CITY AND COUNTY OF HONOLULU

Performance Audit Of The Department Of The Prosecuting Attorney

February 21, 1992

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February 21, 1992

The Honorable Arnold Morgado, Jr.,
Chair and Members of The City Council
City and County of Honolulu
Honolulu, Hawaii 96813

Dear Council:

Attached is the performance audit report of the Department of the Prosecuting Attorney, City and County of Honolulu. The purpose of our performance audit was to assess the adequacy of the Department's organization and management of budgetary and fiscal processes, and to provide recommendations to improve the operations of the Department.

This report is divided into an Executive Summary and five parts. The Executive Summary provides a synopsis of our findings and recommendations. Part I contains an introduction and background information on the Department. Part II provides an overview of the scope of the work performed, the approach that was utilized and the background information on the significant projects reviewed. Part III presents our findings and recommendations to optimize the budgetary, fiscal and management processes of the Department. Part IV contains various appendices referred to in the text of the report. Part V contains the response of the Department and City Administration based on our draft report. Some of the comments have been incorporated in our final report.

We wish to express our sincere appreciation for the cooperation and assistance extended to our staff by the personnel of the Department of the Prosecuting Attorney and other departments of the City and County of Honolulu.

Very truly yours,

Coopers & Lybrand

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CITY AND COUNTY OF HONOLULU
DEPARTMENT OF THE PROSECUTING ATTORNEY

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EXECUTIVE SUMMARY

EXECUTIVE SUMMARY OF THE PERFORMANCE AUDIT OF THE DEPARTMENT OF THE PROSECUTING ATTORNEY

FORWARD

The Department of the Prosecuting Attorney investigates and prosecutes violations of all statutes, ordinances and regulations for which there are criminal sanctions within the City and County of Honolulu. The mission of the Department is "to promote and ensure public safety and order through effective, efficient and just prosecution" (adopted in 1989).

The performance audit of the Department of the Prosecuting Attorney was conducted by Coopers & Lybrand pursuant to a request by the City Council, City and County of Honolulu. The objectives of the audit was to assess the adequacy of the Department's organization and management of budgetary and fiscal processes for the fiscal years ended 1985 through 1991, and to provide recommendations to improve the operations of the Department. It also focused on the Department's organization and management of new programs and special projects, including the Kroll-MTL contract, during this period (see Appendix H for a listing of the projects reviewed).

The following provides a synopsis of our recommendations designed to improve the operations of the Department based on our review of the budgetary and fiscal processes, new programs and special projects. The report is structured in the following categories:

- Management of Consultant Contracts
- Organization of Budgetary and Fiscal Planning Processes
- Other Issues Relating to the Department's Case Management System

Management of Consultant Contracts

- We recommend that the Department implement necessary procedures to facilitate compliance with the City and County of Honolulu's purchasing procedures.

  .. The Prosecuting Attorney should ensure that no work is begun until a contract is executed and approved by the Director of Finance.

  .. The Director of Finance should also strictly enforce such procedures to ensure the availability of funds and to avoid any miscommunication on what may be considered unallowable expenditures.

  .. The Department should ensure that all documents are properly filed with the Request for Selection of Consultant form prior to submittal to the Technical Review Committee (TRC). The TRC should also strictly enforce this policy to comply with the City's Administrative Directives manual and to adequately evaluate and select consultants.

- We recommend that the objectives and scope of the work to be performed and payment terms be defined in all contracts. If the need for confidentiality requires the objectives and scope of the work to be deliberately vague in the contract, then the Department of Finance should establish procedures to retain the confidentiality of clearly defined terms (i.e., restrict access to an appendix which clearly details the work to be performed).

- There should be proper documentation when a public exigency is declared. Guidelines should be established by the City clearly indicating what constitutes a public exigency and the types of supporting documentation required.

- The Department should consider changing the nature of Mr. Jeffrey Yamashita's employment from an independent contractor to an employee (i.e., civil service or appointed position) to comply with IRS regulations and to avoid potential liability in back taxes and penalties.

Organization of Budgetary and Fiscal Planning Processes

- In order to ensure that annual budgets are submitted to the Department of Budget on a timely basis (first working day in September), the Department should establish internal deadlines and assign deadline responsibilities to specific individuals.

- We recommend that division heads be more involved in the planning and management of the budget for their divisions (i.e., current expenditures, equipment and salaries). They should prepare the initial budget and be provided the final budget approved by the Department of Budget.

- The Department should also perform monthly or quarterly comparisons of budget to actual expenditures at the Department and divisional levels to identify overages or shortages on a more timely basis to more effectively allocate and utilize limited resources.

