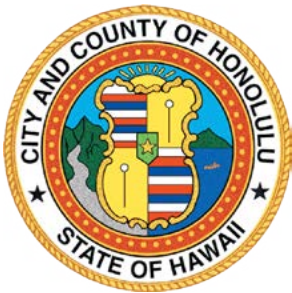




Office of the City Auditor



**City and County of
Honolulu
State of Hawai`i**

**Report to the Mayor
and the
City Council of Honolulu**

**Follow-Up on
Recommendations from
Report No. 05-02, *Audit
of Selected Management
Issues of the Honolulu
Liquor Commission***

**Report No. 19-05
November 2019**

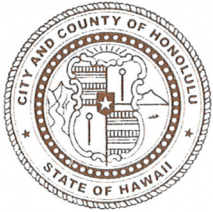
**Follow-Up on Recommendations
from Report No. 05-02, *Audit of
Selected Management Issues of
the Honolulu Liquor Commission***

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. 19-05
November 2019



OFFICE OF THE CITY AUDITOR
CITY AND COUNTY OF HONOLULU

1001 KAMOKILA BOULEVARD, SUITE 216, KAPOLEI, HAWAII 96707 / PHONE: (808) 768-3134 / FAX: (808) 768-3135

TROY SHIMASAKI
ACTING CITY AUDITOR

November 29, 2019

The Honorable J. Ikaika Anderson, Chair
and Members
Honolulu City Council
530 South King Street, Room 202
Honolulu, Hawai'i 96813

Dear Chair Anderson and Councilmembers:

A copy of our report, *Follow-Up on Recommendations from Report No. 05-02, Audit of Selected Management Issues of the Honolulu Liquor Commission* is attached. This follow-up audit was initiated by our office pursuant to Section 3-502.1(d) of the Revised Charter of Honolulu which requires the city auditor to conduct follow-up audits and monitoring of compliance with audit recommendations. The audit was also included in the Office of the City Auditor's Annual Work Plan for FY2019-20.

The original audit, issued in April 2005, was in response to Council Resolution 03-223, requesting the city auditor to review the investigative and enforcement functions of the Honolulu Liquor Commission. The resolution requested that the audit include, but not be limited to, an examination of the management controls to safeguard the investigative and enforcement functions of the Commission; and provisions of state statutes, city charter provisions, and city ordinances needing amendment or adoption in order to reform the commission's investigative and enforcement functions. The original audit focused on issues dealing with the Commission's organization structure and personnel management practices that we believed were essential elements in the effective management of the Commission. The original audit made 15 recommendations.

For purposes of this follow-up audit, we focused on five outstanding recommendations from Report No. 05-02. We found that four of the five recommendations were in-process and one recommendation is completed.

In response to a draft of this follow-up audit, the managing director expressed agreement with four of the five follow-up assessments. In that draft version of the report we noted that the recommendation asking the Liquor Commission to assess whether effective administrative oversight of the Commission necessitates the creation of an adjudication board separate from the commissioners was deemed *Not Started*. On October 29, 2019, and subsequent to the draft audit report, the Liquor Commission met and took official action on the merits of a separate adjudication board; the board voted against the creation of a separate adjudication board. In acknowledging the board's formal action, we amended the status of the recommendation from *Not Started* to *Completed*. Regarding the status of the Liquor Commission's 2018 submission of its updated audit recommendation status, we do not dispute that the commission submitted a response through the proper channels. We note, however, that the Liquor Commission's response was not included in the coordinated submission of audit recommendation status updates provided by the managing director's office in 2018. In addition, we made technical, non-substantive amendments to the draft report for purposes of accuracy, clarity, and style.

The Honorable J. Ikaika Anderson, Chair

and Members

November 29, 2019

Page 2 of 2

We would like to express our sincere appreciation for the cooperation and assistance provided us by the managers and staff of the Honolulu Liquor Commission. We are available to meet with you and your staff to discuss this follow-up audit report and to provide more information. If you have any questions, please call me at 768-3134.

Sincerely,

A handwritten signature in black ink, appearing to read "Troy Shimasaki". The signature is fluid and cursive, with a small mark above the "i" in "Shimasaki".

Troy Shimasaki
Acting City Auditor

c: Kirk Caldwell, Mayor
Roy K. Amemiya, Jr., Managing Director
Franklin "Don" Pacarro, Jr., Administrator, Honolulu Liquor Commission
Nelson H. Koyanagi, Jr., Director, Department of Budget and Fiscal Services

Follow-Up on Recommendations from Report No. 05-02, *Audit of Selected Management Issues of the Honolulu Liquor Commission*

November 2019

Background

The *Audit of Selected Management Issues of the Honolulu Liquor Commission, Report No. 05-02*, issued in April 2005, found that overall the Commission had a small hard-working staff whose performance was hampered by:

- Inadequate oversight and management of the Commission that required improvement to ensure that the Commission fulfilled its responsibilities pursuant Chapter 281, HRS; and
- Ineffective managerial operational practices.

