensure the accuracy, reliability, or completeness of the data provided to us. Since the consultant-HART accountability process is missing from existing contracts, HART has no assurance the third party can or will continue to provide the information needed by HART to oversee the use of taxpayer's funds.

In another instance, we requested that HART provide us with labor and compensation information. Although such information is considered proprietary to the private consultants, we expected HART to readily provide the information. We found that HART opted to confer with their consultants first, and then to provide the information. As a result, we encountered delays in obtaining the requested invoices.

HART administrators explained that directing us to its consultants would help to expedite the transfer of information and documents for the purposes of this audit. They emphasized that HART has all of the necessary documents and information needed to properly evaluate its consultants. The administrators acknowledge that in prior years, consultants had a lot more influence over managing the rail project. However, since HART's new CEO has taken over, the agency is moving to have greater control over management responsibilities, including document management. We appreciate the direction the CEO has taken to improve management control, but improvements can still be made.

Consultants influence public involvement and other expenditures with minimal accountability

Although seconded employees from InfraConsult do not directly approve contracts or invoices, they have a great deal of influence over how taxpayer dollars are spent. For example, the Public Information Officer, who leads the public involvement program,

spends millions of taxpayer dollars. Until 2012, the Procurement and Contracts Officer, who was also from InfraConsult, also made decisions on how taxpayer dollars were spent.

The Procurement and Contracts Officer worked on the Request for Qualification and negotiated the contract for GEC I, which was initially valued at \$86 million. The GEC consultant (PB) maintains numerous sub-consultant contracts, which are paid with taxpayer dollars. These consultants have significant discretion in negotiating or awarding contracts, make decisions on how project dollars are spent, and do not have direct accountability for the expenditures.

According to Section 3-8.4, Revised Ordinances of Honolulu, all full-time city employees exempt from civil service, including HART, must file annual financial disclosures with the City Clerk and Ethics Commission. The disclosure provides information about an employee's outside financial interests. Section 11-102 of the Revised Charter of Honolulu prohibits any city employee from engaging in a business transaction or activity or has a financial interest that is incompatible or impairs the independence or judgment in the performance of one's duties. These requirements only apply to city employees; they do not apply to consultants or employees contracted by the city.

InfraConsult and PB consultants are not required to, and HART was unable to produce their financial disclosure information or statements, although their positions enable them to influence and spend significant amounts of taxpayer dollars on outside contracts. Therefore, it could not be determined whether consultants who awarded HART contracts to other consultants or sub-consultants had any conflicts of interest or financial interests related to the contracts they awarded. During our review, we did not find any evidence that consultants had any conflicts of interests. However, Honolulu taxpayers need some assurance from HART that taxpayer funds are properly spent and accounted for.

HART transition plan is only partially implemented

As of May 2012, the HART succession plan states that 16 InfraConsult positions were to be transitioned to city employees between the fourth quarter of 2013 through the second quarter of 2017. As of our audit, 4 of the 16 positions have been transitioned to city employment ahead of schedule. In addition, one position was eliminated and another is under city recruitment. A total of 10 HART management positions, including the Public Information Officer, remain filled by InfraConsult employees.

Exhibit 3.1 identifies the status of the 16 consultants scheduled to be transitioned to city employment.

Exhibit 3.1 HART Key Position Staffing and Succession Plan

	<i>Position Held by Consultant</i>	<i>Year/Quarter of Full Transition to City Employee</i>	<i>Status</i>
1	Chief Safety and Security Officer	2017, 1Q	
2	Quality Assurance Manager	2015, 1Q	
3	Chief Project Officer	2014, 2Q	Eliminated in 2012
4	Public Information Officer	2014, 1Q	
5	Project Controls Manager	2015, 1Q	
6	Procurement & Contract Officer	2014, 1Q	Transitioned to HART employee in 2012
7	Configuration Manager	2015, 1Q	Under recruitment by HART
8	Department Project Officer – Engineering & Construction	2014, 1Q	
9	Assistant Project Officer – Design Build Contracts	2017, 1Q	Transitioned to HART employee in 2012
10	Right-of-Way Coordinator & Permits	2014, 3Q	
11	Rail Operations Manager	2014, 4Q	
12	Assistant Project Officer – Core Systems	2017, 3Q	
13	Chief Architect	2014, 3Q	
14	Assistant Project Officer – Utilities & Agency Coordination	2015, 1Q	Transitioned to HART employee in 2012
15	Lead Scheduler	2014, 3Q	
16	Environmental Compliance Administrator	2014, 3Q	Transitioned to HART employee in 2013

Source: HART Staffing and Succession Plan, Revision 5, May 2012

Public Involvement Team Is Comprised of Both Consultant and HART Employees

As of July 2013, HART's public involvement team consisted of 12 staff (5 full-time HART employees, 2 full-time consultants, and 5 part-time sub-consultants). Exhibit 3.2 shows the distribution of the public involvement team, their employment status, and the estimated FY 2012 labor costs associated with each position. A list of duties can be found in Appendix E.

Exhibit 3.2 Public Involvement Team (December 2012)

	<i>Title/Service</i>	<i>Employment Status</i>	<i>Employer</i>	<i>Full/Part-Time</i>	<i>FY2012 Cost</i>
1	Public Information Officer	Consultant	Infra Consult	Full-time	\$387,008 ¹
2	Public Involvement and Communications Manager	Consultant	PB	Full-time	\$269,129 ²
3	Multi Media Administrator ³	Personal Services Contract	HART	Full-time	\$108,297
4	Information Specialist III	Personal Services Contract	HART	Full-time	\$108,297
5	Information Specialist II	Personal Services Contract	HART	Full-time	\$100,169
6	Information Specialist II	Personal Services Contract	HART	Full-time	\$100,169
7	Secretary II	Personal Services Contract	HART	Full-time	\$60,894
8	Hawaiian Community Outreach	Sub-Consultant ⁴	PB	Part-time	\$250.00/hour
9	Grassroots Community Relations	Sub-Consultant	PB	Part-time	\$245.00/hour
10	Public Information and Communication Services	Sub-Consultant	PB	Part-time	\$49.00/hour
11	Graphic Artist ⁵	Sub-Consultant	PB	Part-time	\$33.90/hour
12	Events Coordinator	Sub-Consultant	PB	Part-time	\$22.41/hour

¹ Total amount paid by HART includes labor, fringe benefits and overhead.

² The Communications Manager's hours vary; the total cost of \$269,129 is estimated based on full-time hours and includes labor, fringe benefits and overhead.

³ This position was transitioned out of Public Involvement in May 2013.

⁴ This sub-consultant ended public involvement billings in January 2013.

⁵ The Graphic Artist position was not exclusive to Public Involvement. During an interview, this sub-consultant confirmed part-time work for public involvement and reported to PB's Public Involvement and Communications Manager.

Source: Honolulu Authority for Rapid Transportation and employee interviews

Public Information Officer position should be converted to city employee

The current Public Information Officer, a consultant employed by InfraConsult since May 31, 2011, is in charge of managing HART's public involvement program. From September 2010 through May 2011, the same person led the public involvement team as a sub-consultant to InfraConsult. The Public Information Officer, like many other InfraConsult positions, is a seconded

position. These positions operate as though they were city employees. The Public Information Director is responsible for:

- Managing the public involvement team,
- Overseeing media and communications,
- Implementing the outreach plan,
- Serving as the official spokesperson for HART,
- Serving as the primary contact for external stakeholders, city administration, state administration, HART Board of Directors, and the Federal Transit Administration, and
- Ensuring that contract obligations are being met.

A HART administrator explained that the current Public Information Officer was hired because of the person's experience and expertise. The officer has over 20 years experience in media and communications and is particularly skilled in editorial communications, and community and media connections.

According to the *Staffing and Succession Plan*, HART is supposed to hire a city employee during the fourth quarter of 2013 so the incumbent Public Information Officer could train the new city employee. The plan specifies that the Public Information Director position would be held by a city employee effective the first quarter of 2014. We found, however, that there are no specific plans to transition this key position from consultant to city employee.

A HART administrator advised us that if the position was converted to a city position, it is unlikely to attract an equally qualified candidate due to the low salary. In our view, HART should follow its staffing and succession plan to transition the Public Information Officer position from a consultant to a city employee. The project is in the construction phase, where public involvement has changed to emphasize more information dissemination rather than media campaigns and intense community outreach. Furthermore, HART has since hired city employees with specialized skills and expertise. We contend that HART should undertake efforts to hire a qualified Public Information Officer to lead the public involvement team, to save taxpayers funds, and reduce labor costs.

In July 2012, HART acknowledged that it had too many staff and sub consultants related to public involvement. HART's CEO commented that while heavier levels of public outreach may have been needed in the early years for planning and during the extensive public input process for the Environmental Impact Statement, it was time to scale back on public involvement resources. As a result, HART eliminated eight sub-consultants and cut the number of other subcontracts in half, with projected savings of \$2.8 million. In line with the CEO's rationale, we believe that the Public Information Officer position should be transitioned to city employment.

HART rationale for retaining consultants

A HART administrator stated the city lacked the expertise to develop the project and hired a consultant under the GEC I and GEC II contracts to provide the expertise needed to build the project. The city also relies on consultants from InfraConsult to manage and oversee the rail project, although the contracts specify that the consultants are supposed to train city employees and to transition the project to city employees. However, due to Hawai'i's geographic isolation, salary limits, and high cost of living relative to the mainland, recruiting qualified city employees has been difficult. As a result, consultants continue to hold key management positions and related functions. HART further contends that it could not have secured full grant funding from the Federal Transit Authority without the valued expertise provided by consultant employees.

We acknowledge that HART may have to rely on consultants to successfully complete the rail project. If so, HART must improve its oversight over these consultants by adhering to its staffing and transition plan, monitoring consultant labor cost, and adhering to the elements of contracting best practices.

Violation of Employer-Independent Consultant Relationship Could Result in Unintended Liabilities

HART administrators report they closely supervise and oversee the work of the consultants. HART recognizes InfraConsult staff as secured employees and views them as if they were city employees. We found that some consultants may have behavioral and financial controls and relationship factors that qualify them as employees rather than independent consultants. Through the secured relationship, HART may be incurring federal tax liabilities.

Significant tax consequences result from the classification of a worker as an employee or independent consultant. These

consequences relate to withholding and employment tax requirements, as well as the ability to exclude certain types of compensation from income or take tax deductions for certain expenses. For the service recipient, such consequences may include liability for withholding taxes for a number of years, interest and penalties, and potential disqualification of employee benefit plans. For the worker, such consequences may include liability for self-employment taxes and denial of certain business-related deductions.

The U.S. Internal Revenue Service (IRS) regulations provide that an employer-employee relationship generally exists if the person contracting for services has the right to control not only the result of the services, but also the means by which that result is accomplished. In other words, an employer-employee relationship generally exists if the person providing the services *is subject to the will and control of the employer not only as to what shall be done, but how it shall be done.* Under the regulations, it is not necessary that the employer actually control the manner in which the services are performed, rather it is sufficient that the employer have the right to control.

There are 20 factors that the IRS may examine in determining whether an employer-employee relationship exists. The State of Hawai'i's Department of Labor and Industrial Relations also cites guidelines that define an independent consultant.

We found that the Public Information Officer, who is a consultant, qualified as an *employee* on 14 of 20 IRS factors. While there is no threshold to definitively determine employee status, and only the IRS can make that actual determination, our evaluation should serve as a caution to HART that management should reassess its consultant's functions and relationships regardless if the consultant is seconded or contracted to a third party contractor. In addition, Hawai'i State Department of Labor and Industrial Relations establishes three criteria to qualify as an "independent consultant" and specifies that all three criteria must be met. We determined that the Public Information Officer met only one of three criteria to qualify as an independent consultant and should be considered an employee. See Appendix F for a list of factors and our assessment.

If HART Retains Consultants, It Should Take Steps to Contain Costs

HART administrators emphasize that the agency needs to utilize consultants to successfully execute Honolulu's rail project. While HART may benefit from consultant expertise, consultant services also come with some risks. HART should take steps to manage those risks, particularly those related to cost. We found that PB overhead rates have escalated, which exponentially increased labor costs. HART approved consultants' salary increases at a time when city employees were taking furloughs and wage cuts. Also, HART attempted to improve and streamline operations, which resulted in unintended consequences.

PB overhead rates increased its General Services Office Rate 3% and Project Office Rate 50% from FY 2011 to FY 2012

Overhead refers to all non-labor expenses (indirect costs or fixed expenses) related to operations and is applied as a percentage of the direct labor cost. We found that the GEC I and GEC II (PB's) 50% overhead rate increase in FY 2012 significantly increased HART's expenditures for consultant costs.

The consultant PB's overhead costs in FY 2012 feature a three-tier structure based on employment status:

- **Project Office Overhead Rate (218.3%).** This rate is applicable for PB staff assigned full-time to the rail project. The city provides facilities, services, and equipment, which is reflected in the overhead rate. If the city does not provide facilities, services, or equipment, the rate will be adjusted to reflect any costs incurred to supply them.
- **Field Overhead Rate (114.5%).** Construction management personnel and general service office staff not assigned full-time to the rail project, but are expected to work in the Project Office for 29 or more continuous days shall be assessed the Field Overhead Rate.
- **General Services Office Rate (158.5%).** Consultants not assigned but who are expected to work in the Project Office for fewer than 29 days shall be assessed the General Services Office Rate.

Although the overhead rates were audited by an independent accounting firm in July 2011 and June 2012, the rates significantly increased HART's labor costs. From FY 2011 through FY 2012, the GEC I and GEC II consultant increased its overhead rates. In FY 2011, the Project Office overhead rate was 145.6% and rose

50% to 218.3% in FY 2012. The General Services Office rate increased 3% from 154.7% in FY 2011 to 158.8% in FY 2012. The Field Overhead Rate remained constant at 114.5%. Exhibit 3.3 shows PB’s overhead rates from FY 2011 to FY 2013.

**Exhibit 3.3
Consultant (PB) Overhead Rates and Number of Consultant Employees (Parentheses) Using the Increased Rate (FY 2011 – FY 2013)**

	FY 2011	FY 2012	FY 2013
Project Office Overhead Rate	145.6% (62)	218.3% (80)	218.3% (96)
General Services Office Overhead Rate	154.7% (81)	158.5% (101)	158.8% (67)
Field Overhead Rate	114.5% (0)	114.5% (3)	114.5% (2)

Note: Number of employees subject to the various overhead rates was derived from labor invoices at a point in time during the fiscal year. Thus, the actual number of PB consultants to which the rates apply could be higher.

Source: Honolulu Authority for Rapid Transportation

InfraConsult indirect burden rate: overhead and fringe

In FY 2012, InfraConsult assessed a cumulative indirect burden rate of 138.8%. Its fringe benefit rate (46.9%) consisted of costs associated with traditional benefits found in construction firms, including payroll taxes, healthcare, vacation, sick leave, 401K, and workers’ compensation. InfraConsult’s overhead rate (91.9%) consisted of office rent, depreciation, indirect salaries, additional compensation, travel and related expenses, computers, supplies, insurance, and other charges. InfraConsult’s indirect calculations were adjusted to reflect the fact that HART provided consultants with office space, furniture, equipment, and office supplies.