- The Department should expand its current fixed asset system to include information about whether the equipment was purchased with grant money, its specific use and the termination date of that grant. This information will help to track when the assets purchased with grant money may be used for other purposes.

Other Issues Relating to the Department's Case Management System

- We recommend that data processing contracts be jointly managed by the Department and the Department of Data Systems. Data Systems should be primarily responsible for the technical aspects of the projects to minimize problems such as inadequate documentation on contract specification changes and to adequately connect with other governmental databases.

- The Department should continue to pursue its objective of tracking cases within each branch of the Department on one case tracking system to generate comprehensive statistical information.

- The Department should consider producing statistical reports, for the divisions and for the department as a whole, which monitor pending cases.

- We recommend that all data processing contracts be reviewed by the Department of Data Systems. This may help identify design problems or potentially unrealistic contract amounts or deadlines. If Data Systems is not qualified to perform such tasks, it should be the responsibility of Data Systems to obtain the necessary resources and ensure proposed data processing systems are adequately reviewed.

- We also recommend that any contract changes be properly documented on a formal written change order to maintain a record of contract changes and to verify that these changes were achieved. Without the objectives of a project clearly documented, effective management is difficult.

- We recommend that the City consider pursuing the overall concept of interfacing the database systems with the State and local governments with respect to the tracking of Hawaii's criminals. We also recommend that Data Systems be charged with the

responsibility of ensuring that data processing systems are developed with this long-range program in mind. Furthermore, appropriate policies should be in place to promote cooperation between various governmental units where there is a common goal.

I. INTRODUCTION AND BACKGROUND

I. INTRODUCTION AND BACKGROUND

Resolution 91-131, introduced on May 22, 1991 and adopted on June 19, 1991, called for "the services of an auditor to conduct a performance audit of the Department of the Prosecuting Attorney". The Resolution discusses the reasons for the audit by stating that:

> ... in light of the newness of the elective process by which the Prosecuting Attorney is installed in office and which has been heretofore untested, the independent nature of the Department of the Prosecuting Attorney which, heretofore, has been relatively independent from executive and legislative oversight, the inordinate increases in the Department's budget without apparent corresponding increases in reported progress measures, and the questionable incurrence of unappropriated cost overruns in connection with the MTL investigation, it would appear that compelling reasons exist for a performance audit of the Department in terms of the issues outlined above...

This is the report of a management performance audit of the Department of the Prosecuting Attorney, City and County of Honolulu, conducted by Coopers & Lybrand. This audit was conducted pursuant to a request by the City Council, City and County of Honolulu, and performed in conjunction with Contract No. C09042 between Coopers & Lybrand and the City and County of Honolulu.

A. Objectives Of The Performance Audit

The objective of our audit was to assess the adequacy of the Department's organization and management of budgetary and fiscal processes, and to provide recommendations to improve the operations of the Department of the Prosecuting Attorney (Department). In evaluating the adequacy of the Department's organization and management of budgetary and fiscal planning, we:

1. Examined the initiation of new programs and the expansion of departmental units to determine whether:
   (a) Program objectives were clear, realistic, and coordinated with planned budgetary limits.
   (b) Program analysis was adequately used to systematically compare and select alternative methods to achieve project objectives within budgetary and fiscal limits.
   (c) Programs were effectively designed, linking program configuration and components to program objectives and departmental goals.

2. Examined the initiation of short-term special projects, including the Kroll-MTL contract, to determine whether:
   (a) There was adequate assessment and justification for engaging contractual services, rather than accomplishing short-term projects in-house.
   (b) The budgetary and organizational financial impact of letting short-term contracts was adequately evaluated during the planning phase and addressed following contract execution.
   (c) Projects were effectively monitored to ensure contract compliance, coordination with departmental budgeting and fiscal processes, including pre-audit procedures for review and authorization of documented vouchers, and compliance with all applicable statutes, ordinances, rules, and established accounting financial and fiscal policies and procedures, including §46-45, HRS, relating to excessive expenditures and laws relating to competitive bid requirements.

3. Determined whether, in the cases examined above, departmental budget increases were:
   (a) Justified through adequate budget planning activities;
   (b) Appropriate in amount, insufficient, or excessive;

(c) Expended for the purposes for which they were originally appropriated in accordance with all applicable laws, statutes, ordinances, and rules; and

(d) Appropriately evaluated for cost-effectiveness and for determining the continuation or amendment of the new or expanded activity.

Based on the findings obtained through the above procedures, we were requested to develop recommendations to optimize the budgetary, fiscal, and management processes of the Department.