Based on these findings the audit made 15 recommendations: 9 directed to the Commission, 4 directed to the Liquor Control Administrator and 2 directed to mayor. Since the original report was issued in 2005, the Office of the City Auditor (OCA) has periodically monitored the status of the report's recommendations by requesting that the Commission report on the status of the audit recommendations. In 2011, we reported that 7 of the original 15 recommendations had been completed; 1 recommendation had been dropped, 5 were in progress, and 2 had not been started. In 2012 we reported that there had been no change in the status of the response to the remaining 7 outstanding audit recommendations. In 2015, we reported, based on the Commission's response, that 1 of the 7 outstanding recommendations had been completed, while the rest remained in progress or not started. However, in 2018, we did not receive an updated status report of the outstanding recommendations from the Commission. Based on this and the period of time that has transpired since the audit was completed, we determined that a follow-up audit should be performed to verify the status of the outstanding recommendations.

The five outstanding audit recommendations included in this follow-up audit are:

The Commission should:

1. *Establish an appropriate timeframe for the proposed reorganization plan. Any reorganization plan should include clear description and identification of duties of the proposed senior management team, including descriptions of the qualifications of persons to hold the positions.*
2. *Assess whether effective administrative oversight of the Commission necessitates the creation of an adjudication board separate from the commissioners.*






3. *Work with the Department of Budget and Fiscal Services to have the Internal Control Division conduct a thorough review of the Commission’s processes and practices relating to:*
 - *Auditing of licensees, and*
 - *Allocation and utilization of funds received from liquor violation fines.*

The Liquor Control Administrator should:

4. *Work proactively with the liquor commissioners to identify and fill necessary vacant staff positions. This should include, but not be limited to: filling vacant positions, removing administratively imposed freezes on vacant positions necessary for effective operations, and actively pursuing the necessary fee adjustments to support proper staffing of the Commission. The administrator must actively pursue both of these issues to the administration and the city council.*
5. *Ensure that the administrative directives and other appropriate policies and procedures are reviewed and updated. This should include:*
 - *Procedures and protocols for investigator actions that are clearly defined and routine followed;*
 - *A clear rationale and program for selection of licensees to be audited, a plan to achieve full review of licensees is implemented, and necessary resources secured to achieve these objectives;*
 - *Clearly identified staff duties and responsibilities; and*
 - *Clear guidelines, requirements, minimal acceptable requirements of licensee applications and supporting documents, and provided to all licensee applicants, investigators, commissioners, applicants and others involved in the license process.*

Two of the outstanding seven recommendations were directed to the mayor and are omitted from this follow-up audit since the mayor’s response is independent of the Commission.

Audit Results

 Completed 1	 Resolved --	 In Process 4	 Not Started --	 Dropped --
Agency has fully implemented the audit recommendation.	Although agency did not implement the audit recommendation, it implemented an alternative solution that fully addressed the applicable audit finding or risk.	Agency started or has partially implemented the audit recommendation.	Agency has not begun implementation of the recommendation.	Agency has no plan to implement the recommendation; the risk associated with the recommendation no longer exists, or is no longer applicable.

We found that four of the five outstanding recommendations are in process, while one has been completed. In the 14 years since the original audit was completed, there have been four changes in the administrator position. In addition, the Liquor Commission continues to be short-staffed. We found that staffing was a problem in the 2005 audit and find that staff shortage continues to challenge the effective operations of the Commission. The changes in the administration of the Commission and staff shortage may have contributed to the length of time involved in addressing the outstanding audit recommendations. We note that only since the current administrator was appointed in 2014, has material progress in addressing the outstanding recommendations been made. We encourage the Commission to continue its efforts to address the remaining audit recommendations.

Recommendation 1



In Process

Establish an appropriate timeframe for the proposed reorganization plan. Any reorganization plan should include clear description and identification of duties of the proposed senior management team, including descriptions of the qualifications of persons to hold the positions.

STATUS UPDATE

The Commission reported in 2011, six years after the original recommendation, that a major reorganization plan was underway; however, an estimated completion date had yet to be determined (See Appendix A for existing organization structure in 2005). In 2014 the Commission reported that the plan was still undergoing review by the Department of Budget and Fiscal Services to which the Commission is administratively attached. As part of the follow-up audit, Commission staff confirmed that there were two draft reorganization plans proposed during this period. However, proposals did not progress beyond the discussion phase and no formal reorganization plans were completed and submitted for review prior to 2018.

In October 2018, the managing director approved a reorganization of the Commission's Administrative Services Branch. The reorganization plan for this branch included revising and updating the branch's 12 position descriptions. The proposed branch reorganization was completed in consultation with the Department of Human Resources (DHR), Department of Budget and Fiscal Services (BFS), and the Hawai'i Governmental Employees Association (HGEA). After review and approval of the Commission's management, the Administrative Services Branch reorganization was submitted for review and approval in March 2018 and was approved in October 2018 (See Appendices B and C).

A similar review is currently underway for the Commission's Field Services Branch. This reorganization effort is being performed in-house by the branch's Chief Investigator and the Commission's Administrative Services Officer. Like the Administrative Services Branch reorganization, all position descriptions in the Field Services Branch will be updated to clarify duties, minimum job qualifications, and help ensure that career paths exist in the branch. Staff reported that one of the reorganization's objectives is to build flexibility and a better defined career path for liquor control investigators. Upon completion of the draft plan and position descriptions the Commission will consult with DHR, BFS, and HGEA for any changes and modifications that are needed prior to submitting the reorganization plan for consideration and approval. The target date to submit this reorganization plan to the managing director for approval is in FY 2020.