HART consultant labor costs increased because many consultant employees received salary increases, when employees were subjected to furloughs and wage reductions

Most PB and InfraConsult employees received salary increases between 2010 and 2013, including those assigned to the public involvement team. InfraConsult employees received salary increases as part of their contract terms; PB employees received wage increases, too, but they were not specified in their contract with HART. More specifically:

- PB consultant employees working on Honolulu’s rail project received annual pay increases while city employees

were subject to furloughs and wage reductions during the economic downturn. For example, PB public involvement consultants received annual increases ranging from 4% to 6% during the recession while city employees were instructed to take furloughs and pay cuts. For example, A Print Tech Specialist earned an hourly rate of \$56.35 per labor hour in FY 2011. That rate increased (6%) to \$59.73 in FY 2012, and increased again in FY 2013 to \$63.31 (6%). Over the three-year period, the consultant’s labor cost increased 12.4%.

- One consultant received a promotion that increased labor cost by 25.1%. An Information Coordinator earned \$31.25 per labor hour in FY 2010. The rate increased (4%) to \$32.50 in FY 2011. In FY 2012, the consultant received a promotion and earned \$40.65 per labor hour, or a 25.1% increase. The consultant’s hourly rate climbed an additional 4% in FY 2013 to \$42.28 per labor hour. Over four years, the consultant’s labor cost increased 35.3%.

Between FY 2010 and FY 2013, other PB consultant employees received pay increases ranging from 2.1% to 4.9% annually. A total of 32 InfraConsult employees, including the Public Information Officer, received escalating compensation packages that included 4% increases in FY 2013 and FY 2014. Exhibit 3.4 illustrates pay increases for PB employees from FY 2010 to FY 2013.

Exhibit 3.4
Consultant (PB) Employee Annual Salary Increases (FY 2010 to FY 2013)

	<i>Total PB Consultants That Worked the Prior Year</i>	<i>Total PB Consultants That Received Pay Increases</i>	<i>% of PB Consultants Receiving Pay Increases</i>	<i>Range of Annual Pay Increases (%)</i>	<i>Average Annual Pay Increase (%)</i>
FY 2010	101	81	80.2%	.5% - 13.1%	2.1%
FY 2011	90	88	97.8%	1.5% - 13.4%	4.1%
FY 2012	105	104	99.0%	.4% - 35%	4.9%
FY 2013	129	128	99.2%	1% - 24.2%	4.9%

Source: Honolulu Authority for Rapid Transportation

A further review of labor invoices showed that the longer the consultants worked on the rail contract, the more lucrative their compensation. We found that 44 PB employees worked during the five-year period from FY 2009 to FY 2013. Over five years, the labor cost rates increased between 7.2% and 38.6%. The average increase for these 44 *temporary* consultant employees was 16.2%.

InfraConsult employees' annual increases, unlike PB, were built into its contract with HART. According to the contract terms, InfraConsult employees received a 4% salary increase in 2013, and will receive an additional 4% increase in 2014. Since it was built into the contract, HART was obligated to absorb the pay increases.

While most PB employees received annual increases between 2010 and 2013, city employees were subjected to pay cuts and furloughs due to the economic downturn. In FY 2010, the mayor and his cabinet members took a 5% pay reduction to help address the city's budget shortfall. Beginning July 1, 2010, approximately 10,000 city employees were subject to twice-monthly furlough days that cut pay by about 8% to 9%. Other city workers not subject to furloughs took 5% pay reductions. A combination of furlough days, pay reductions, and increases in standard time off days were in effect through June 30, 2013.

Although the PB and Infra consultants are not city employees, they are paid with city funds. Therefore, we believe the consultants' decisions to award merit increases during the difficult economic times were inappropriate.

***Operational
improvements resulted in
unintended
consequences***

According to a HART administrator, the 50% increase to the Project Office overhead rate was due to HART's decision to allow PB to seek its own lease for office space. The administrator noted that, at the time, HART was in need of additional office space to house PB consultant employees. The city process to find and execute a contract to lease space was deemed to take too long, so HART made the decision to allow PB to seek its own lease to house its consultant employees.

The consultant subsequently added the lease rent cost to its overhead rate, which increased the Project Office overhead rate from 145.6% to 218.3%. If HART had executed the lease, the lease rent cost would have been predictable. We acknowledge that HART was pressured to find office space quickly. Although the decision to allow PB to find and secure its own lease space

expedited the process, it resulted in an exponential increase in overall costs because overhead is applied as a percentage of the direct labor cost.

The overhead rate applied to the labor rate and the consultant employee merit pay increases between FY 2010 and FY 2013 increased the labor rates and compounded the overall labor costs. Exhibit 3.5 illustrates the exponential impact of the combined labor and overhead rate increases.

**Exhibit 3.5
Effect of Compounded Overhead Rate on Labor Costs
FY 2010 to FY 2013**

Example A: Senior Technical Manager

	<i>FY 2010</i>	<i>FY 2011</i>	<i>FY 2012</i>	<i>FY 2013</i>
Hourly Raw Rate	\$109.06	\$115.60	\$119.65	\$124.73
Project Office Overhead Rate	145.6%	145.6%	218.3%	218.3%
Total Hourly Labor Cost	\$158.79	\$168.31	\$261.20	\$272.29
Annual Labor Cost Increase		6.0%	55.2%	4.2%

Example B: Supervising Engineer

	<i>FY 2010</i>	<i>FY 2011</i>	<i>FY 2012</i>	<i>FY 2013</i>
Hourly Raw Rate	\$67.59	\$70.97	\$73.81	\$76.76
Project Office Overhead Rate	154.7%	154.7%	218.3%	218.3%
Total Hourly Labor Cost	\$104.56	\$109.79	\$161.13	\$167.57
Annual Labor Cost Increase		5.0%	46.8%	4.0%

Source: Honolulu Authority for Rapid Transportation

- In Example A, the consultant applied the Project Office overhead rate from FY 2010 to FY 2013. The consultant’s hourly raw rate increased 6%, 55.2%, and 4.2% in FY 2011, FY 2012, and FY 2013, respectively. As a result of the 50% increase in the Project Overhead rate in FY 2012, the total hourly labor cost increased 71% from \$158.79 in FY 2010 to \$272.29 in FY 2013.
- In Example B, the consultant applied the General Services Office overhead rate of 154.7% in FY 2010 and FY 2011. In FY 2012, the consultant (PB) applied the Project Office overhead rate of 218.3%. The employee’s hourly raw rate

increased 5%, 46.8%, and 4% in FY 2011, FY 2012, and FY 2013, respectively due to annual increases. As a result of the change in overhead rate status in FY 2012, the total hourly labor cost increased 60% from \$104.56 in FY 2010 to \$167.57 in FY 2013.

In addition to expediting the process to secure office space by allowing PB to seek its own lease, HART also expedited the hiring of its Chief Financial Officer (CFO). The FTA expressed concern that HART should replace the consultant that was carrying out the financial operations with a city employee. The hiring process, utilizing InfraConsult, may have placed the CFO in a potential conflict of interest.

According to the city's standard of conduct for contract management, no employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by FTA funds if a conflict of interest, real or *apparent*, would be involved. Such a conflict would arise when an employee, officer or agent has a financial or other interest in the firm selected for award. A conflict also arises if an organization employs, or is about to employ, an employee, officer, or agent.

Prior to 2012, HART's CFO functions were carried out by a consultant. According to HART, the Federal Transit Agency (FTA) expressed concerns that HART did not have a city employee performing those functions in 2012. HART's Chief Executive Officer subsequently decided to hire a chief financial officer before the end of FY 2012. However, the city's hiring process was deemed too lengthy to hire the CFO in time to meet this deadline. In an effort to hire the CFO before July 1, 2012, the CFO was sub-contracted by InfraConsult on June 18, 2012, and served for a six-week period that ended on July 31, 2012. The CFO was officially hired as a city employee on August 1, 2012.

The hiring process could have placed the CFO in an awkward position of overseeing its former employer. Part of the CFO's duties is to review contracts and approve invoices. While we found no evidence that the CFO did either during the six-week period as a sub-consultant, nevertheless, the CFO was placed in the awkward position of potentially approving invoices for a former employer. The situation occurred because HART considered and used the InfraConsult sub-contractor as an extension of the city to expeditiously fill a key management position.

Recommendations

HART should:

1. Follow its Staffing and Succession Plan to fill key management positions with city employees to replace consultants as recommended by the FTA either through personal services contract, exempt employment⁴ status, or civil service;
2. Convert the Public Information Officer position to city employment either through personal service contract, exempt employee status, or civil service;
3. Implement financial disclosure requirements for consultants that are comparable to those for city employees;
4. Implement contract requirements to cap pay increases or evaluate individual increases on a case-by-case basis and to reject any increases that are deemed unwarranted;
5. Re-evaluate its consultant relationships against IRS guidelines and Hawai'i State law relating to employment status to ensure compliance with applicable tax regulations; and
6. Lease all office space to reduce consultant overhead rate charges.

⁴ Exempt employees are *at will* employees who serve at the pleasure and needs of the employer.

Chapter 4

Improvements Are Needed in Other Areas

HART could improve its operations in other areas. We found that HART routinely paid consultant and sub-consultant invoices despite minimal documentation. A 2009 audit found similar concerns with the city's Rapid Transit Division (RTD) and recommended invoice documentation improvements. The recommendation was not adopted, and HART's current invoice review process still lacks key data in order to properly evaluate and pay invoices. HART can also improve in other areas of internal control. The agency's Contract Management System lacks sufficient data and should be revisited. Consultant performance and work products are not formally monitored and evaluated. HART should also reconsider placing public involvement programs under the cost-plus fixed-fee type contract.

HART Needs to Re-examine Implementation of the Prior Audit Recommendations and Improve Invoice Monitoring

The 2009 audit report titled, *Audit of the Department of Transportation Services' Honolulu High-Capacity Transit Corridor Project Contract*, recommended that the city's RTD develop guidelines for documenting and supporting invoices and verifying work performed by sub consultants. A 2011 audit recommendation follow-up showed that RTD did not adopt our recommendation. The audit recommendation was dropped because RTD no longer existed.

Our current report found that HART did not heed the audit recommendation either. We found that invoices contain accounting codes, but lack detailed information to support billings. Our review showed that HART needs to augment invoice accounting codes with narratives to ensure payments are justified.

Prior audit report recommended documentary support for invoices

In our Report No. 09-02, *Audit of the Department of Transportation Services' Honolulu High-Capacity Transit Corridor Project Contracts*, we recommended that RTD develop guidelines for documenting and supporting invoices and verifying work performed by sub-consultants. The audit found that InfraConsult and PB contracts were vulnerable to increased costs due to the lack of guidelines regarding the detail within invoices for sub-consultants charging a monthly flat rate. A sample review of invoices showed that of 12 sub consultants, only three provided descriptive details of the

work they performed. The rest contained little more than one-line descriptions such as *consulting fee* or *professional services*. Despite the finding and recommendations of our prior audit, we found that invoices continue to lack sufficient narrative detail.

After the audit recommendation was closed, HART revised procedures to expedite payments

In a 2011 follow up of audit recommendations, RTD claimed that sub-consultant invoices, and its level of detail, were the responsibility of the city's consultants (PB or InfraConsult) because the city does not have a direct contractual relationship with the sub-consultants. This recommendation was dropped because RTD transitioned to HART. However, we disagree with RTD's claim and believe HART should reassess RTD's prior position that its consultants have the primary responsibility to monitor invoices.

PB contracts

According to HART, the consultant's invoicing process changed from GEC I to GEC II. The GEC I contract did not include requirements related to adequate documentation. Starting with GEC II, consultant reports and narratives were replaced with time allocation according to the contract tasks. The compensation and invoicing section of the GEC II contract states that invoices shall be supported by *adequate* documentation as determined by the City and that invoices shall detail the work and charges by:

- Sub-task, hours, amount and employee name for which payment is being requested, including sub-consultant employees, and
- Itemization, with receipts and invoices attached, of the other direct costs for which reimbursement is being requested.

The change resulted in an expedited invoicing process, but produced less detailed invoices.

InfraConsult contracts

Additionally, the payment section of the InfraConsult III contract states that invoices shall be substantiated with timesheets and approved reimbursement expense forms for consultant employees and invoices from consultant sub-consultants and vendors. It further states that the monthly invoice shall be accompanied by a progress report describing the work

accomplished during the invoice period. The Infra I and Infra II contracts did not include requirements for documentation.

Amended process

Although the amended process allowed HART and the consultant to expedite the invoice payment process, the change reduced HART's ability to either ensure the payments were proper or to monitor the consultant's compliance with the contracts. As a result, HART's role in the invoice approval process focused on assuring there were sufficient funds to pay for the services, rather than evaluating what the city actually received and whether it was consistent with the contract requirements. Without detailed information from the sub-consultants, HART had to rely on the GEC I and II consultant (Parsons-Brinkerhoff) to monitor and ensure the sub-consultant billings were correct and appropriate.

If HART is to properly monitor and approve invoices, it needs to have adequate support and documentation. In our view, the contract requirements related to invoice documentation in GEC II and Infra III do not provide HART with adequate information to properly evaluate and approve invoices. Future contracts should include requirements that consultants and sub-consultants provide narrative reports in addition to allocating time among contract task codes.

Prior invoices contained narrative to support billings

We examined invoices under the GEC I and GEC II contracts. We found that GEC I invoices occasionally included better documentation and more narrative descriptions to justify invoice payment when compared with GEC II. Exhibit 4.1 compares a sample of GEC I and GEC II invoice details.

**Exhibit 4.1
Comparison of Sub-Consultant Invoice Descriptions From
GEC I to GEC II**

	<i>GEC I Invoice Support</i>	<i>GEC II Invoice Support</i>
<i>Subcontractor A</i>	“Consulting Fee for September: Waianae Neighborhood Board, Nanakuli-Mailii Neighborhood Board, Olelo Waianae High School”	“Public Involvement Program Activities: Documentation-prepare monthly public activity report”
<i>Subcontractor B</i>	“Drafting Material for submission to media. Gave two presentations, and scheduled presentations”	“Public Involvement Program Activities, Support the City in Media & Agency Coordination”
<i>Subcontractor C</i>	“2008 Honolulu Rail Transit Project Workshop, services for pre-registration and event logistics, database maintenance, onsite logistics and facilities liaison”	“Public Involvement Program Activities, Documentation-prepare monthly public activity report”

Source: Honolulu Authority for Rapid Transportation

Current invoices contain accounting codes, but lack detailed information to support billings

Between May 2007 through June 2013, HART paid an estimated \$1.8 million to its consultants based on invoices that contained minimal descriptions or documentation of services provided. Many of these invoices contained accounting codes but lacked sufficient detail to support billings.