B. Overview Of The Department Of The Prosecuting Attorney

The Department of the Prosecuting Attorney investigates and prosecutes violations of all statutes, ordinances and regulations for which there are criminal sanctions within the City and County of Honolulu. The mission of the Department is "to promote and ensure public safety and order through effective, efficient and just prosecution" (adopted in 1989).

The first elected Prosecuting Attorney took office on January 2, 1981 pursuant to Section 8-102 of the Revised Charter of the City and County of Honolulu 1973 (1984 edition) which was amended in 1986 to provide for the election of the Prosecuting Attorney by a nonpartisan special election for a term of four years to be held in conjunction with the primary election, the first being held in 1988.

Over the years, the Department of the Prosecuting Attorney has grown to keep pace with the increased workload of the Department. Increases in the number of reported child abuse cases, domestic violence cases and the increase in youth gang activity are some of the reasons for this growth. For example, in 1984, the number of people served by the Victim/Witness Program increased by almost 80% over the previous year and toward the end of fiscal 1986, an average increase of 20 new family violence cases per week were reported. Furthermore, when Judge Healy took office, he restructured the method of

handling juvenile cases by moving the responsibility from the Honolulu Police Department to the Department of the Prosecuting Attorney, thereby adding to the Department's workload. This increase in workload over the years resulted in the need for additional deputies, administrative support staff, equipment and facilities. See Appendix A for an analysis of annual budget increases.

The structure of the Department has also evolved over the years, with a major change occurring as a result of the reorganization completed in 1990. Prior to the reorganization, the Department had the following ten divisions, all of which reported directly to the Prosecuting Attorney.

- Administrative Division
- Prosecution Circuit Division
- Prosecution Career Criminal Program
- Law Library
- Prosecution Screening Intake Division
- Victim/Witness Kokua Services
- Prosecution District And Family Court Division
- Investigative Operations
- Appellate/Legislation Division
- White Collar Crime

The objectives of the reorganization was to provide a more streamlined organizational structure. The reorganization attempted to reduce the number of divisions reporting to the Prosecuting Attorney and to reallocate investigative and support staff to improve operational efficiency. For divisions involved in criminal prosecution, the divisions and branches were grouped by types of crime or criminals. This resulted in the division structure closely resembling the structure of the Honolulu Police Department, thereby allowing the two departments to work closely on criminal cases. Another example was the decentralization of the clerical function by assigning clerical staff to various divisions;

thus, resulting in closer support for the attorneys. The six divisions currently organized in the Department are:

- **Misdemeanor Prosecution Division** - represents the State in all traffic and misdemeanor proceedings before the District Court and Family Court of the First Circuit.
- **Victim Witness Assistance Division** - provides assistance to victims and witnesses of crime, including outreach and support services for family violence cases.
- **Legal Support Services Division** - provides support services to the legal staff of the Department, including maintaining a law library, maintaining and operating audio-visual equipment, developing demonstrative evidence for courtroom use and maintaining training programs for attorneys and paralegal staff.
- **Special Prosecution Division** - prosecutes crimes that require extensive or special handling such as those committed by organized crime, youth gangs, career criminals, white collar criminals, drug dealers and domestic violence offenders.
- **Felony Prosecution Division** - prosecutes felony crimes such as auto theft, forgery, homicide, assault and sex related crimes.
- **Administrative Division** - provides administrative support to manage and coordinate the various programs and activities of the whole Department.

II. WORK PERFORMED

II. WORK PERFORMED

A. Scope

The scope of the performance audit was focused on the Department's management of budgetary and fiscal planning and implementation processes for the fiscal years ended 1985 through 1991. It also focused on the Department's organization and management of new programs and special projects, including the Kroll-MTL contract during this period.

We examined the documents related to the selected programs and projects to determine whether the transactions were being conducted in accordance with the applicable statutory requirements and administrative directives. We also reviewed the implementation and administration of these programs and projects to determine compliance with the stated objectives and contractual obligations.

Based on our review of budgetary and fiscal processes and selected new programs and projects, we developed recommendations to optimize the budgetary, fiscal and management processes of the Department.

B. Approach

The Coopers & Lybrand team that conducted the performance audit was comprised of individuals from our Honolulu office. These individuals have previous experience working on consulting projects and management audits of this nature. The audit team was guided by a Coopers & Lybrand partner who is actively involved in management audits and in the audits of governmental entities.

The first task that was undertaken on this engagement was to gain an understanding of the applicable policies, procedures and management practices of the Department of the Prosecuting Attorney. This was accomplished by reviewing the Department's budgetary

procedures, City and County of Honolulu's budgeting and purchasing policies and procedures manuals published by the Department of Finance, the applicable sections of the Revised Ordinances of Honolulu and the Hawaii Revised Statutes and through interviews with various Department personnel. This review gave us the working knowledge we needed to properly conduct the audit, and enabled us to determine the Department's compliance with these purchasing policies and procedures.