NEXT STEPS

We conclude that after 14 years, the response to this recommendation is still in progress and despite the time that has transpired, are encouraged that a partial reorganization has been completed, and that the Field Services Branch's reorganization is currently being actively pursued. A Commission staff also reports that an additional organization change is requested in FY 2021 for the Administrative Services Branch. The proposed reorganization will create a new accountant position to oversee the branch's Audit and Accounting Section and also create an additional liquor control auditor position which, if approved, would further address our audit's finding relating to frequency of the liquor licensee audits (see Appendix D).

A Commission staff person noted that since the 2005 audit was completed there have been four changes in the Liquor Control Administrator position. We acknowledge that organizational changes may be difficult to implement when the senior management position is experiencing periodic changes. We note that the current reorganization efforts have been all achieved under the current Liquor Control Administrator who stepped into the position in 2014. We urge the Commission to pursue completion, adoption, and implementation of the reorganization of the Field Services Branch so that an official organization plan for the Commission will be in place.

Recommendation 2**Completed**

Assess whether effective administrative oversight of the Commission necessitates the creation of an adjudication board separate from the commissioners.

STATUS UPDATE

Chapter 281, HRS, authorizes the Honolulu Liquor Commission to assume police powers to enforce regulations on intoxicating liquors, and to be responsible for the local enforcement of the chapter. This is in addition to the Commission's administrative responsibilities to control, supervise and regulate the manufacture, importation and sale of liquor. The audit found that the Commission's adjudication function could potentially hinder its effective administrative oversight responsibilities because of its need to remain *at arm's length* from Commission staff and avoid the appearance of bias in adjudicating cases. We therefore recommended that the Commission formally assess whether or not a separate adjudication board from the Commission would be preferred.

In 2010, and again in 2012, the Commission reported that this recommendation was under consideration but that in the meantime, had implemented a pre-adjudication process and hearing-waived violations process to streamline the adjudication process. In 2014 the Commission reported that two options were under consideration:

- The creation of an adjudication board; and
- Creation of an adjudications hearings officer position.

We note that establishing an adjudications board would require a charter amendment. A charter amendment would not be required to create a hearings officer position. The Commission indicated that the hearings officer position may be more advantageous because it would task the hearings officer with processing routine adjudication matters, while reserving oversight responsibilities for the Commission that include ratifying hearing officer decision-making and handling any appeals.

The Commission stated that further analysis was ongoing and the Liquor Control Administrator was expected to make a preliminary status report in March 2015. However, in 2018 we did not receive an updated status report for the 2017 audit status recommendations report.

We also selected a sample of five other liquor commissions nationally and found that four of the five commissions did not have separate adjudication boards. In Hawai'i as reported in the original audit, two of the four counties, Hawai'i and Maui, have separate adjudication boards while Kaua'i and the City and County of Honolulu do not.

The original recommendation was based on concern that the commissioners' oversight of the agency's operations and staff may be unduly limited in order to fulfill its adjudication board responsibilities. During our review, we did not find evidence that a formal assessment had been completed and discussed by the Commission. In a draft of this report we reiterated that the Commission had not taken formal action regarding the creation of an adjudication board since 2005.

On November 7, 2019, the Commission formally considered this audit recommendation by placing this matter on its meeting agenda. The Commission voted *no* to create a separate adjudication board. This official action brought a close to this recommendation.

Recommendation 3



Work with the Department of Budget and Fiscal Services to have the Internal Control Division conduct a thorough review of the Commission's processes and practices relating to:

- 1. Auditing of licensees, and**
- 2. Allocation and utilization of funds received from liquor violation fines.**

STATUS UPDATE

This recommendation suggested that the Commission could coordinate with the Department of Budget and Fiscal Services' Internal Control Division to review and suggest operational changes that would improve administration of licensees and fines. Previously the Internal Control Division had completed reviews/audits of the Liquor Commission's operations and developed recommendations for operational improvements. An internal review could provide a more detailed assessment and recommendations for managerial and operational improvements.

The first area of concern we identified was the practice of auditing licensees. Auditing liquor licensees is an essential function to ensure that licensees comply with current liquor regulations. During the original audit, we found that the Commission's audit function consisted of three in-house auditors under one supervisory auditor. However, staffing at that time consisted of one auditor with the remaining three audit positions vacant. We learned that although there is no set schedule, the informal goal was to have every licensee audited at least once during a 5- to 10-year period. Commission staff estimated that one auditor could complete approximately 25 audits in a given year. In 2005 there were approximately 1,400 licensees on O'ahu and even if fully staffed with three auditors and one auditing supervisor, it would take all four approximately 14 years to have audited each licensee at least once.

The current audit supervisor noted that the Audit Services Section has never been fully staffed so the time needed to audit every licensee, reported as 1,493 in FY 2018, at least once would exceed the 14-year timeframe and well beyond the *desired* 5- to 10-year timeframe.

Commission staff indicated that it is requesting one additional liquor control auditing position in FY 2021. In addition, the Commission is proposing to create a new accountant position that would have direct oversight of the Accountant and Senior Account Clerk positions, freeing the Liquor Control Auditor supervisor to focus solely on auditing activities. Additional auditing staff would potentially increase the number of licensee audits that can be performed annually. While there are no formal target goals, the informal goal for the number of audits to be completed annually has increased from 25 to 54. In addition, the Commission is in the process of implementing a new Liquor Control Information System (LCIS) computer program which will eventually replace the Commission's existing outdated and no longer supported system. Staff indicate that the new LCIS system offers the potential to improve the effectiveness of operations including more systematic processes for selecting licensees to audit.