Our judgmental sample of 427 invoices consisted of invoices from the GEC I, GEC II, Infra I, Infra II, and Infra III contracts.

- From GEC I, we reviewed 180 invoices comprised of 20 GEC direct labor invoices, 80 public involvement sub-consultant invoices, and 80 Other Direct Costs (ODC)⁵ invoices for public involvement.

⁵ Other Direct Costs is defined as incidental services for which there is not a labor category defined or specified in the contract (including travel, computer usage charges, and other charges).

- From GEC II, we reviewed 130 invoices comprised of 20 GEC direct labor invoices, 65 public involvement sub-consultant invoices, and 45 ODC invoices for public involvement. In the GEC I & II invoices, GEC labor invoices are not only limited to public involvement charges, but also include other GEC contract tasks.
- Our review of Infra I consisted of 46 invoices. We reviewed 43 invoices from Infra II and 28 invoices from Infra III. In the InfraConsult invoices, public involvement charges are not distinctively separated by sub-consultant and ODC invoices. In InfraConsult invoices, employees and sub-consultants are combined on the invoices.

Exhibit 4.2 shows that 180 of 427 invoices, or 42%, contained minimal support or documentation. These invoices were approved and paid with vague descriptions of services provided. In GEC I, 66 invoices (37%) were approved and in GEC II, 53 invoices (41%) were approved with minimal support. In Infra I, 31 invoices (67%) were approved, and in Infra II and III, 15 invoices, each, (45% and 54% respectively) were approved with minimal support.

**Exhibit 4.2
Sample Results - Invoices Paid With Minimal Support and Documentation**

Contract/Phase	Number of Invoices with Minimal Support/Documentation	Percent of Minimal Supported/Documented Invoices from Each Contract/Phase
GEC I ^a	66	37%
GEC II ^a	53	41%
Infra I	31	67%
Infra II	15	45%
Infra III	15	54%
Total	180	42%

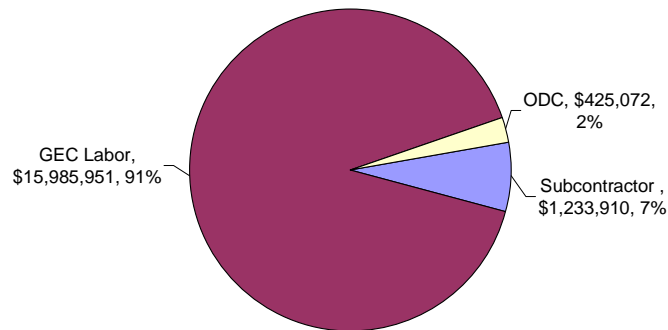
^a Includes GEC direct labor, Other Direct Costs related to public involvement, and public involvement sub-consultants

Source: Honolulu Authority for Rapid Transportation and Parsons Brinckerhoff

Direct labor costs are sizeable

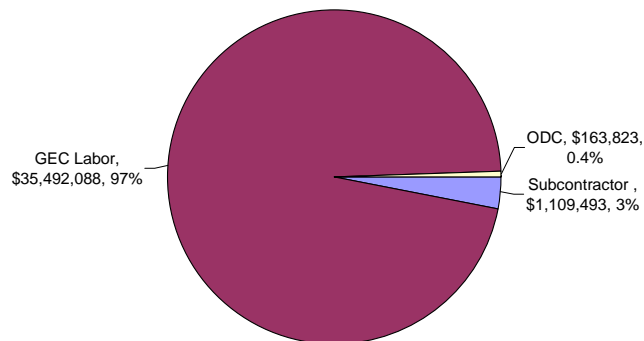
Exhibits 4.3 and Exhibit 4.4 reveal that consultant direct labor costs represent the largest expenditures in our sample. Direct labor costs represented the highest amount of expenditures with nearly \$16 million (91%) in GEC I and approximately \$35 million (97%) in GEC II. Public involvement sub-consultant invoices represented the second highest amount in our sample with approximately \$1.2 million (7%) in GEC I and \$1.1 million (3%) in GEC II. Public involvement collateral material, including newsletters, brochures, coloring books, and other promotional items are included in Other Direct Costs (ODC). ODC invoices represented 2% or less of public involvement invoices with \$425,072 (2%) in GEC I and \$163,823 (0.4%) in GEC II.

**Exhibit 4.3
GEC I Total Amount of Invoices Tested**



Source: Honolulu Authority for Rapid Transportation & Parsons Brinckerhoff

Exhibit 4.4 GEC II Total Amount of Invoices Tested



Source: Honolulu Authority for Rapid Transportation & Parsons Brinckerhoff

Because HART currently lacks guidelines that require detailed narratives for invoices and work performed by sub-consultants, we were unable to verify or determine if the payments were for work related to the public involvement program, or if the payments covered work required by the contracts. Without the guidelines, HART may continue to pay for invoices without any assurance that the charges are related to public involvement programs or are appropriate to the contracts.

Sample results show need to augment accounting codes with narratives

In accordance with best practices for accounts payable, invoices should have an effective review or approval process that includes adequate support and documentation for the services invoiced. An effective review or approval process includes detailed descriptions of services provided. Without an effective review or approval process for consultant invoices, there is no assurance that services billed were actually conducted or received.

Some invoices we reviewed contained contract-related task codes but did not contain detailed narratives of the actual services provided. Based on these task codes, we were unable to determine specifically what types of services were provided and the appropriateness when compared with the contract terms. More specifically:

- In the GEC I sample we reviewed, 36 public involvement sub-consultant invoices (45%) were approved and paid even though the invoices had minimal support and/or documentation. Some of the more common descriptions provided on the invoices included, “Consulting and advisory services in government and community relations activities.”; “Consulting fee for (month)”; and “For Professional Services.” The descriptions were vague and it was difficult to determine what actual services the sub-consultant did and whether or not their services were in compliance with the contractual terms.
- In the GEC I employee labor invoices we reviewed, 19 invoices (95%) did not have adequate documentation. The invoices we reviewed were vague and did not provide a narrative of the services provided. Although there were task codes listed, it was difficult to determine what those codes represented. We were unable to determine the public involvement costs associated with each invoice. In response to our review and inquiry, the contactor reported that the total employee labor costs related to public involvement was approximately \$2.1 million.

- In the GEC II sample we reviewed, 49 public involvement sub-consultant invoices (approximately 75%) that were approved and paid had minimal support or documentation. In this sample, the common description of services provided on invoices was *Public Involvement Program Activities*. Like GEC I, the invoices contained references to task numbers in the GEC II contract, but it was still difficult to determine what actual services the sub-consultant performed and whether or not the services were related to public involvement.
- In the Infra I sample we reviewed, 31 invoices that were approved and paid had minimal support or documentation. Each invoice contained timesheets with task codes and minimal descriptive narrative. All of the invoices in our sample for InfraConsult's public involvement sub-consultant in Infra 1 contained a one line description, *consulting services, public involvement management*. The sub-consultant was paid a lump-sum amount of \$15,000 per month, but we were unable to verify that the charges were related to public involvement activities because of the vagueness of the itemization.
- In the Infra II sample we reviewed, 15 invoices that were approved and paid had minimal support or documentation. These invoices contained one line descriptions such as *professional services*.
- In the Infra III sample we reviewed, 15 invoices that were approved and paid had minimal support or documentation. The invoices without adequate documentation contained a one line description, *provided information and communications services to a variety of audiences*.

In the public involvement sub-consultant agreements with the consultant for GEC I and II, most sub-consultants were required to produce and submit monthly progress reports as an attachment to their monthly invoices. Most of the monthly reports contained detailed descriptions of services provided during each invoice period and provided adequate documentation. We found, however, that these progress reports were only submitted to the consultant (PB) and not submitted to HART with the consultant's invoices. Without the supporting documentation, HART had to rely on the GEC I and GEC II

consultant to verify and validate the services billed by each sub-consultant.

HART Needs to Improve Internal Controls

Proper internal controls allow an entity to have reasonable assurance that program objectives related to economy, effectiveness and efficiency of operations, reliability of financial reporting, and compliance with applicable laws and regulations are achieved. We found that HART's contract management system does not contain accurate data and is not an effective oversight tool. Additionally, HART does not formally monitor or evaluate consultant employee performance or work products. Public involvement contract requirements were included in a cost-plus fixed-fee type contract, which was not the most appropriate contract type to control cost increases. As a result, public involvement costs may have been higher than necessary.

HART CMS system data is incomplete

According to HART administrators, all contract files and other pertinent data is stored electronically in HART's Contract Management Software (CMS) system. The administrators touted the system as HART's effort to effectively manage its consultants, contracts, and payments. Another administrator clarified that contract-related costs and payments from GEC 1 were not in the system because activities and invoices pre-dated establishment of the CMS. Contract-related costs and payments from GEC II were most likely contained in CMS.

During the invoice testing part of our fieldwork, we requested a demonstration of the CMS system to determine if we could use the system to test and evaluate invoice payments. HART staff explained that any deliverable or contract, other than specific exceptions, was in the CMS system according to contract task number. Each task number was to include links to invoices and associated costs. During the demonstration, HART staff made two attempts to access data under a public involvement code and no data was found. On the first attempt, no data was found. On the second attempt, staff found fields for public involvement costs in Year One and Year Two. Both fields were empty. Staff further explained that public involvement and other invoices may be converted into Access or Excel databases. Another staff commented that CMS is not an accounting system. As a result, we reviewed manual copies of invoices instead of electronic documents contained in the CMS.

According to our review, the CMS system does not appear to be an effective tool for managing HART's contracts and associated costs. We question HART's ability to properly monitor its contracts and associated costs if their main management system has incomplete data. If data is being collected separately under Access or Excel, then that data may not be available to everyone who needs to access that data to conduct proper oversight on contract tasks and payments.

Consultant performance and work products should be formally monitored and evaluated

Since 2007, a consultant from InfraConsult has led the public involvement program. The consultant had jurisdiction over \$4.3 million in public involvement expenditures under the GEC II contract. We found that HART did not require approvals or any formal reports from the consultant about public involvement activities.

The public information officer noted that as of April 2013, the officer began to voluntarily provide the HART CEO with a memo advising him of upcoming public involvement activities and requesting approval. Until the memos began in April 2013, formal monitoring and oversight over this consultant employee was minimal.

HART recognizes InfraConsult staff as *secunded* employees and views them as if they were city employees. While the consultant has the requisite background, experience, and expertise to fulfill the duties of Public Information Officer, HART's oversight and monitoring of the consultant, a third party employee, was minimal to prevent fraud, waste or abuse from occurring and insufficient to minimize the risks to the project.

Periodic reports describing significant activities, formal performance evaluations, or similar oversight mechanisms that were evaluated against measurable objectives or benchmarks would have provided HART with appropriate information to properly monitor consultant employees. HART administrators emphasized that they routinely meet with consultant staff and are apprised of their work performance. However, they are not formally documented. We also reviewed event wrap-up summary reports for select events and found that while reports provided a general summarization of the events, they lacked evaluations of benchmarks and quantitative or qualitative measures. The reports had no indication of any clear goals or objectives that were set prior to the event.

In addition, we reviewed HART's contract files and found no evidence that formal contract evaluations were performed for either PB or InfraConsult. PB was awarded three consecutive general engineering consultant contracts between 2005 and 2011, and InfraConsult was awarded three consecutive management contracts since 2007. These awards were made without any formal evaluation of the prior contract. Although best practices recommend evaluations of the consultants' performance against standard criteria, the evaluations were not performed. As a result, HART did not identify any improvements needed and did not incorporate the incentives needed to improve the consultant's performance or to ensure the consultant controlled the project costs. HART administrators noted that prior performance is one of the criteria used to award the GEC contract. We do not dispute this assertion. However, we contend that HART should formally evaluate the consultant's performance at the end of the contract period and include that evaluation as part of the contract file and not wait until the next contract comes up for bid to evaluate past performance.

Cost-Plus Fixed-Fee Contracts Are Inappropriate for Public Involvement Programs

Cost-plus fixed-fee is most often implemented when a project's costs, labor hours, labor mix, and resource requirements cannot be adequately predicted. Large construction projects, like Honolulu's rail system, is an example. Under the cost-plus fixed-fee type contract, the consultant is paid a fixed fee in addition to reimbursement of allowable incurred costs. Generally, the fee is established at the time of the contract award and does not vary whether the actual cost is greater or less than the initial estimated costs established for the work. Thus, the fee is fixed but not the contract amount because the final contract amount will depend on the allowable costs reimbursed. While cost-plus fixed-fee offers some advantages in managing a project where costs and resource requirements cannot be predicted, one of the disadvantages is that the consultant assumes very little risk for performance, cost, and the fee received. Thus, it is incumbent upon the contracting agency to adequately monitor consultant deliverables and expenses.

The HART GEC I and GEC II consultant contracts are *Cost-Plus Fixed-Fee* contracts. Although construction-related tasks and expenses comprise the majority of these contracts, they also include public involvement tasks. In our view, the cost-plus fixed-fee contract type was not the most appropriate for public involvement. Public involvement tasks are predictable and should have been negotiated as a separate fixed-fee contract. We

note that InfraConsult, which also has public involvement tasks and responsibilities, is a fixed-fee contract. By including public involvement in the cost-plus fixed-fee contract, HART missed opportunities to better control costs and reimbursable expenses.

Recommendations

HART should:

1. Require all consultants and sub consultants to submit narrative descriptions, along with task codes, with all invoices;
2. Evaluate consultants formally at the end of the contract period and place the evaluation into the contract file for use in evaluating future contracts;
3. Establish benchmarks or performance measures for public involvement activities as appropriate, and evaluate public involvement activities against those measures;
4. Enter all appropriate data into the Contract Management System so that the system can be used as a reliable contract monitoring tool, or eliminate the system if it duplicates other systems;
5. Separate public involvement contract requirements from the GEC and negotiate a fixed-price or more appropriate contract type for public involvement; and
6. Require the GEC consultant to provide HART administrators with *read-only* access to contract management and financial data related to public involvement.

Chapter 5

Conclusion and Recommendations

The Honolulu Rail Transit Project, with a projected cost of \$5.2 billion, is one of the largest and most expensive public works projects ever for Honolulu. The 20-mile rail line will connect West O'ahu with downtown Honolulu and Ala Moana Center via Honolulu Airport in a time of 42 minutes. Rail will be a new mode of transportation for O'ahu residents who currently rely on cars and buses that use congested highways for daily transportation. The Honolulu Authority for Rapid Transportation's (HART) public involvement team is tasked with keeping the public informed with timely and accurate information about the project and also with facilitating meaningful information and idea exchanges among agency staff, property owners, business owners, residents, and the project technical staff. Our audit report findings found that public involvement efforts, totaling nearly \$13.9 million, generally complied with requirements with one exception. However, as the project continues to move forward, there are several areas where improvement is needed.