The second area of concern dealt with the use of funds collected from fines from licensees for violating of the state liquor laws. In accordance with Section 281-17(3), HRS, funds resulting from collections should be used for educational purposes. *Fine* monies collected are deposited in a General Liquor Revenue Account. Liquor-related *fees* collected are deposited into a *holding* General Trust Fund account until license-related actions are completed and appropriate fees are then transferred to the same General Liquor Revenue Account.

We note some concern that the use of *fine* monies is restricted by statute and combining both *fine* and *fee* monies in the same account could potentially result in expenditures of *fine* monies that are prohibited. A staffer also reported that in the past, liquor funds may have also been transferred to the general fund. While there was no specific prohibition against such a transfer, there has been a long standing concern whether *fine* monies collected can be legally used for anything other than liquor-commission related educational purposes. This concern, which was identified as early as 1987 by the Internal Control Division, remains unresolved.

Regarding the collection and use of fines collected, the Commission has been seeking the creation of a separate fund account to clearly separate *fines* collected from *fees* and addresses the legal restrictions on use of the *fines* collected. In May 2018 the Commission submitted a request to BFS for the creation of a new General Trust Fund to specifically deal with fines collected. The Commission noted that creation of the fund would permit the agency to exercise more control over the collection and use of fines collected, enhance the separation of fines collected from fees and ensure that expenditures of fines met statutory requirements. The Commission reported that the initial request was rejected by BFS but that it will continue to work with BFS on creating a separate fund for fines collected.

NEXT STEPS

The Commission should continue efforts to utilize auditing staff and the updated LCIS to implement a more systematic auditing process of licensees and ensure the proper allocation and utilization of liquor commission fines collected. The Commission should also continue to pursue resolution for the accounting and tracking of liquor-related *fines*.

Recommendation 4



In Process

Work proactively with the liquor commissioners to identify and fill necessary vacant staff positions. This should include, but not be limited to: filling vacant positions, removing administratively imposed freezes on vacant positions necessary for effective operations, and actively pursuing the necessary fee adjustments to support proper staffing of the Commission. The administrator must actively pursue both of these issues with the administration and the city council.

In 2005 our audit found that staffing shortage and other personnel practices negatively impacted the Commission's ability to fulfill its responsibilities. We noted that existing staff demonstrated flexibility and a willingness to accommodate the needs of the Commission, but that could not overcome the operational limits of being chronically understaffed.

We found that in the 14 years since the audit was released, that the vacant staffing situation has actually worsened. We reported 19 vacant positions in 2005 and found that in 2019 vacancies had risen to 21. Of the 21 vacant positions, 16 were in the Field Services Branch which is responsible for the physical inspection of liquor licensee facilities. However, vacancies exist in all areas of the Commission's operations.

Commission staff confirmed that the agency continues to experience difficulty in hiring qualified personnel as well as retaining qualified, experienced staff. While efforts have been made to overcome the *negative* image of working for the Commission, there continue to be challenges in filling vacant positions. This is particularly true in the Field Services Branch where the working conditions may be less desirable given the hours of operations needed, a lack of advancement opportunities and perceived lower compensation levels for equivalent work. The original audit noted that the Commission had submitted a request to the Department of Human Resources (DHR) for an upward reallocation of the liquor enforcement officer positions, which it believed were not properly classified. DHR acknowledged receipt of the request but did not pursue the matter after the Commission failed to respond to follow-up questions to the proposal.

As an agency supported by a special fund, the Commission's operations are funded through the fees it collects from licensees. Since the 2005 audit was completed, there have only been two approved fee adjustments, once in 2017 and again in 2018. The Commission thus faces a challenge of providing quality service with serious staff shortages, while having to make the case for increasing fees to address staffing issues and improve service delivery.

NEXT STEPS

We recommend that the Commission continue efforts to fill necessary vacant staff positions to include but not be limited to ensuring proper position and job descriptions are in place, and assessment of fee adjustments necessary to support proper staffing levels.

Recommendation 5



Ensure that the administrative directives and other appropriate policies and procedures are reviewed and updated. This should include:

- 1. Procedures and protocols for investigator actions that are clearly defined and routinely followed;**
- 2. A clear rationale and program for selection of licensees to be audited, a plan to achieve full review of licensees is implemented, and necessary resources secured to achieve these objectives;**
- 3. Clearly identified staff duties and responsibilities; and**
- 4. Clear guidelines, requirements, minimal acceptable requirements of licensee applications and supporting documents, and provided to all licensee applicants, investigators, commissioners, applicants and others involved in the license process.**

STATUS UPDATE

As part of this follow-up audit, we expanded the review of the Commission's policies and procedures from those pertaining primarily to investigators to include all 154 of the Commission's policies and procedures. We found that while some areas have been addressed that, generally, all the policies and procedures needed to be updated. Many had not been revised since the 1990's and there was no indication the existing policies had been reviewed to ensure they were still current and relevant. We found instances where alternative policies and procedures have been developed or were being used by Commission personnel, but were not formally incorporated in the agency's official policies and procedures.

We did find evidence that the Audit and Accounting Section has established a clear rationale and program for selection of licensees to be audited. However, implementation of a module under the new Liquor Information Control System (LCIS) which is projected to facilitate the selection of licensees for audit is still under development.

Similarly we found that clear guidelines, requirements, minimal acceptable requirements of licensee application and supporting documents had been developed and were being provided to all licensee applicants, investigators, commissioners, and other involved in the license process. These guidelines are found primarily within the Commission's recently reorganized Administrative Services Branch. We found however, that for the Field Services Branch, the *formal* policies and procedures had not been updated. While supervisory staff indicated changes in training, and operational practices have been implemented, in many cases it has not been reflected in the Commission's policies and procedures.

NEXT STEPS

We recommend that the Liquor Control Administrator ensures that all policies and procedures are reviewed and updated to fully support the adopted reorganization.

Appendix A

Audit Objectives, Scope, and Methodology

The objective of the follow-up audit is to determine whether the Honolulu Liquor Commission has adequately addressed its open audit recommendations with appropriate corrective actions. We also assessed the relevance of the outstanding recommendations to the present Commission given the period that has transpired since the original audit was completed. This follow-up audit is limited to reviewing and reporting on the implementation of outstanding audit recommendations.

The seven recommendations that were determined to have been completed in prior reviews were not included in this audit; however, the one recommendation we noted as completed in the 2015 was included in the review to verify the status that had been reported. Two of the outstanding seven recommendations are directed to the mayor's office. Since this audit focused on the Commission and the Commission has no authority to address these recommendations, they were also excluded from the review. We noted that although there has been no action taken on the two recommendations to the mayor, the mayor's office acknowledged receipt of the recommendations.

For the five remaining recommendations, we reviewed the original audit and the available supporting documentation, interviewed selected commissioners, and Commission staff members, and selected other departmental staff, requested supporting documentation to substantiate information provided. We conducted on site observations and reviews of materials pertinent to the follow-up audit. We reviewed appropriate national standards pertinent to liquor commissions, compared the Commission's practice to selective national equivalents and also reviewed the policies and practices of other county liquor commissions in Hawai'i.

We assessed the Commission's internal controls to the extent that they related to the five outstanding recommendations. During the audit we were not aware of any other investigations, audits or other work by other agencies that may have impacted our work. In addition, we did not become aware of any possible fraud, waste or abuse situations during the course of the audit or relative to the audit objectives.

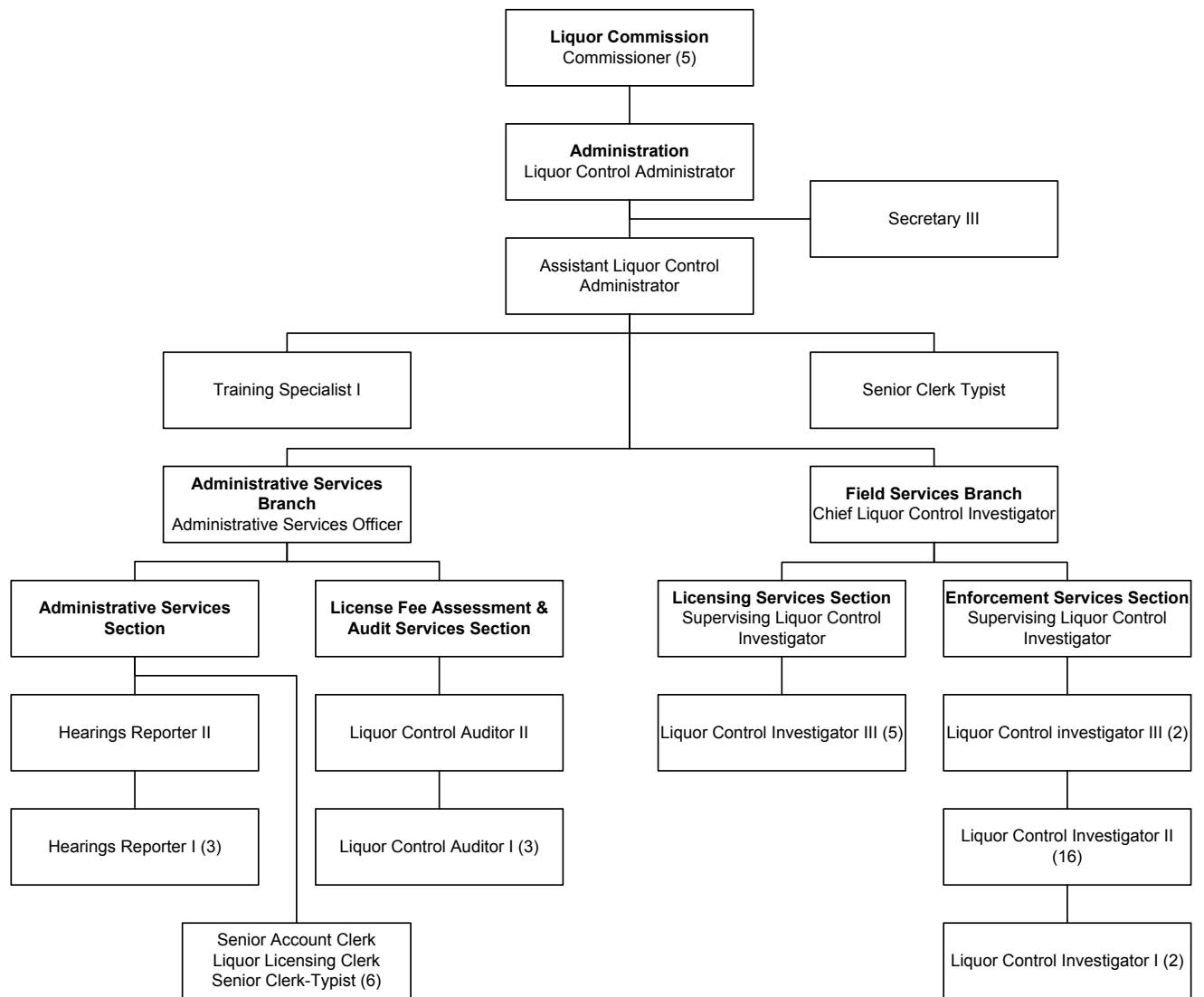
We met with responsible representatives of the Commission to discuss our preliminary findings in order to identify any concerns or clarifications that may be appropriate to the report.