Consultants hold key management and related functions at HART. Due to Hawai'i's geographic isolation, salary limits, and high cost of living relative to the mainland, it has been difficult to recruit qualified city employees. As a result, consultants are able to control project and program data and influence public involvement expenditures with minimal accountability. If HART continues to use consultants, oversight and monitoring improvements are needed. We also contend that in accordance with their Staffing and Succession Plan and federal guidance, HART should continue to transition these positions to city positions.

In order for HART to ensure that invoices are properly monitored and approved, it needs to ensure that invoices have adequate support and documentation. In a prior audit, we recommended that the Rapid Transit Division of the Department of Transportation develop guidelines for documenting and supporting invoices and to verify work performed by sub-consultants. Despite this recommendation, we found that invoices continue to lack sufficient detail. Detailed and well-documented invoices enable HART to verify that consultants and sub-consultants are properly carrying out their duties and responsibilities for the project. It also provides a basis to evaluate

consultant performance and work products for efficiency and accountability.

As part of its effort to be good stewards of public tax dollars, HART has committed to deliver the project *on time and on budget*. HART's current CEO has taken steps toward this responsibility by implementing public involvement reductions totaling more than \$2.8 million and other cost containment initiatives. In many aspects, HART has met minimum requirements as required by the FTA and its various contracts. But HART needs to go beyond meeting minimum requirements. Honolulu's taxpayers need assurance that their tax dollars are used prudently and efficiently. Our audit report recommendations will continue HART's best efforts to be more efficient and accountable as the project moves forward.

Recommendations

The Honolulu Authority for Rapid Transportation should:

1. Establish and formalize specific performance measures and benchmarks for public involvement activities and staff so that public involvement outreach can be evaluated, measured, and adjusted;
2. Formally measure and record the impact and effectiveness of the public involvement activities and events by conducting formal evaluations of the techniques used after the activities or events are completed;
3. Follow its Staffing and Succession Plan to fill key management positions with city employees instead of consultants as recommended by the FTA, either through personal services contract, exempt employment⁶ status, or civil service;
4. Convert the Public Information Officer position to city employment either through personal service contract, exempt employee status, or civil service;
5. Implement financial disclosure requirements for consultants that are comparable to those for city employees;

⁶ Exempt employees are *at will* employees who serve at the pleasure and needs of the employer.

6. Implement contract requirements to cap pay increases or evaluate individual increases on a case-by-case basis and to reject any increases that are deemed unwarranted;
7. Re-evaluate its consultant relationships against IRS guidelines and Hawai'i State law relating to employment status to ensure compliance with applicable tax regulations;
8. Lease all office space to reduce consultant overhead rate charges;
9. Require all consultants and sub consultants to submit narrative descriptions, along with task codes, with all invoices;
10. Formally evaluate consultants at the end of the contract period and place the evaluation into the contract file for use in evaluating future contracts;
11. Establish benchmarks or performance measures for public involvement activities, as appropriate, and evaluate public involvement activities against those measures;
12. Enter all appropriate data into the Contract Management System so that the system can be used as a reliable contract monitoring tool, or eliminate the system if it duplicates other systems;
13. Separate public involvement contract requirements from the GEC and negotiate a fixed-price or more appropriate contract type for public involvement; and
14. Require the GEC consultant to provide HART administrators with *read-only* access to contract management and financial data related to public involvement.

Management Response

HART disagreed with our audit findings and recommendations. Based on our audit work and supporting work papers we stand by our audit results, audit conclusions, and audit recommendations. We believe HART should be less reliant on consultants as the project progresses and should be able to produce documents and data requested without the intervention of the consultants. It is our hope that the recommendations will help HART to successfully complete the new rail project. Nominal changes and edits were made to this report to enhance the report format and to better communicate the audit results.

The substance of the findings and recommendations remain substantively unchanged.

A copy of the HART executive director and CEO's response is provided on page 59.



HONOLULU AUTHORITY for RAPID TRANSPORTATION

IN REPLY REFER TO:
CMS-AP00-00579

Daniel A. Grabauskas
EXECUTIVE DIRECTOR AND CEO

BOARD OF DIRECTORS

Ivan M. Lui-Kwan, Esq.
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Donald G. Horner
VICE CHAIR

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Kestlie W.K. Hui
Damien T.K. Kim
Glenn M. Okimoto, Ph.D.
Carrie K.S. Okinaga, Esq.

December 12, 2013

Mr. Edwin S. W. Young, City Auditor
Office of the City Auditor
City and County of Honolulu
1001 Kamokila Boulevard, Suite 216
Kapolei, Hawaii 96707

Dear Mr. Young:

**SUBJECT: Audit of the Honolulu Authority for Rapid Transportation
Public Involvement Programs, Report No. 13-03, Dated November 2013**

We would like to thank the Office of the City Auditor for the opportunity to respond to Report No. 13-03, Audit of the Honolulu Authority for Rapid Transportation (HART) Public Involvement Programs, dated November 2013.

As part of our commitment to transparency, HART takes the work of the Auditor seriously and spent significant time and resources during the course of the audit conducted from August 2012 to November 2013. We provided the City Auditor unfettered and timely access to numerous and extensive document requests, arranged interviews with over twenty staff members and managers, including HART contractors and sub-contractors, and responded to all questions regarding its public involvement program.

While some of HART's comments and clarifications of facts were incorporated into the final version, we respectfully disagree with the conclusions. As such, HART attempts to clarify these concerns in this letter and our specific responses to the Auditor's final version of Report No. 13-03.

Audit Report

Chapter 1: Introduction

Side Heading – Audit Results

The audit states that "In many aspects, HART has met minimum requirements as required by the FTA and its various contracts, but needs to go beyond meeting minimum requirements to provide taxpayers assurance that their tax dollars are used prudently and efficiently."

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HART's public involvement program has not only met federal requirements, it has **exceeded** them. To date, HART has participated in nearly 1,600 community meetings, presentations and events, attended and presented project updates at more than 800 Neighborhood Board meetings, and has won 22 state and national awards for its public involvement programs.

HART's public involvement program includes the following activities that **go over and beyond** federal guidelines to serve the public:

- Operates a 24-hour hotline to answer public questions and collect feedback;
- Produces a monthly cable public access television program on 'Ōlelo;
- Issues weekly eBlasts;
- Produced a fly-through aerial simulation of the entire 20-mile alignment to generate a better understanding of the system;
- Produced a Transit 101 video to provide information to students in a format they can relate to;
- Produced a series of community voices videos;
- Created simulations of platforms and the guideway to foster a better understanding of what the system will look like within the current landscape;
- Produced an interactive map for the project's website that allows the public to find the stations and project details for their specific communities.

Chapter 2 – Public Involvement Requirements Were Satisfied With One Exception

Side Heading – A Blogger's Questionable Public Involvement Technique Was the Exception

The audit results state that the public involvement program and activities at HART complied with project requirements with one exception.

This exception was addressed in July 2012 and the remedy implemented effective August 15, 2012, more than a year ago, and had already been resolved before this audit began.

Chapter 3 – HART Relies on Consultants for Public Involvement Program

Side Heading – InfraConsult contracts call for consultants to train City employees and transition them to replace consultants

The audit results state that consultants to HART are able to control project and program data and influence public involvement expenditures with minimal accountability. According to the audit report, if HART continues to use consultants, improvements in oversight and monitoring need to occur.

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HART management has, and continues to actively and properly monitor and manage the activities and performance of its consultants. Undue or improper influence and control by consultants has not occurred. While the audit report does not specify whether the result pertains only to public involvement consultants, all consultants at HART are supervised by HART staff and management who are responsible to the HART Board of Directors and City taxpayers for all management decisions and outcomes.

Side Heading – Federal Transit Administration (FTA) supports transition to City employees

In its Final Design approval letter dated February 6, 2012, the FTA stated, “FTA has determined that HART and the City have the technical capacity and capability to effectively manage the final design phase of project development.” With regard to staffing, the FTA letter required HART to “develop a succession plan to ensure knowledge transfer for key management positions considered short term and hire a real estate acquisition consultant” This letter did not require HART to refrain from using the services of a project management support consultant.

The following excerpts from the FTA Project Management Oversight Contractor’s (PMOC) July 2012 technical capacity and capability report (OP-21 report) for the Full Funding Grant Agreement (FFGA) recognize that the transition to an all-City staff will happen over the next several years.

- “The PMOC has some concern that the grantee may encounter difficulty acquiring the experienced staff needed for long-term assignments, given Hawaii’s high cost of living and distance from the mainland. The PMOC is satisfied that, at present, the grantee does have a succession plan that addresses the transition of the positions currently held by the Project Management Consultant (PMC) to grantee staff, and the dates by which the grantee intends to staff each of the positions.”
- “The strategy identified in the Staffing and Succession Plan is comprised of hiring locally and training the staff using the PMC and consultant team’s expertise. As the abilities of grantee staff increase, the need for PMC staff will diminish. Currently, the grantee has a four-year timetable for replacing the PMC with grantee staff.”
- “Some of the challenges with regard to key management positions are long term retention, limited salary structure, isolated geography, and, in general, a lack of qualified resource base. The grantee developed a Staffing and Succession Plan dated May 25, 2012 and continues exhaustive recruiting and hiring for City (grantee) positions. Inherently, the need for PMC staff will diminish as the grantee fills key management positions. Until such time, it will be necessary for the grantee to continue supplementing its staff with PMC staff. It is the PMOC’s professional opinion that the grantee’s current Organizational Breakdown Structure and filled staff positions are sufficient to effectively manage the current awarded DB contracts. During the execution of these contracts, the grantee has enough time to continue ramping up staff in order to meet the peak demands of the Project as it continues over the next seven to eight years. This time will also provide an opportunity to recruit, train and transition PMC staff to permanent grantee positions.”

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Side Heading – HART Developed a Staffing and Succession Plan

Another audit result addresses the need to continue to transition consultant positions to City positions per the HART Staffing and Succession Plan (SSP). HART has made major progress in this area over the past eighteen months, and has had notable success in recruiting and hiring project staff as HART employees. Currently, the vast majority (approximately 80%) of HART's full-time equivalent (FTE) positions are City employees.

This achievement is especially significant given Hawaii's geographic isolation, City salary limits, and the high cost of living relative to most other states. Moreover, Hawaii has virtually no qualified labor pool of technical and management expertise to plan, design, build and operate an elevated fixed guideway mass transit system.

Side Heading – Public Involvement Team Is Comprised of Both Consultant and HART Employees

Exhibit 3.2 – Public Involvement Team (December 2012)

This exhibit is misleading since it appears to compare the cost of the positions listed. The cost for each position is not being calculated on the same basis. The consultants' labor cost includes wages, fringe benefits, administrative and overhead costs while the HART staff cost includes only wages and some fringe benefits, and excludes other fringe benefit and administrative costs. Overhead is also omitted for the City employees' labor cost. Therefore, the auditor's labor costs substantially understate the actual cost for City employees when compared to fully burdened consultant's full cost.

In addition, the Auditor's calculation does not include the administrative and overhead costs of a City employee as specified in the City's Department of Budget and Fiscal Services Policies and Procedures Manual Section 20.4.

Side Heading – Operational improvements resulted in unintended consequences

The audit report stated that the Chief Financial Officer (CFO) was being put in an awkward position because part of her CFO duties included reviewing contracts and approving invoices of her former employer.

The CFO was an independent subcontractor (not an employee) of InfraConsult for (6) six weeks from June 18, 2012 to July 31, 2012. This short-term measure was implemented only because the City's hiring process was estimated to take more than (3) months, and the FTA expected HART to hire a CFO prior to entering into a FFGA agreement in order for HART to demonstrate its technical (financial management) capacity. She became a HART employee on August 1, 2012.

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During this six week period, the CFO did not sign nor approve contracts or invoices for all vendors. At this time, her top priorities were to manage and oversee the financial plan for the project. Although signing contracts and approving invoices are part of her duties as CFO, they were not assigned to her until October 2012, after she was a City employee.

Chapter 4 – Improvements Are Needed in Other Areas

Side Heading – HART Needs to Re-examine Implementation of the Prior Audit Recommendations and Improve Invoice Monitoring

The audit also recommends that HART improve its invoice documentation by developing guidelines for documenting and supporting invoices by contractors to provide more detailed information as recommended in a prior audit conducted in 2009 of the Rapid Transit Division (RTD) of the Department of Transportation.

Currently, HART's invoicing processes are compliant with the contract requirements, are compliant with processes described in the FTA's Best Practices Manual and are compliant with FTA Circular #FTA C 4220.1F, Third Party Contracting Requirements.

Although HART's current invoice documentation requirements are sufficient to ensure efficient and effective review and payment of project costs, and are consistent with City, federal, and other government capital project guidelines and practices, HART is willing to explore alternatives, as suggested by the Auditor.

Side Heading – After the audit recommendation was closed, HART revised procedures to expedite payments

The audit states that "Starting with GEC II, consultant reports and narratives were replaced with time allocation according to the contract tasks." This statement is inaccurate.

For the GEC II contract, HART required additional reports and documentation from the GEC in order to process its invoices. The hourly breakdown according to task deliverables was not replaced with but rather in addition to the required monthly narrative reports.

Side Heading – Consultant performance and work products should be formally monitored and evaluated

The report refers to InfraConsult seconded staff as "third party employees". The definition of "third-party" according to Black's Law Dictionary is a person not connected to a contract but may be affected by its outcome. HART has a contract with InfraConsult LLC whose employees are seconded to HART. The seconded employees are directly connected to HART via that contract, and are therefore not third parties. Any inference to the contrary is incorrect.

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All InfraConsult managers who are part of HART's staff, including the PIO, have the same level of oversight and monitoring as their City counterparts. The PIO reports directly to and meets weekly with the CEO, providing a weekly update of all key activities, and programs. In addition, monthly written reports of all major activities, including public involvement, are completed by HART senior managers and these reports are reviewed and approved by HART's CEO, and by the HART Board of Directors in public meetings. The reports are also reviewed and monitored by the Federal Transit Administration (FTA). The reports are also made available to the media and the public, and are posted on the project's website.

RESPONSE TO RECOMMENDATIONS AS NUMBERED IN THE AUDIT REPORT

The Honolulu Authority for Rapid Transportation should:

1. **Establish specific performance measures and benchmarks for public involvement activities and staff so that public involvement outreach can be evaluated, measured, and adjusted.**

HART has specific performance measures and benchmarks for public involvement activities as outlined in this Audit Report's Appendix D per GEC I and II contract tasks. All have been acknowledged to have been completed by the Auditor, except for six of the sixty-three that are in progress and highlighted in yellow.

2. **Measure the impact and effectiveness of the public involvement activities and events by conducting formal evaluations of the techniques used after the activities or events are completed.**

Every public involvement outreach activity that HART conducts is planned, executed and reviewed for effectiveness. HART provided the Auditors with examples of planning matrix sheets and event recaps (after-action reports) completed for key events per their request.