The audit was conducted from February 2019 to August 2019 in accordance with generally accepted government auditing standards. These 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.

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Appendix B

Organization Chart of the Liquor Commission as of 2005

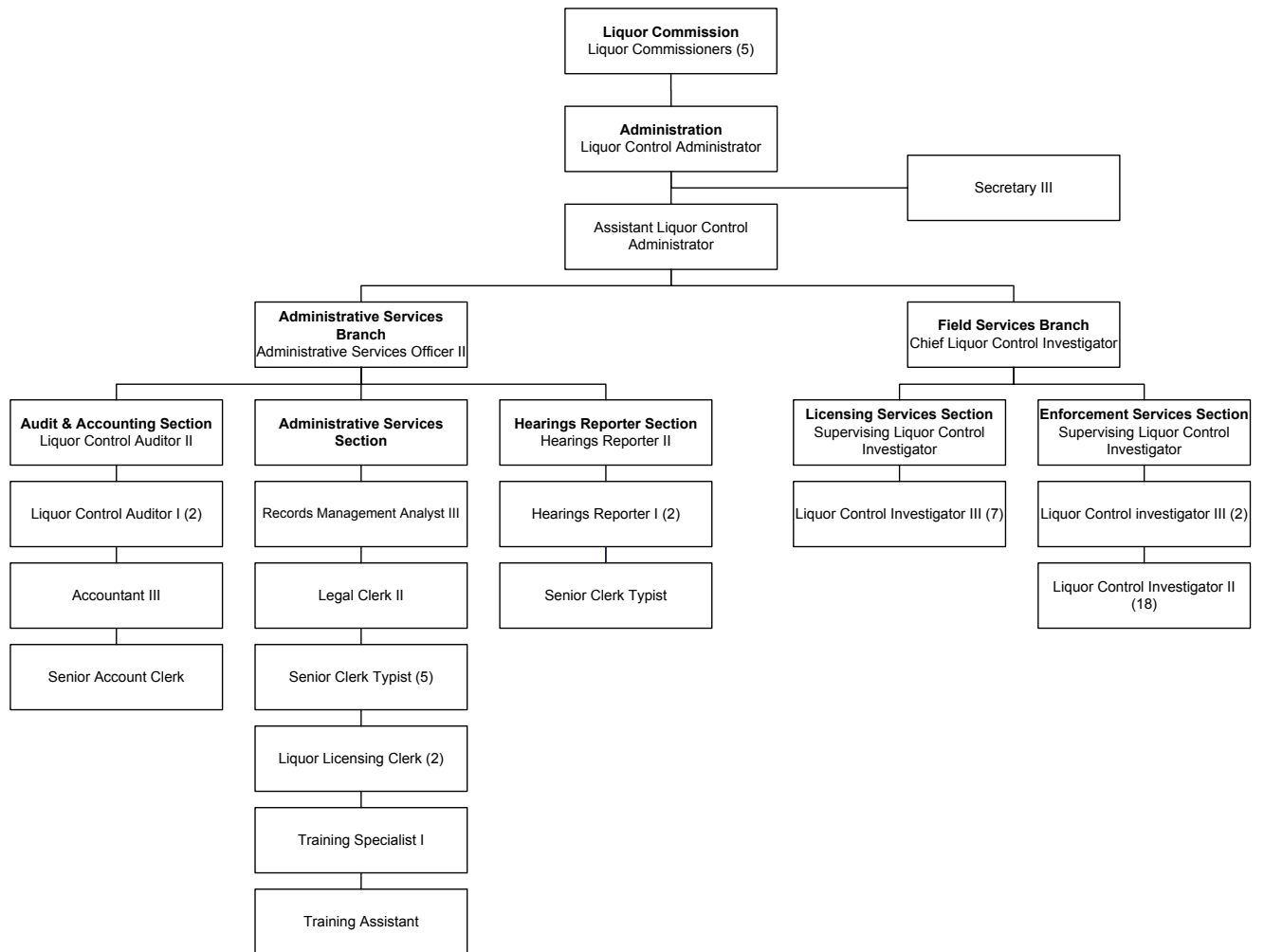


Source: Honolulu Liquor Commission

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Appendix C

Organization Chart of the Liquor Commission as of October 2018

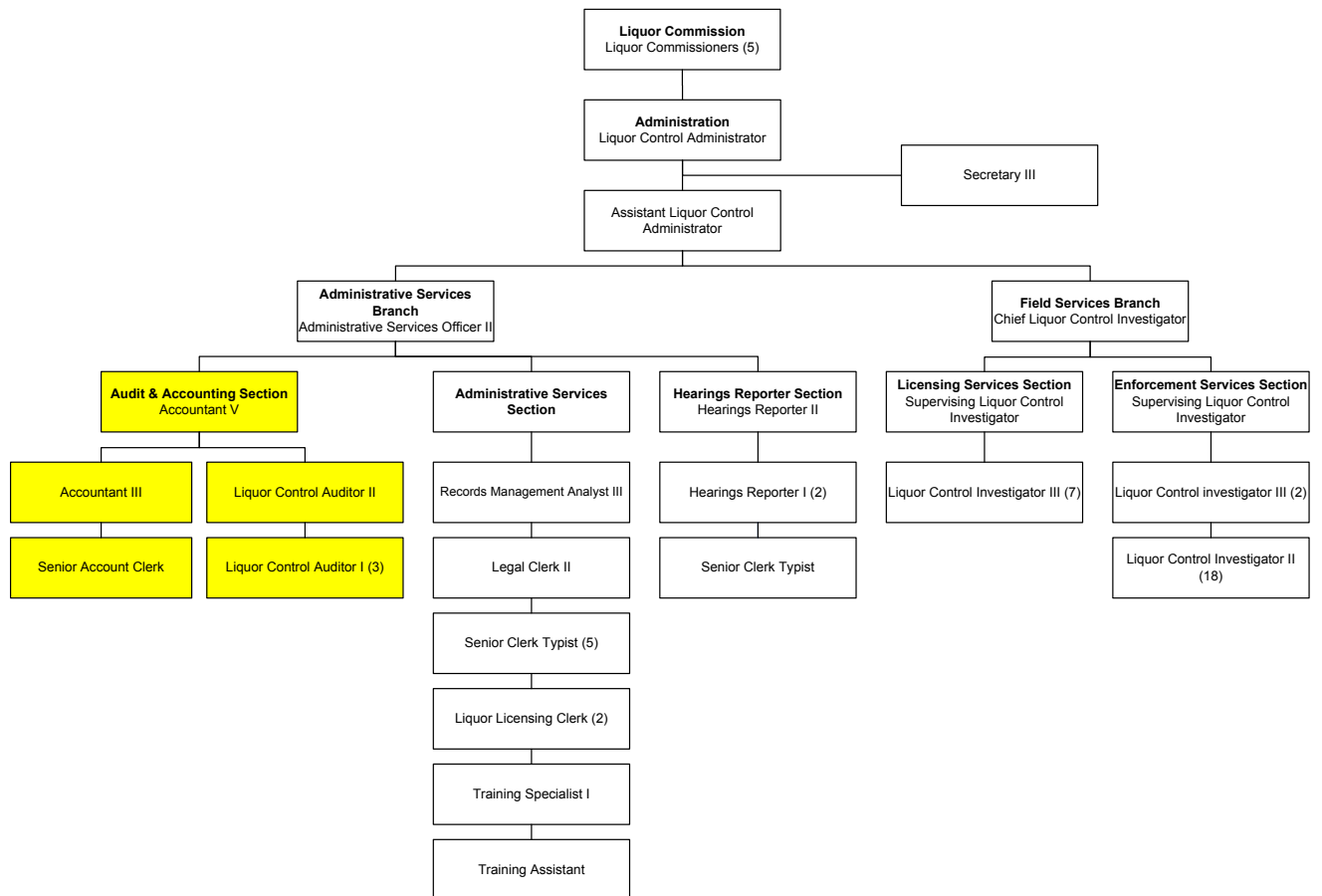


Source: Honolulu Liquor Commission

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Appendix D

Proposed Additional Reorganization of the Administrative Services Branch for FY 2021



Source: Honolulu Liquor Commission

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Appendix E

Management Response

OFFICE OF THE MAYOR
CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR



ROY K. AMEMIYA, JR.
MANAGING DIRECTOR
GEORGETTE T. DEEMER
DEPUTY MANAGING DIRECTOR

November 29, 2019

Mr. Troy Shimasaki
Acting City Auditor
Office of the City Auditor
1001 Kamokila Boulevard, Suite 216
Kapolei, Hawaii 96707

Re: Follow-Up on Recommendations from Report No. 05-02, Audit of Selected Management Issues of the Honolulu Liquor Commission

Dear Mr. Shimasaki:

Thank you for the opportunity to comment on the above-referenced audit report, which we received on November 7, 2019.

The Honolulu Liquor Commission (HLC) appreciates you recognizing that in the 14 years since the original audit was completed, there have been four changes in the Liquor Control Administrator position and that ". . . only since the current administrator was appointed in 2014, has material progress in addressing the outstanding recommendations been made." HLC's response to the five remaining recommendations are listed below.

Recommendations:

1. *Establish an appropriate timeframe for the proposed reorganization plan. Any reorganization plan should include clear description and identification of duties of the proposed senior management team, including descriptions of the qualifications of persons to hold the positions.*

Response: **Agree** – In Process. The managing director approved the HLC's reorganization of the Administrative Services Branch in October 2018. HLC is currently in discussion with the Department of Human Resources (DHR) to reorganize the Field Services Branch. Also, two additional positions are being requested in the FY21 budget to address the 2005 audit's finding relating to the frequency of audits of liquor licensees. If the new positions are approved, a third reorganization is anticipated by FY21.

2. *Assess whether effective administrative oversight of the Commission necessitates the creation of an adjudication board separate from the commissioners.*

Response: **Disagree**. HLC completed this item. In multiple fiscal years, after discussions with the Liquor Commissioners, under both Chair Michael S. Yamaguchi, and Chair Joseph V. O'Donnell, HLC marked this item "Completed." In the Audit

Mr. Troy Shimasaki
November 29, 2019
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Recommendations Status Report – Fiscal Year 2017, the item was again marked as “Completed,” and specifically stated:

The Liquor Commission will not pursue. After consideration of the average annual adjudications caseload and the existing services/support provided by the Corporation Counsel, the Administration has determined that creation of an adjudication board or of a hearings officer position would not enhance effective administrative oversight of this Commission function. The Honolulu Liquor Commission has demonstrated its ability to provide fair and objective fact finding and decision making as an adjudicatory body.

In a meeting on October 29, 2019, the City Auditor informed the HLC Administrator that a more “formalized” response is required to complete this recommendation. As such, at the HLC hearing held on November 7, 2019, the full Commission voted on Agenda Item No. 35. Chair Joseph V. O'Donnell read the following motion:

“Agenda Item No. 35. This is per the follow-up audit of open recommendations from Report No. 05-02 Audit of Selected Management Issues of the Honolulu Liquor Commission. The Commission shall decide whether: 1) the creation of an adjudication board is necessary; and 2) the creation of an adjudications hearings officer position is necessary. Commissioners, what is your answer to question number 1?”
All five Commissioners voted, “nay.”

Chair O'Donnell continued, “Commissioners, what is your answer to question number 2?”
All five Commissioners voted, “nay.”

The verbatim transcript minutes of this particular item will be posted on the Liquor Commission website by December 17, 2019.

Also, contrary to what was stated in this item, under “Status Update,” the HLC **absolutely submitted** their Audit Recommendations Status Report – Fiscal Year 2017. HLC emailed their response on November 2, 2017, through the proper channels, and received confirmation of such. However, we cannot explain why, in 2018, the City Auditor did not receive the updated Audit Recommendations Status Report – Fiscal Year 2017.

3. *Work with the Department of Budget and Fiscal Services to have the Internal Control Division conduct a thorough review of the Commission's processes and practices relating to: 1) Auditing of licensees, and 2) Allocation and utilization of funds received from liquor violation fines.*

Response: **Agree** – In Process.

Item 1) Auditing of licensees. HLC has a competent Liquor Control Auditor II (supervisor) who has already implemented changes to the processes and practices relating to the auditing of licensees. Those changes, in conjunction with having a total of four auditors at the start of FY20, shall increase the number of licensee audits

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 Page 3

that can be performed annually, and therefore, HLC can better exercise its regulatory function over 1,400+ liquor licensees.

Item 2) Allocation and utilization of funds received from liquor violation fines. As recently as May 2018, HLC submitted a request to create a separate fund account for fine monies. Several BFS division representatives met with HLC, but the request was ultimately rejected, even though the City Auditor previously noted a concern that the use of fine monies is restricted by Section 281-17(3), HRS, and combining both fine and fee monies in the same account could potentially result in expenditures of fine monies that are prohibited. HLC will seek assistance from the Internal Control Division to remedy this finding.

4. *Work proactively with the liquor commissioners to identify and fill necessary vacant staff positions. This should include, but not be limited to: filling vacant positions, removing administratively imposed freezes on vacant positions necessary for effective operations, and actively pursuing the necessary fee adjustments to support proper staffing of the Commission. The administrator must actively pursue both of these issues to the administration and the city council.*

Response: **Agree** – In Process. As of this writing, we are actively filling vacant positions. It is a challenge to find qualified Liquor Control Investigators to enforce our state liquor laws and the Rules of the Liquor Commission. To help remedy this, the positions are currently on continuous recruitment to give people the opportunity to apply at any time, instead of just during a City job recruitment. HLC is working with DHR to reallocate the positions with the goal of retaining qualified, experienced investigators.

5. *Ensure that the administrative directives and other appropriate policies and procedures are reviewed and updated. This should include: 1) Procedures and protocols for investigator actions that are clearly defined and routinely followed; 2) A clear rationale and program for selection of licensees to be audited, a plan to achieve full review of licensees is implemented, and necessary resources secured to achieve these objectives; 3) Clearly identified staff duties and responsibilities; and 4) Clear guidelines, requirements, minimal acceptable requirements of licensee applications and supporting documents, and provided to all licensee applicants, investigators, commissioners, applicants and others involved in the license process.*

Response: **Agree** – In Process. HLC will continue to update the policies and procedures on file.

As stated in the 2005 response to the original audit, the Liquor Commissioners and the Commission administration continue to view the audit process and the audit report as a reflection on the organizational health of this agency. The HLC Administrator's strategic plan is the impetus to achieve the audit recommendations to improve the work environment. We recognize that HLC alone cannot effect all changes without the collaborative efforts from other City departments. It is our sincere hope that other agencies will make a concerted effort to assist HLC as they work towards addressing the remaining outstanding audit recommendations.

The City Administration, the Liquor Commissioners, and the HLC Administration appreciate the fine work of the Office of the City Auditor, and we look forward to using the final

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audit report to further HLC's mission of being "firmly committed to provide outstanding regulatory services to enhance the quality of life in the City and County of Honolulu, and to create a safe and healthy environment for the public."

Warm regards,


FOR: Roy K. Anemiya, Jr.
Managing Director