Planning matrix sheets detailed event particulars including:

- Event details – time and place
- Estimated number of attendees
- Event budget.
- Logistics – set up - timeline and resources needed – i.e. equipment list
- Post-Event – tear down schedule and assignments
- Invitations & Promotions: display boards, event flyers, government notifications
- Media relations & brochures
- Event Collateral
- Staff Assignments
- Registration Table Set-up

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Event recap reports documented results of participation in events and included the following:

- Event wrap-up
- Number of visitors
- Future attendance plans
- Staffing schedule
- Logistics
- Other notes and concerns: event cost, parking, staffing, etc.

HART's Public Involvement Team currently evaluates outreach events and for larger HART-sponsored events conducts post-event meetings in line with best practices. Comment cards are also collected and evaluated for all HART outreach events. The Public Involvement Team shares the feedback received from the public with the larger project team, so that the project can benefit from community input. Based on this feedback, materials, brochures and presentations are also adjusted to address the most frequently asked questions and concerns.

HART remains committed to implementing a public involvement program that best meets the needs of the community and the public which it serves. To that end, HART's public involvement effort has exceeded federal requirements and has earned 22 state and national awards. To date, HART has participated in nearly 1,600 community meetings, presentations and events, along with attending and presenting project updates at more than 800 Neighborhood Board meetings.

HART's public involvement program includes the following activities that exceed federal guidelines:

- Operates a 24-hour hotline to answer public questions and collect feedback;
- Produces a monthly cable public access television program on 'O'lelo;
- Issues weekly eBlasts;
- Produced a fly-through aerial simulation of the entire 20-mile alignment to generate a better understanding of the system;
- Produced a Transit 101 video to provide information to students in a format they can relate to;
- Produced a series of community voices videos;
- Created simulations of platforms and the guideway to foster a better understanding of what the system will look like within the current landscape;
- Produced an interactive map for the project's website that allows the public to find the stations and project details for their specific communities.

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3. Follow its Staffing and Succession Plan to fill key management positions with city employees instead of consultants as recommended by the FTA, either through personal services contract, exempt employment⁶ status, or civil service.

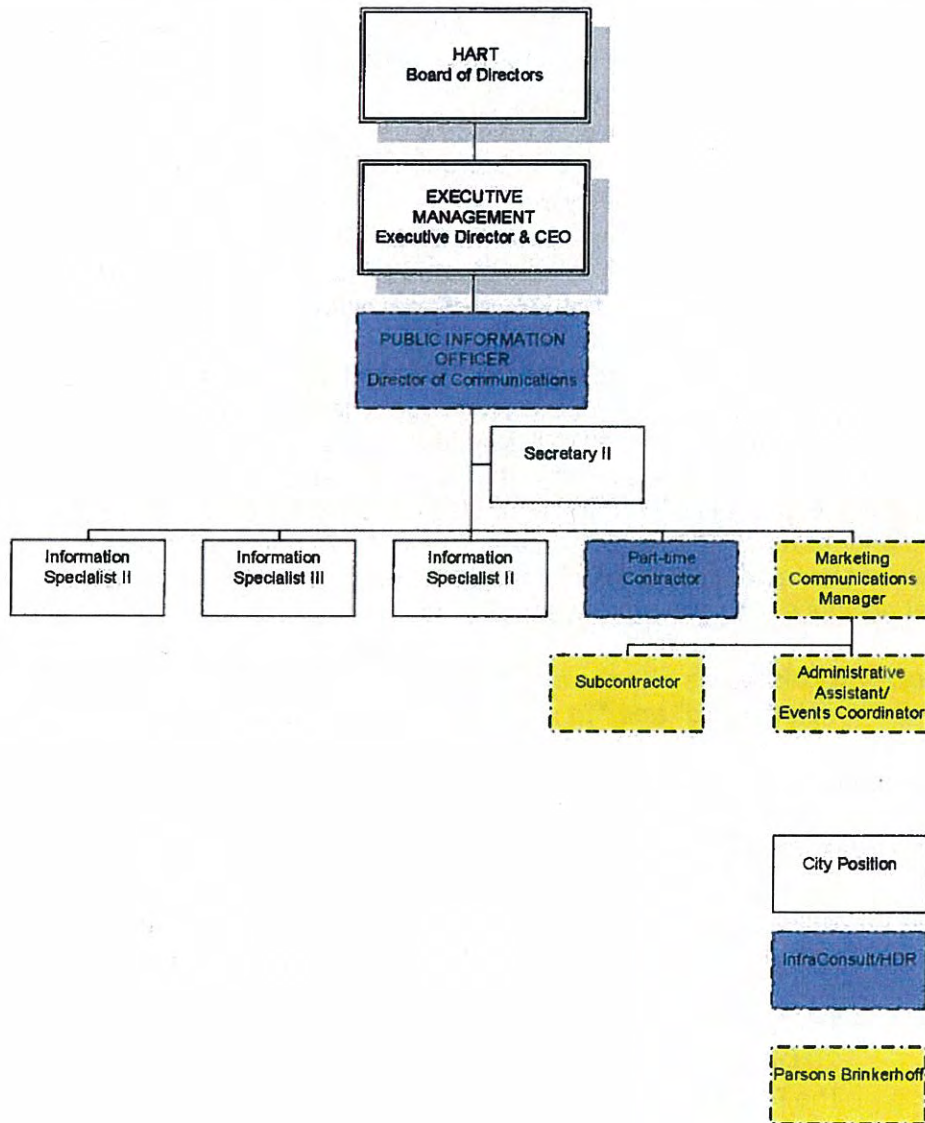
The Staffing and Succession Plan (SSP) is a planning tool used to ensure that technical capacity and capability is retained during critical phases of the project. The plan lists 37 key positions for the project, 16 of which were contracted as of the date of the SSP (May 2012).

HART disagrees with this audit recommendation's inferences that HART does not currently follow the SSP, and that HART is lagging in implementing the SSP. HART has implemented the SSP, and has transitioned positions well in advance of the SSP's projected transition dates. Currently, the vast majority (80%) of HART's FTEs are City employees.

With regard to public involvement staffing, the HART CEO directed staff to be reduced from 23 to 9.5 FTEs in July 2012. Since July 2013, HART's total public involvement staffing is 8.5 FTEs as a result of further reductions in the use of consultants. See Exhibit 1 - Updated HART Public Involvement Organization Chart (as of July 2013).

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Exhibit 1
Updated HART Public Involvement Organization Chart (as of July 2013)



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HART has taken the following steps relative to key positions listed in the SSP:

- Hired a Procurement Contracts Officer approximately 1 year before the SSP's projected transition date;
- Transitioned a contracted Environmental Planner position to a HART position approximately 1 year before the SSP's projected transition date;
- Selected a Deputy Director of Utilities and Permits nearly 2 years before the SSP's projected transition date;
- Currently advertising to replace a contracted Configuration Manager approximately 1.5 years before the SSP's projected date;
- Generated savings by eliminating a contracted Chief Project Officer position approximately 1.5 years before the SSP's projected date; and
- Generated savings by consolidating duties under a contracted position and eliminating one of the key staffing positions.

Each proposed key position transition is reviewed with the FTA's PMOC as to the technical capacity and capability to complete the project on a continuous if not monthly basis. Major deviations from the SSP relative to the transition timing of certain key technical positions could threaten the success of the project and the suspension of federal grant funds. It cannot be assumed that HART could or should deviate from the SSP and transition all positions prior to the SSP's projected date. The PMOC's primary focus is to assure that key expertise is retained at critical milestones of the project. Transition timelines for certain technical positions cannot be materially altered.

Therefore, HART disagrees with the audit report statements such as "HART transition plan is only partially implemented" and "To date, only 4 of 16 positions have been transitioned to city employment ahead of schedule". These statements imply that HART could and should transition more positions.

HART disagrees with this implication, given that:

- HART has transitioned all of the above listed key positions substantially in advance of the SSP's projected dates (despite the impacts of the one-year delay in construction activities);
- The SSP does not project any position transitions through September 30, 2013;
- The PMOC has reviewed and concurred with HART's completed transitions; and
- Early transition of certain technical positions could threaten the success of the project and expose the taxpayer's \$5 billion investment to significant financial risk.

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4. Convert the Public Information Officer position to city employment either through personal service contract, exempt employee status, or civil service.

HART is currently updating and revising its SSP Plan. This recommendation will be considered along with all other staffing and succession needs of the project.

5. Implement financial disclosure requirements for consultants that are comparable to those for city employees.

HART does not agree that requiring consultants to provide financial disclosure statements that are the same as the City's would provide any additional assurances than already provided by the Hawaii Administrative Rules 3-131-102 (c) which mandates that all contractors, including seconded staff, comply with the State of Hawaii Procurement Code of Ethics and the contractual obligation set forth in the Special Provisions (section VII D) to comply with City and County of Honolulu Revised Statutes Article 11 Section 11-103 "Disclosure of Interest."

6. Implement contract requirements to cap pay increases or evaluate individual increases on a case-by-case basis and to reject any increases that are deemed unwarranted.

HART already has the contractual right to reject unwarranted or unreasonable salary increases and to terminate any single employee (consultant) at any time for any reason. Further, HART has the right to reject any cost that it deems unwarranted or unreasonable on a point-by-point basis. When there have been salary increases, HART has reviewed the increases, and concluded that they were reasonable and allowable.

HART has already begun implementing additional requirements in the new General Engineering Consultant contract (RFQ-HRT-651603) solicited in August 2013 and awarded November 26, 2013. In this new contract, HART **will not reimburse any increase in the raw labor rates greater than three (3) percent in a 12-month period** and HART must review and approve any promotions that would increase an employee's raw labor rate above the 3% cap.

7. Re-evaluate its consultant relationships against IRS guidelines and Hawai'i State law relating to employment status to ensure compliance with applicable tax regulations.

HART does not need to re-evaluate its contractual relationships against IRS guidelines and Hawaii State law to ensure compliance because HART and the Department of Human Resources for the City and County of Honolulu (DHR) evaluate these requirements prior to HART awarding any services contract. HART is required to file Form DF-87 (11/00) prior to

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requesting an independent contractor under a services contract, in accordance with Hawaii Revised Statutes (HRS) Section 6-1103(h) and Administrative Directives Manual 265-1-1, Section I-D.2. Prior to the award of the GEC and PMSC contracts, HART submitted Form DF-87 to the DHR for review, approval and certification. HART received approval and certification from the Director of Human Resources for the City and County of Honolulu on both forms.

Therefore, not only did HART evaluate the services to ensure they met the "Independent consultant" requirements but this determination was also reviewed and certified by the DHR prior to any contract award.

It is understood that taxing authorities are concerned about receiving everything to which they are entitled through required withholdings and payments by employers related to employee compensation and services.

The services of seconded staff, including the Public Information Officer, working on the rail project are provided through a competitively procured, professional services contract between HART and InfraConsult LLC. These individuals are regular employees of HDR Inc., the parent company of InfraConsult LLC. None are hired directly by HART as independent consultants. As employees of HDR Inc., the seconded employees are subject to all federal and state statutory withholdings and participation in employer provided benefit plans.

The legal relations and responsibilities related to the contract are contained in the General Provisions, sections 4.1.1 and 4.1.2.

HART believes that the liability of any misclassification of an employee as an independent consultant would be the responsibility of the contractor (HDR Inc. for seconded staff).

8. Lease all office space to reduce consultant overhead rate charges.

HART agrees that in certain circumstances HART should be the lessee of office space that is jointly occupied by HART and co-mingled consultant staff. HART agrees that in certain situations, such as the specific instance observed by the Auditor, leasing office space would reduce the consultant's overhead rate.

This situation exists when HART deems it operationally beneficial for consultant/contractor staff to be co-located with HART staff, and HART agrees that in such instances HART should be the lessee of the office space. This arrangement, however, does not apply when a majority of the work is done by the contractor at a location such as an assembly plant, casting yard, construction site, etc., in which case HART might have only a nominal presence.

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Hence, HART does not agree that all office space should be leased by HART to reduce consultant overhead rate costs.

9. Require all consultants and sub consultants to submit narrative descriptions, along with task codes, with all invoices.

HART does not agree with implementing this recommendation to all consultants and sub-consultants. HART acknowledges that the Auditors needed further explanation in order to understand the task codes associated with the work breakdown structure for the contract. However, HART Task Managers fully understand the work breakdown structure associated with their tasks, including task codes and subtask codes, and need no further explanation in order to review and approve invoices. The documentation provided in the consultant and sub-consultant invoices, along with the monthly report deliverable requirement, set forth in the relevant contracts are sufficient to provide Task Managers detail as to the necessity of the work performed and the adequacy of the labor mix and level of effort expended to perform the tasks.

10. Formally evaluate consultants at the end of the contract period and place the evaluation into the contract file for use in evaluating future contracts.

HART already complies with this recommendation to evaluate contractors' performance in accordance with HART's Project Closeout Procedure (5.CA-06, Rev. 1), dated April 19, 2012. The documentation required in this procedure is sufficient to provide future evaluation committees adequate performance information at various stages of the work, including the contractor's Quality Records required by HART's Quality Management Plan and a final audit by HART's Quality Management department.

11. Establish benchmarks or performance measures for public involvement activities, as appropriate, and evaluate public involvement activities against those measures.

See HART responses to recommendation #1 and #2.

12. Enter all appropriate data into the Contract Management System so that the system can be used as a reliable contract monitoring tool, or eliminate the system if it duplicates other systems.

All relevant information to effectively manage and report on the management of the project is entered into HART's Contract Management System (CMS).

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The Auditors experienced a single instance in which all the information they requested – all contractor invoices and contract deliverables for the project from inception to date – could not be retrieved using only the CMS. All this information does not reside entirely in the system since the information requested was from a time period that pre-dated the implementation of the system.

As stated in the audit report, the requested documents (e.g., invoices and deliverables) were produced by HART, and the Auditors reviewed the hard copy originals to accomplish this audit task.

Given that HART staff has little need to access all previously completed project contracts and deliverables on a daily/regular basis, the effort and expense involved in uploading this voluminous information, and the adequacy of CMS in meeting the vast majority of the needs for which it was deployed, HART does not believe that any additional changes to the use of the CMS is needed at this time.

This appears to be an incidental observation of a single instance in which the Auditor observed which formed the basis for this recommendation. HART does not agree that this incidental observation is a sufficient basis to form a conclusion.

13. Separate public involvement contract requirements from the GEC and negotiate a fixed-price or more appropriate contract type for public involvement.

HART does not agree there is sufficient certainty in the taskings associated with public involvement to warrant a fixed-price contract without HART sustaining significant costs associated with the risks related to the uncertainty in surges and lulls of taskings in the GEC II contract.

Public involvement services are not included in the new GEC contract awarded on November 26, 2013.

14. Require the GEC consultant to provide HART administrators with read-only access to contract management and financial data related to public involvement.


HART's contractors' are not legally required to provide HART with "read-only access" to their privately owned software systems. These software systems are purchased, managed and maintained by the contractor to assist with their contract management and/or financial accounting purposes. Providing "read-only access" to an outside agency is not a business practice that HART needs in order to execute this project.

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HART does not understand the basis for this recommendation since it is a new issue that HART was not aware of until November 21, 2013 when the final draft of this audit was received.

Thank you for the opportunity to respond.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Grabauskas', written over a light blue horizontal line.

Daniel A. Grabauskas
Executive Director and CEO

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Appendix A

Honolulu Rail Transit Project Overview



HONOLULU RAIL TRANSIT PROJECT

OVERVIEW



WHAT IS THE HONOLULU RAIL TRANSIT PROJECT?

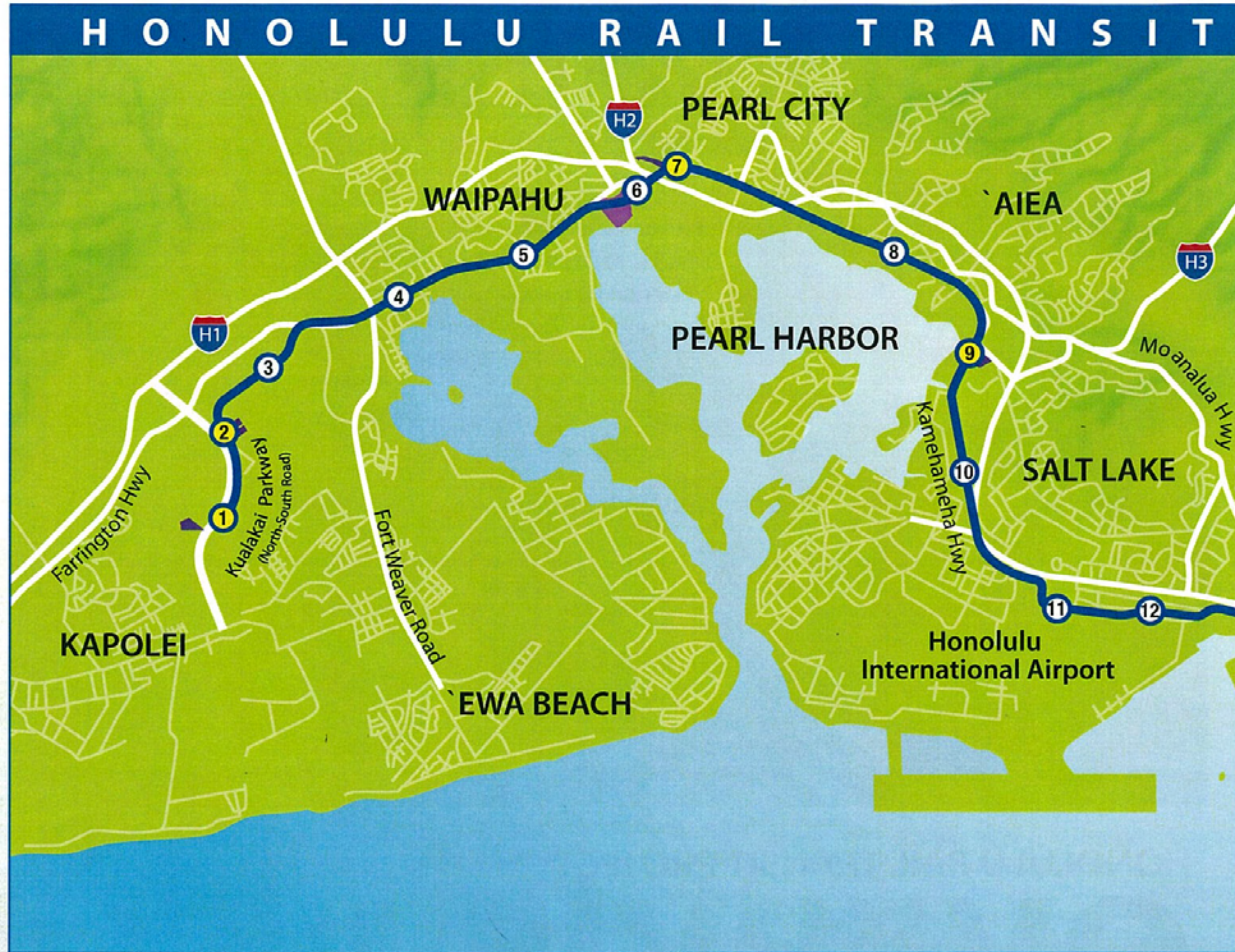
The Honolulu Rail Transit Project is a 20-mile elevated rail line with 21 stations. The project will connect West Oʻahu with downtown Honolulu and Ala Moana Center via Honolulu International Airport in a time of 42 minutes. The system features modern, electric, steel-wheel trains each able to carry hundreds of passengers. Future extensions could serve other parts of West Oʻahu and other communities of Salt Lake, UH Mānoa and Waikīkī.

What are the benefits?

Rail transit will be a fast, attractive, and reliable alternative to driving for many commuters. By 2030, about 116,300 trips per weekday are expected on rail transit and will take about 40,000 vehicles off our

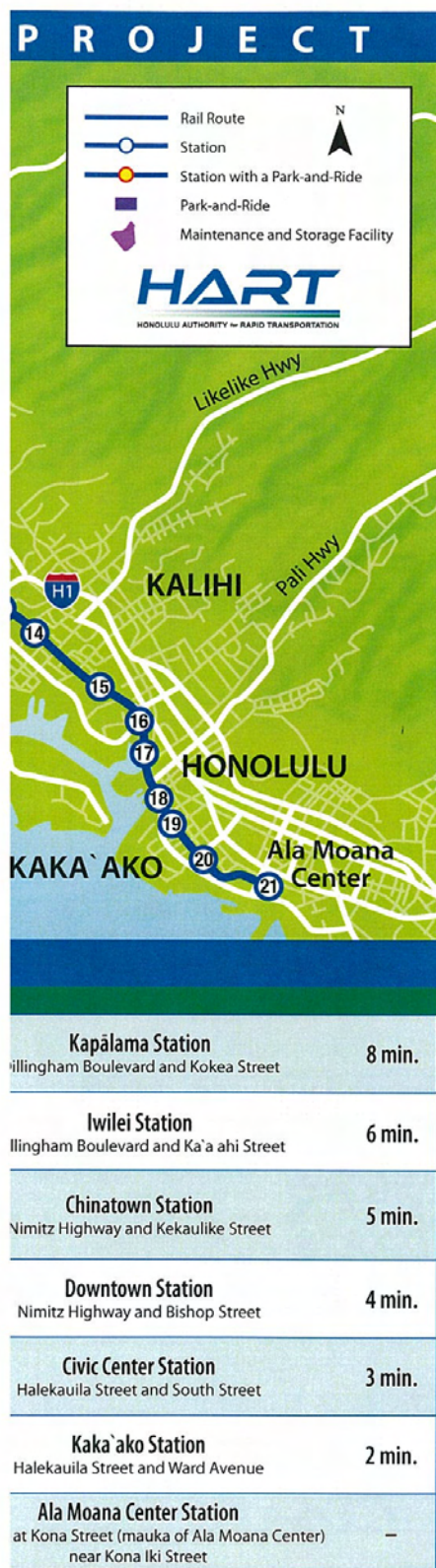
roads each weekday. This reduction in the number of cars and trucks on our congested streets will deliver benefits and improve travel times for everyone – train riders, bus passengers and vehicle drivers. Approximately 10,000 jobs each year

will be attributed to rail construction, with development around rail stations infusing our economy with billions of dollars during the coming decade.



PROJECTED RAIL TRAVEL TIMES TO ALA MOANA CENTRAL STATION

		FROM			
1	East Kapolei Station Kualakai Parkway (North-South Road) and East-West Road	42 min.	8	Pearlridge Station Kamehameha Highway and Kaonohe Street	24 min.
2	UH West O'ahu Station Kualakai Parkway (North-South Road) and UH West O'ahu Entrance (aka Campus Drive)	40 min.	9	Aloha Stadium Station Kamehameha Highway and Salt Lake Boulevard	21 min.
3	Ho'opili Station At the future planned intersection of minor East-West Street approximately 300 feet south of Farrington Highway	36 min.	10	Pearl Harbor Naval Base Station Kamehameha Highway and Radford Drive	19 min.
4	West Loch Station Farrington Highway and Leoku Street	34 min.	11	Honolulu International Airport Station Near the existing lei stands on Aolele Street	16 min.
5	Waipahu Transit Center Farrington Highway and Mokuola Street	31 min.	12	Lagoon Drive Station Ualena Street and Lagoon Drive	14 min.
6	Leeward Community College Station Leeward Community College campus parking lot	29 min.	13	Middle Street Station Kamehameha Highway and Middle Street	12 min.
7	Pearl Highlands Station Kamehameha Highway and Kuala Street	28 min.	14	Kalihi Station Dillingham Boulevard and Mokauea Street	10 min.
			15		
			16		
			17		
			18		
			19		
			20		
			21		



HONOLULU RAIL TRANSIT PROJECT FACTS AND FIGURES

Length

- 20 miles
- The system begins in East Kapolei and connects with the Honolulu International Airport and downtown Honolulu and ends at Ala Moana Center

Stations

- 21 stations
- High-level platforms (same level as the vehicle floor)
- Stairs, escalators and elevators featured at each station
- Bicycle racks
- Fully compliant with the Americans with Disabilities Act of 1990 (ADA)
- Trains and stations will feature security cameras and interior/exterior safety lighting

Ridership

- Estimated at 116,300 weekday rider trips by year 2030

Features

- Modern steel-wheel-on-steel-rail technology powered by a third rail
- Elevated, grade-separated
- Vehicle maintenance and storage facility near Leeward Community College
- Four new bus transit centers located at UH West Oʻahu, West Loch, Pearl Highlands, and Aloha Stadium
- Four new park-and-ride lots at East Kapolei, UH West Oʻahu, Pearl Highlands, and Aloha Stadium with a total of 4,100 parking spaces
- Traction power substations
- A dedicated access ramp from the H-2 Freeway to the Pearl Highlands station's park-and-ride and bus transit center

Station Access

- Walk, bicycle, transfer to/from TheBus, private bus/shuttle, TheHandi-Van drop off and pick up, automobile drop-off and pick-up (kiss-and-ride), and park-and-ride facilities at select stations

Operations Schedule

- Trains will operate daily from 4 a.m. to midnight
- Trains will arrive every 3 minutes during peak travel times, every 6 minutes during the day, and every 10 minutes in the evenings

Fare

- Single systemwide fare; one-pass system between TheBus and the rail system
- Ticket vending machines available at all stations

Rail Vehicles

- Fully automated (driverless)
- A two-car train has the capacity of 400 passengers
- Total fleet of 80 vehicles with 68 vehicles in operation during peak periods in 2030
- Bicycles, surfboards, wheel chairs, strollers, coolers, and luggage will be allowed on trains as regulated by policy
- Air-conditioned vehicles
- Closed-circuit security cameras will be featured onboard train vehicles

Speed

- Average speed (including station stop time): 30 mph
- Top speed: 55 mph or greater

QUESTIONS ABOUT THE HONOLULU RAIL TRANSIT PROJECT

How much will the project cost?

The project will cost \$5.16 billion to build, which includes interest and finance charges and a contingency reserve of more than half a billion dollars. The project is on budget, with expenses currently under budget and revenue higher than projected. The financial plan is sound.

How will we pay for it?

Revenue for construction comes from two sources: the half-percent surcharge on the General Excise & Use Tax (GET) and federal funds.

As of the end of 2012, nearly \$1 billion in GET revenues has already been collected. The Hawai'i State Legislature has mandated that this funding can only be used for the rail project.

In addition, the Federal Transit Administration has approved a grant to the City and County of Honolulu of \$1.55 billion for construction of the rail project. Already, \$320 million of the federal money has been received.

When will the trains operate?

Trains will operate from 4 a.m. to midnight daily. Trains will arrive every three minutes during peak travel times, every six minutes during the day, and every 10 minutes in the evenings.

How much will it cost to ride?

Fares for the rail system will be the same as fares for the City bus. Also, bus passes can be used for the rail system, and all applicable pass discounts for seniors, students and

the persons with disabilities will apply.

Will there be parking?

Yes, there are four park-and-ride structures planned at the East Kapolei, UH-West O'ahu, Pearl Highlands, and Aloha Stadium that will provide more than 4,000 spaces.

Will TheBus be integrated with the rail system?

Yes, City bus routes will be integrated with the rail system and service key areas with feeder bus service near each respective station. Each station will have drop-off areas, including areas for the Handi-Van that comply with the American with Disabilities Act requirements.

Also, a combination bus-rail system will be more efficient to operate. Rail transit will allow buses to circulate much faster and pick up passengers with greater frequency.

Will rail reduce future congestion?

Yes. Congestion will be far greater in the future without rail. Rail transit will take about 40,000 vehicle trips off our island roads each weekday in the future. There will be zero congestion for those choosing to ride the rail system and congestion will be reduced for those who drive. A single two-car train can carry more passengers than five city buses.

When will the rail system start operating?

The system is set to be fully operational, from Kapolei to Ala Moana Center, in 2019.

STAY CONNECTED



HonoluluOnTheMove



Honolulu.Transit



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HonoluluTransit

STAY IN TOUCH



For questions, comments or more information, speak with a representative by calling our 24-hour project hotline at (808) 566-2299



Email us your questions, comments or concerns at info@HonoluluTransit.org



Check for weekly traffic updates that affect your area by visiting the project website at www.HonoluluTransit.org

HART QR CODE



The Honolulu Rail Transit Project's new QR Code (Quick Response Code) that connects individuals with iPhones and smart phones to the project's website.



HONOLULU AUTHORITY FOR RAPID TRANSPORTATION

Appendix B

Five Contracts That Include Public Involvement

General Engineering Consultant Contract - GEC I (Preliminary Engineering/Environmental Impact Statement)

The General Engineering Consultant I contract lasted about four years, from August 24, 2007 to September 30, 2011. On August 24, 2007 the City entered into a contract, known as GEC I, with PB Americas. The original contract value was approximately \$86 million, which was paid from the Transit Fund.

Public involvement contract requirements included the development, creation, and maintenance of an ongoing process for project communication between the division, consultant, key stakeholders, agency representatives, and the general public through a public involvement plan. The overall public involvement plan would be constructed by the consultant to ensure compliance with federal NEPA⁷ and SAFETEA-LU⁸ regulations throughout the PE/EIS⁹ process. Public involvement deliverables included a public involvement plan, monthly public involvement activity reports, and public involvement summary report. Deliverables also included a final summary of public involvement activities, PB *CommentSense* documentation and logs, boards, displays, and visual simulations. Fact sheets, newsletters and other media, DVDs, and CDs of technical documents were also required.

GEC I was amended nine times throughout its four-year term. Five of the nine contract amendments affected public involvement. Contract Amendment No. 2 increased the contract value to \$91 million (a \$5 million increase) by expanding project public information and outreach activities. Contract Amendment Nos. 3, 5, 6, 7 and 8 increased the contract amounts for additional services related to expanded project alignment and project contract delivery activities. The final contract value was around \$168.7 million (an increase of approximately \$82.7 million from the original contract value).

In GEC I, there were 10 public involvement sub-consultants: LKG-CMC, Inc.; Accucopy Consulting Group, LLC; Carlson Communications; Community Outreach Associates, LLC; Dahl Consulting; Gary K. Omori LLC; John F. Desoto; Lychee Productions; Pat Lee & Associates, LLC; and Red Monarch Strategies, Inc.

⁷ The National Environmental Policy Act (NEPA)

⁸ Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)

⁹ Preliminary Engineering/Environmental Impact Statement (PE/EIS)

General Engineering Consultant Contract - GEC II (General Engineering, Planning, Construction Management and Other Consultant Services)

The contract's initial duration was June 30, 2011 to June 30, 2014. On June 30, 2011, the city executed a contract, known as GEC II, with PB Americas to provide general engineering, planning, construction management, and other consultant services. The original contract value was approximately \$300 million. The initial contract covered three years, with an option to extend an additional five years. Public involvement contract requirements included oversight of consultant public involvement teams. This involved providing personnel to support the city's community outreach, media, and public information efforts. The consultant would also coordinate, in conjunction with the city, public and agency outreach related to environmental compliance requirements specified in the Final EIS, the Record of Decision (ROD), and Section 106 of the Programmatic Agreement.

Public involvement deliverables included:

- Original printed and electronic copies of information materials/handouts,
- Comment forms, attendance records, and summary reports,
- Public outreach materials with an innovative and consistent graphic representation,
- Project website updates,
- Telephone hotline management and updating project contact database, and
- Public information documents and electronic media maintenance.

Additionally, the consultant was to assist the city in evaluating the effectiveness of the public outreach program; to determine if any changes are needed; to create branding guidelines, and to implement a branding program. The consultant was also to maintain an emergency contact tree for active construction sites, to update the *Public Involvement Plan*, to maintain electronic and hard copy files of public outreach-related project material, and to prepare and submit a monthly FTA binder.

In GEC II, there were ten public involvement sub-consultants: LKG-CMC, Inc.; Carlson Communications; Community Outreach Associates, LLC; Gary K. Omori LLC; Global Teach, Inc.; John Desoto; Lychee Productions; MM Pictures LLC; Pat Lee & Associates, LLC; and Red Monarch Strategies, Inc.

Project Management Support Consultant - InfraConsult (Infra 1)

The contract duration for the Project Management Support Consultant-InfraConsult I was April 20, 2007 to November 20, 2009. On April 20, 2007, the city entered into a contract, known as *Infra I*, with InfraConsult LLC. The contract directed the consultant to provide an in-house Project Management Support Consultant (PMSC) team. The original contract was valued at

approximately \$11.5 million and was funded from the city's Transit Fund. According to the agreement, InfraConsult would function as an extension of the city's staff. These services included professional, technical, managerial and other support services to initiate and complete the PE/EIS phase of the project in accordance with FTA statutory, regulatory, and administrative requirements.

To meet contract requirements, InfraConsult organized the PMSC team into three informal groups: planning and environment, engineering and architecture, and finance and administration. Within the planning and environment group, InfraConsult provided a Public Outreach Manager. The contract did not specifically identify an allocation or breakdown of public involvement costs, except for the Public Outreach Manager's compensation. The original contract duration was expected to be 30 months with an option to extend upon mutual agreement between InfraConsult and the city. The first contract amendment dated January 31, 2008, reallocated the budget within the contract, but did not increase the contract amount. The second and final contract amendment dated October 8, 2009 increased the contract value to approximately \$12 million.

In Infra I, there was one public involvement sub-consultant: Elissa Yadao.

Project Management Support Consultant - InfraConsult (Infra II)

The contract duration for the Project Management Support Consultant-InfraConsult II was five years running from November 19, 2009 to November 19, 2014. On November 19, 2009, the city executed a contract, known as *Infra II*, with InfraConsult to provide continued in-house project management services. The original contract value was approximately \$36.7 million funded from the city's Transit Fund.

The contract did not specify a financial breakdown for public involvement activities. Similar to its previous contract, InfraConsult would provide staff on a *secunded*¹⁰ basis to the city's Department of Transportation Services, Rapid Transit Division. In other words, secunded consultant staff would function as city staff. InfraConsult staff would participate in the functions of the division necessary to oversee and manage the project during the term of their individual assignments. These services included assisting the city in managing and overseeing the work of third-party consultants and consultants; coordinating FTA reporting; coordinating, updating and controlling FTA-mandated project documents; and complying with Pre-New Starts¹¹ final design activities. Other services included assisting the city with general project management and control activities, and oversight, planning, and developing the structure of the future management and systems operation. To accomplish these services, InfraConsult would provide 23 secunded consultant staff positions.

¹⁰ *Secunded* is defined as the separation of a person from their regular organization for temporary assignment elsewhere. Secunded staff are usually consultants who fill positions and function as if they were city employees

¹¹ The Federal Transit Administration's discretionary *New Starts* program is the U.S. Department of Transportation funding source to construct major transit capital investment projects.

Public involvement services included:

- Attending and participating in public meetings and hearings,
- Responding to comments and requests for information,
- Developing a brand identity for the project,
- Reviewing and commenting on consultants' plans for providing community public information during construction, and
- Recommending additional public information activities to supplement ongoing activities and improving responses to concerns of the general public and those directly affected by construction activities.

In *Infra II*, there were two public involvement sub-consultants: John Williamson, LLC and Group 8 Global Media and Communications, Corp.

Project Management Support Consultant - InfraConsult (Infra III)

The contract duration for the Project Management Support Consultant-InfraConsult III was three years from February 28, 2012 to February 28, 2015. On February 28, 2012, HART entered into a third contract with InfraConsult, known as *Infra III*. In *Infra III*, InfraConsult would be the Project Management Support Consultant (PMSC) and would provide in-house project management services and function as an extension of HART staff. InfraConsult staff would be seconded into HART positions in the overall organizational structure. The original contract value was approximately \$33.4 million and funded from the City's Transit Fund. There was no specific allocation or monetary breakdown of public involvement activities.

Consultant services included professional, technical, managerial and other support services to initiate and complete the PE/EIS phase, and the support of final design and construction. Public involvement services were similar to those required in *Infra II*.

In *Infra III*, there is one public involvement sub-consultant: John Williamson, LLC.

Appendix C

Public Involvement Collateral Materials



1) HART Drawstring Tote Bag



2) Mobility QR Code T-Shirt



3) HART Cooler Bag



4) Collapsible Water Bottles



5) HART Lanyards

Appendix D

GEC I & GEC II Public Involvement Tasks

GEC I-Public Involvement Tasks

	Scope	Details	Compliance	
			Yes	No
1	21.1 Implementation	Develop a public involvement plan	X	
	21.1.1: Plan Implementation			
2	21.1.2: Focus on Environmental Issues	Included in the Public Involvement Plan	X	
3	21.1.3: Preliminary Station Design	Included in the Public Involvement Plan (ongoing process)		X
4	21.1.4: Art in Transit	Included in the Public Involvement Plan (ongoing process)		X
5	21.1.5: Urban Design Guidelines	Included in the Public Involvement Plan	X	
6	21.1.6: Landscape	Included in the Public Involvement Plan (ongoing process)		X
	21.2 Public Involvement Program Activities	Program will provide opportunities for the public to provide input through meetings/briefings		
7	21.2.1: Participation in Community Events	Consultant will participate in two (2) community events per week for the duration of the PE/EIS phase; public meeting materials (e.g. displays, fact sheets, and comment forms) will be presented for review and comment	X	
8	21.2.2: Facilitation of Project Public Involvement Meetings	Consultant will handle all aspects of event coordination including selecting and securing meeting locations; paying all rental fees; prepare agendas, fact sheets, newsletters, flyers, media releases; and conducting reminder phone calls to encourage attend	X	
9	21.2.2: Facilitation of Project Public Involvement Meetings	Complete four (4) or five (5) design charrettes as part of the station area land use planning (Task 11.0); hold up to 40 working sessions (up to two per station) to refine architectural designs.	X	
10	21.2.3: Coordinating and Managing the Public Meetings Serving as the EIS Public Hearing	Consultant will host three (3) open-house style public hearings in the project area; produce and provide sign-in sheets, 200-500 black and white fact sheets summarizing the project and EIS process, and 200-500 comment sheets.	X	
11	21.2.3: Coordinating and Managing the Public Meetings Serving as the EIS Public Hearing	Respond to comments on the Draft EIS; implement a web-based data tracking program called <i>PB CommentSense</i>	X	
12	21.2.4: Producing Graphics in Support of Public Involvement Program	Produce graphics for public involvement activities separate from planning and engineering drawings, to include: Newsletters	X	
13	21.2.4: Producing Graphics in Support of Public Involvement Program	Produce graphics for public involvement activities separate from planning and engineering drawings, to include: Sign-in sheets	X	
14	21.2.4: Producing Graphics in Support of Public Involvement Program	Produce graphics for public involvement activities separate from planning and engineering drawings, to include: Website	X	

	Scope	Details	Compliance	
			Yes	No
15	21.2.4: Producing Graphics in Support of Public Involvement Program	Produce graphics for public involvement activities separate from planning and engineering drawings, to include: Media and/or community involvement presentations	X	
16	21.2.4: Producing Graphics in Support of Public Involvement Program	Produce graphics for public involvement activities separate from planning and engineering drawings, to include: Public hearing	X	
17	21.2.4: Producing Graphics in Support of Public Involvement Program	Produce boards that display relevant and important information: Community Events (2 per event)	X	
18	21.2.4: Producing Graphics in Support of Public Involvement Program	Produce boards that display relevant and important information: Charettes (20 per charrette/workshop)	X	
19	21.2.4: Producing Graphics in Support of Public Involvement Program	Produce boards that display relevant and important information: Public Hearing Displays (40 total)	X	
20	21.2.4: Producing Graphics in Support of Public Involvement Program	Produce boards that display relevant and important information: Community involvement/meeting boards (2 per month)	X	
21	21.2.5: Develop and produce presentations and managing presentation/meeting schedule	Consultant will participate in Speaker's Bureau meetings, as well as participate in additional meetings through the project area during progression of the project; maximum of eight (8) briefings of this type during PE/EIS	X	
22	21.2.6: Maintaining existing and developing new contacts with local groups and organizations including the city council and neighborhood boards	Consultant will maintain and develop new contacts with local groups and organizations, and participate in their meetings. A maximum of four (4) such will be attended per week.	X	
23	21.2.6: Maintaining existing and developing new contacts with local groups and organizations including the city council and neighborhood boards	Consultant will pay particular attention to reaching groups that are traditionally underserved and underrepresented in the public involvement process, such as low-income and minority populations (environmental justice populations)	X	
24	21.2.7: Maintaining and project mailing list, website, and hotline	Consultant will continue to develop an inclusive and diverse database incorporating all interested parties from the Alternatives Analysis phase, as well as new contacts; post various information on the website	X	
25	21.2.8: Develop, producing, and distributing public information documents	Consultant will prepare, publish, and distribute bi-monthly (with a maximum of 12) newsletters during the project period. Approximately 15,000 copies of each newsletter edition will be printed and distributed through direct mail, meetings, hearing, and briefings	X	
26	21.2.8: Develop, producing, and distributing public information documents	Consultant will prepare, print, and distribute fact sheets to property owners, businesses, community leaders, and the general public regarding the ongoing status of project design and construction. Fact sheets will be 8½ X 11" flyers	X	
27	21.2.9: Electronic media designed to describe and illustrate technical documents and project progress	Consultant will develop, produce, and distribute a maximum of 50,000 DVD and/or CDs to illustrate technical documents and project progress.	X	

	Scope	Details	Compliance	
			Yes	No
28	21.2.10: Responding to public inquiries about the project	Consultant will respond in a timely manner to all public inquiries through all established outlets including, but not limited to, the website, hotline, and/or written or verbal comments or inquiries.	X	
29	21.2.10: Responding to public inquiries about the project	Consultant shall maintain a database of all public agency comments received concerning the Draft EIS whether through the environmental process or through the normal course of public involvement	X	
30	21.2.11: Assist the RTD on media and/or agency coordination as needed	Consultant will work with the RTD to prepare quarterly press releases (up to eight) and develop up to eight project-related articles to be distributed by RTD's public information office to local publications and media	X	
31	21.2.12: Documentation	Consultant will prepare monthly public involvement activity reports. The reports will describe public involvement activities for the subject time period and summarize results/public input received	X	
	Deliverables			
32	Public Involvement Plan		X	
33	Monthly Public Involvement Activity Reports		X	
34	Public Involvement Summary Reports		X	
35	Final summary of Public Involvement Activities	Auditor's note: public involvement is an ongoing process until the entire rail project is completed, At this time, there is no final summary of public involvement activities		X
36	PB <i>CommentSense</i> documentation and logs		X	
37	Boards, displays, and visual simulations		X	
38	Fact sheets, newsletters, and other media		X	
39	DVDs and CDs of technical documents		X	

GEC II-Public Involvement Tasks

	Scope	Details	Compliance	
			Yes	No
	13.01 Public Involvement Program Activities	City and Consultant are to continue to add to the public involvement activities conducted during the Preliminary Engineering/EIS phase of the project		
1	13.01.01: Participate in Community Events	Consultant will actively see out community events to inform and educate the public about the project, similar to the PE/EIS phase: Informational Materials	X	
2	13.01.01: Participate in Community Events	Comment Forms	X	
3	13.01.01: Participate in Community Events	Attendance Records	X	
4	13.01.01: Participate in Community Events	Summary Reports (agendas, comments and statements of responsive members, etc.)	X	
5	13.01.02 Facilitate Project Public Involvement Meetings	Consultant will provide event coordination, including selecting and securing a location compatible with community needs; will provide the city with original printed and electronic copies of all informational materials/handouts; and up to three (3) workshops will be held for each station grouping in communities that have not yet had a workshop opportunity.	X	
6	13.01.03 Produce Graphics in Support of Public Outreach	Consultant to provide public outreach materials with an innovative and consistent graphic representation (newsletters, sign-in sheets, website, media, and community involvement presentations).	X	
7	13.01.04 Develop and Produce Presentations and Manage Presentations/Schedule (Speaker's Bureau)	Consultant will participate in Speakers Bureau meetings, as well as participate in additional meetings during the progression of the project; will assist the city in preparing for briefings to the council and local governing bodies regarding the community involvement component of the project.	X	
8	13.01.05 Maintaining Existing and Develop New Contacts with Local Groups and organizations, including council and neighborhood boards	Consultant will assist the city in maintaining existing and developing new contacts with local groups and organizations; provide oversight and guidance to consultants when delivering communications during construction; and update and assist in maintenance of the Public Involvement database.	X	
9	13.01.06 Maintaining the project mailing list, internet outreach, and telephone hotline	Update project websites, manage telephone hotline, and update project contact database	X	
10	13.01.07 Develop, Produce, and Distribute Public Information Documents and Electronic Media	Consultant will prepare and print fact sheets to be distributed to property owners, businesses, community leaders, and the general public	X	

	Scope	Details	Compliance	
			Yes	No
11	13.01.07 Develop, Produce, and Distribute Public Information Documents and Electronic Media	Consultant will identify areas and present applicable project information in heavily trafficked areas such as satellite city halls, shopping malls, etc.	X	
12	13.01.07 Develop, Produce, and Distribute Public Information Documents and Electronic Media	Consultant will develop, produce, and distribute DVDs or CDs to illustrate technical aspects of the project	X	
13	13.01.08 Respond to Public Inquiries About the Project	Consultant will maintain a tracking system of public comments and associated responses	X	
14	13.01.09 Present Community Feedback to the Project Team	Consultant will form committees or provide other efforts to provide input/feedback to Project Team on behalf of the public. (Put on hold)		X
15	13.01.10 Effectiveness of the Program	Consultant will provide market research semi-annually or will evaluate specific milestones or issues.	X	
16	13.01.11 System Branding	Consultant will create branding guidelines and implement a program to generate public awareness of the final system name and graphics. (Put on hold)		X
	13.02 Support Construction Management in Oversight of Consultant Public Outreach Teams	Each construction consultant will have a public outreach team and the consultant will oversee consultant efforts in order to maintain a consistent message.		
17	13.02.01 Oversee Public Contract	Consultant will oversee consistent message, positive project representation, and encourage conflict resolution as consultants provide regular contact with businesses and residents in their area of responsibility	X	
18	13.02.02 Disseminate Construction-Related Travel Information	Consultant will aggregate travel information provided by others to provide a weekly travel advisory, posted on the internet and on social media sites	X	
19	13.02.03 Weekly Travel Advisory to Support Construction Impact Mitigation	Consultant will supplement consultant's public outreach programs as directed by the city, including access to roads and driveways, business disruptions, parking and special land use	X	
	13.03 Support the City in media and Agency Coordination as Needed	Consultant will assist the city to prepare boards, press conferences, media releases, and offer proposals for television and radio appearances.		
20	13.03.01 Construction-related Media Contact	Consultant will provide oversight of construction consultant public outreach teams; emergency contact tree for active construction sites.	X	
21	13.03.02 Paid Media	Consultant will design and produce media materials, such as television, radio, print, and multi-media outlets; legal notices, milestones, and significant project events	X	
22	13.04 Documentation	Consultant to provide an updated Public Involvement Plan	X	
23	13.04 Documentation	Consultant to provide electronic and hardcopy files of public outreach-based project material	X	
24	13.04 Documentation	Consultant to provide monthly FTA binder	X	

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Appendix E

Public Involvement Team (as of April 2013)

	Title	Employer	Full/Part-time	Year Started on Rail Project	Public Involvement Duties
1	Public Information Officer (Consultant)	Infra Consult	Full time	2011	<ul style="list-style-type: none"> Manages the public involvement team (PB and HART employees) Oversees media/communication (newsletters, video, website, hotline, etc.) Implement public outreach plan Serve as official HART spokesperson Serves as primary contact to external stakeholders (i.e. HART board of directors, city administration/mayor, state personnel, FTA, etc.) Ensures contract compliance
2	Communications Manager (Consultant)	PB	Full time	2009	<ul style="list-style-type: none"> Manages PB's public communication team, including sub-consultants Coordinate construction communication (community canvassing, addressing archaeological work inquiries, notifying businesses and the public of construction activity, providing traffic updates and notices) Develop brochures and collateral (signs, banners, and displays), managing booth events (Aloha Run and Food Expo) as required in GEC contract Coordinate website strategy
3	Multi Media Administrator ¹ (HART)	HART	Full time	2011	<ul style="list-style-type: none"> Manage, maintain, and update HART website Manage social media accounts (Facebook, Twitter, and Flickr) and new media (You Tube and Vimeo) Assist with video production
4	Information Specialist III (HART)	HART	Full time	2010	<ul style="list-style-type: none"> Coordinate, produce, and host <i>Honolulu on the Move</i> show; update community videos Provide input on monthly newsletter Checking and updating brochures or project overviews for meetings and events Assist with HART website Respond to city DART complaints
5	Information Specialist II (HART)	HART	Full time	2011	<ul style="list-style-type: none"> Conduct public outreach Coordinate and speak at community and business events Manage hotline calls and responses Develop a Construction Communication Plan to address residents' and businesses' issues

¹ This position was transitioned out of Public Involvement in May 2013.

	Title	Employer	Full/Part-time	Year Started on Rail Project	Public Involvement Duties
6	Information Specialist II (HART)	HART	Full time	2009	<ul style="list-style-type: none"> Media management Coordinate traffic updates with consultant Develop construction media plan Draft press releases Deliver presentations to community and business events
7	Secretary II (HART)	HART	Full time	2010	<ul style="list-style-type: none"> Draft correspondence Field and direct calls from media and other local and federal agencies Draft public involvement meeting agendas, maintain calendar, and coordinates with other departments
8	Sub-Consultant ² (PB)	Independent	Part time	2005	<ul style="list-style-type: none"> Community outreach and mediation with the native Hawaiian community Provide input toward incorporating native Hawaiian community suggestions into rail station design
9	Sub-Consultant (PB)	Independent	Part time	2005	<ul style="list-style-type: none"> Conduct "grassroots community relations" Attend community meetings, neighborhood boards, and community associations Develop communications strategies
10	Sub-Consultant (InfraConsult)	Independent	Part time	2012	<ul style="list-style-type: none"> Communications consultant Conduct survey research Drafting and editorial services Facilitate materials production Participate in community outreach events and activities
11	Graphic Artist - Sub-Consultant ³ (PB)	LKG-CMC	Part time	2008	<ul style="list-style-type: none"> Graphic design services for public involvement materials
12	Events Coordinator– Sub-Consultant (PB)	LKG-CMC	Part time	2008	<ul style="list-style-type: none"> Coordinate public involvement events (arrange for location, payment, and logistics) Coordinates the internal <i>Speakers' Bureau</i> and <i>CommentSense</i> databases Manages public involvement database, news clipping service, and email blasts

² This sub-consultant ended public involvement billings in January 2013.

³ The graphic artist position was not exclusive to Public Involvement. During an interview, this sub-consultant confirmed part-time work for public involvement and reported to PB's Public Involvement and Communications Manager.

Appendix F

Employer v. Independent Consultant (Public Involvement Officer)

Worker Classification Rules: U.S. Internal Revenue Service Guidelines

Behavioral Control

	IRS Factor	OCA Determination
1	Instructions. If the person for whom the services are performed has the right to require compliance with instructions, this indicates employee status. An employee is required to follow instructions about when, where, and how to the work.	Employee
2	Training. Worker training (e.g. by requiring attendance at training sessions) indicates that the person for whom services are performed wants the services performed in a particular manner, which indicates employment status. Initial and continuing training from the employer suggest employment status.	Independent Consultant
3	Services Rendered Personally. If the services are required to be performed personally, this is an indication that the person for whom services are performed is interested in the methods used to accomplish the work, which indicates employee status. Services cannot be contracted out.	Employee
4	Hiring, supervising and paying assistants. If the person for whom services are performed hires, supervises or pays assistants, this generally indicates employee status.	Independent Consultant
5	Continuing Relationship. A continuing relationship between the worker and the person for whom the services are performed indicates employee status. A continuing relationship (even if occurring at frequent but irregular intervals) is likely an employee status.	Employee
6	Set Hours of Work. The establishment of set hours for the worker indicates employee status.	Independent Consultant
7	Full time Required. If the worker must devote substantially full time to the business of the person for whom services are performed, this indicates employee status. An independent consultant is free to work when and for whom he or she chooses.	Employee
8	Work Done On Premises. If the work is required to be, or is usually, performed on the premises of the person for whom the services are performed, this indicates employee status, especially if the work could be done elsewhere. An independent consultant is required to fulfill the requirements of the contract but may work whenever he or she wishes to work to fulfill those requirements.	Employee
9	Order or Sequence Set. If a worker must perform services in the order or sequence set by the person for whom services are performed, that shows the worker is not free to follow his or her own pattern of work and indicates employee status.	Employee
10	Oral or Written Reports. A requirement that the worker submit regular reports, often in writing to show completion of work, indicates employee status.	Independent Consultant

Financial Control

	IRS Factor	OCA Determination
11	Payments by hour, week, or month. Payment by the hour, week, or month generally points to employment status; payment by the job or a commission indicates independent consultant status. An independent consultant is more likely to be paid as aspects of the total project are completed, but at no specific time intervals.	Employee
12	Payment of business or travel expenses. If the person for whom the services are performed pays or reimburses for expenses, this indicates employee status.	Employee
13	Furnishing of tools and materials. The provision of significant tools and materials to the worker indicates employee status.	Employee
14	Significant investment. Investment in facilities used by the worker indicates consultant status.	Employee
15	Profit or loss. A worker who can realize a profit or suffer a loss as a result of the services (in addition to profit or loss ordinarily realized by employees) is generally an independent consultant.	Employee

Relationship Factors

	IRS Factor	OCA Determination
16	Integration. Integration of the worker's services into the business operations of the person for whom services are performed is an indication of employee status. In other words, services are essential to the operation of the employer, rather than merely incidental.	Employee
17	Working for more than one firm at a time. If a worker performs more than de minimis services for multiple firms at a time, that generally indicates independent consultant status.	Employee
18	Making services available to the general public. If a worker makes his or her services available to the public on a regular and consistent basis that indicates independent consultant status.	Independent Consultant
19	Right to discharge. The right to discharge a worker is a factor indicating that the worker is an employee.	Independent Consultant
20	Right to terminate. If a worker has the right to terminate the relationship with the person for whom services are performed at any time he or she wishes without incurring liability that indicates employee status.	Independent Consultant

Source: U.S. Internal Revenue Service

Hawai'i Department of Labor and Industrial Relations

	Department of Labor and Industrial Relations Guidelines	OCA Determination
1	Individual must be free from control or direction	Employee
2	Services must be performed outside the usual course of business or place of business	Employee
3	Individual must be customarily engaged in an independent occupation, trade, profession, or business of the same nature as that involved in the contract of service	Independent Consultant

Note: The department requires an "Independent consultant" to meet **ALL** three criteria

Source: *Handbook for Employers on Unemployment Insurance*, Hawai'i State Department of Labor and Industrial Relations

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Appendix G

Resolution 12-149



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

No. 12-149

RESOLUTION

REQUESTING THE CITY AUDITOR TO CONDUCT AN AUDIT OF THE HONOLULU AUTHORITY FOR RAPID TRANSPORTATION'S CONTRACTS AND SPENDING FOR PUBLIC RELATIONS AND PUBLIC INVOLVEMENT SERVICES.

WHEREAS, according to information provided by the Honolulu Authority for Rapid Transportation ("HART") to the Honolulu City Council, HART has contracted with at least two major contractors, who in turn have hired at least eleven subcontractors, to provide "public involvement" services at a cost of about \$4 million (Dept. Com. 405, 2012); and

WHEREAS, the public involvement services from these contracts are over and above the services already provided by the five HART employees who are dedicated to public relations and involvement and make a combined \$362,000 in salaries (Dept. Com. 405, 2012); and

WHEREAS, additionally, large contractors hired by HART to work on the rail project often employ their own public relations teams on staff or through subcontract, such as Kiewit Infrastructure, which has its own public information employees and contracts with a separate public relations firm for even more public information help with the project; and

WHEREAS, HART has stated that its public involvement work is a requirement of any federally funded project to encourage public participation during all stages of the rail project, although no citation for this federal requirement has been provided and concerns have surfaced regarding what appears to be excessive spending on public involvement; and

WHEREAS, additional concerns have been raised that HART's public involvement work, contracts, and spending have crossed the line from public information to political programs and efforts designed to influence public sentiment, lobby elected officials, and push the project forward at an unreasonable pace; and

WHEREAS, the Council finds that the large amount of money spent by HART on public involvement, both in-house as well as through contractors and subcontractors, seems increasingly political, excessive, and unjustifiable; and

WHEREAS, the Council believes there is a public need to examine the contracts and spending for the rail project's public relations and public involvement services to ensure that taxpayer dollars are being used wisely and not misused; and



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

No. 12-149

RESOLUTION

BE IT RESOLVED by the Council of the City and County of Honolulu that it urges the City Auditor to conduct an audit of the Honolulu Authority for Rapid Transportation's contracts and spending for public relations and public involvement services; and

BE IT FURTHER RESOLVED that the City Auditor, among other audit tasks, determine what specific public involvement service or services each employee, contractor and subcontractor provides, and provide an opinion on whether these services, and the amount paid for these services, individually and collectively, are objective, required by federal law, and therefore justified; and

BE IT FINALLY RESOLVED that copies of this Resolution be transmitted to the Office of the City Auditor, the Chair of the Honolulu Authority for Rapid Transportation, and the Mayor.

INTRODUCED BY:

Julie Gahland
[Signature]
Ann Kobayashi

DATE OF INTRODUCTION:

JUN 19 2012
Honolulu, Hawaii

Councilmembers

CITY COUNCIL
 CITY AND COUNTY OF HONOLULU
 HONOLULU, HAWAII
 CERTIFICATE

RESOLUTION 12-149

Introduced: 06/19/12 By: TULSI GABBARD

Committee: BUDGET


Title: RESOLUTION REQUESTING THE CITY AUDITOR TO CONDUCT AN AUDIT OF THE HONOLULU AUTHORITY FOR RAPID TRANSPORTATION'S CONTRACTS AND SPENDING FOR PUBLIC RELATIONS AND PUBLIC INVOLVEMENT SERVICES.

Links: [RES12-149](#)
[CR-206](#)

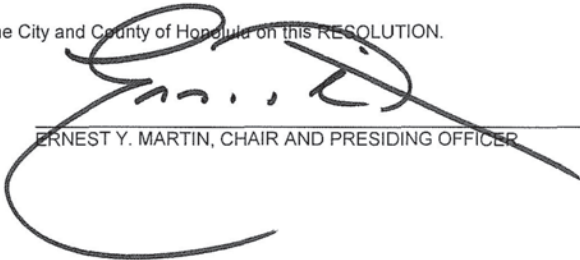
Voting Legend: Y= Aye, Y* = Aye w/Reservations, N = No, A = Absent, ABN = Abstain

BUDGET	06/25/12	CR-206 – RESOLUTION REPORTED OUT OF COMMITTEE FOR ADOPTION.							
COUNCIL	07/11/12	CR-206 AND RESOLUTION 12-149 WERE ADOPTED.							
ANDERSON	Y	BERG	Y	CACHOLA	Y	CHANG	A	GABBARD	Y
GARCIA	Y	HARIMOTO	Y	KOBAYASHI	Y	MARTIN	Y		

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION.



 BERNICE K. N. MAU, CITY CLERK



 ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER

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