We then reviewed a list of new programs and short-term projects provided to us by the Prosecuting Attorney that was conducted during the fiscal years ended 1985 through 1991. Based on this list, we performed our audit on various new programs and short-term projects to determine the adequacy of the procedures used to implement and manage these programs and projects as stated in the objectives of the audit. Our review was accomplished through an understanding of the Department's policies and procedures and through various interviews with personnel in the Department and at other City offices.

For short-term projects involving consultant contracts, we reviewed the Department of the Prosecuting Attorney's contract procurement process for compliance with the City and County of Honolulu's purchasing policies and procedures. We also reviewed the management of these contracts and determined if the objectives of the contract were adequately satisfied.

For new programs and projects initiated and implemented within the Department, we reviewed their objectives, assessed the adequacy of the implementation process and determined if the objectives were achieved.

We also reviewed the adequacy of the Department's budgetary process for the preparation of its annual budget, including an investigation of budget-to-actual and prior period budget-to-current period budget variances. The causes and nature of supplemental appropriations granted to the Department were also investigated.

Based on our findings, the Section III discusses various recommendations to optimize the budgetary, fiscal, and management processes of the Department of the Prosecuting Attorney.

C. Significant Projects Reviewed

The major consultant contracts we reviewed included Kroll Associates, Telesis, Jeffrey Yamashita and Yoshiko Payne. The following section provides background information on these projects.

Kroll Associates: Early in 1990, as a result of the Erwin Paschoal investigations (on criminal conspiracy and theft charges relating to a scheme where privately owned cars were repaired by MTL employees between January 1985 and December 1987), the Department of the Prosecuting Attorney received information regarding high level fraud and various criminal activity by MTL management. As a result, in April 1990, the Department initiated a formal investigation of the alleged criminal activity at MTL.

Based on the confidential nature of the investigation and the intention to complete the investigation by July 1, 1990 (when MTL's contract with the City was due to expire), the project was declared a public exigency. The Prosecuting Attorney indicated that confidentiality was a major issue in this investigation since the element of surprise was important in uncovering the alleged criminal activity at MTL. As a result, it was believed that local investigators may not have been reliable in maintaining this confidentiality. The initial deadline of July 1, 1990 was considered important because the findings could have had a bearing in the contract renegotiations with MTL.

Due to the lack of qualified internal resources to perform an investigation of this magnitude in such a short time and due to the confidential nature of the investigation, the Department secured an outside investigator. It selected Kroll Associates, an investigative firm based in San Francisco, to handle the investigation. The basis for selecting Kroll

was that the Prosecuting Attorney had worked with Kroll Associates previously and was very satisfied with the quality of their work. The Kroll investigative team reported directly to the Prosecuting Attorney on a regular basis (as specified in the contract) and the direction of the investigation was determined by the Prosecuting Attorney and the deputies assigned to the investigation.

The investigation began in April 1990 and based on the initial findings, it was apparent by June 1990 that the July 1, 1990 contract deadline would not be met. The investigation continued, although by August 1990, the billings for services performed through June 30, 1990 had exceeded the $900,000 contract price. The Prosecuting Attorney indicated that he was aware that the cost of the investigation had exceeded the contract price, but due to the severity of the findings, made an executive decision to continue the investigation without a new contract or the approval of the Department of Finance to exceed the original contract amount. The investigation was completed in November 1990 at a total billed cost of approximately $1,600,000.

When the Prosecuting Attorney approached the City Council in April 1991 for the additional funds to pay for the overruns, members of the Council questioned his failure to request the funds at the time he became aware of the overruns and also his failure to review the Kroll billings in detail to determine the propriety of the additional billings. The Council approved in fiscal year 1991 - 1992 an appropriation of $450,000 for the Kroll contract during the budget approval process in March - May 1991.

The Department's fiscal officer performed a detail review of the additional billings in November 1991 and determined that of the additional $700,000 appropriation requested, approximately $678,000 of the billings were valid. Requests by the Department of the Prosecuting Attorney to release $700,000 of additional funds to pay for the investigation has been denied by Mayor Frank Fasi and the additional billings of $678,000 remain unpaid as of the writing of this report.

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Telesis Case Tracking System: Beginning in August of 1989 the Department of the Prosecuting Attorney entered into a series of four contracts with the Telesis Consulting Group to design, develop, program, test, and implement a case management system which would operate on a network of microcomputers and would replace two existing IBM mainframe systems, PROMIS and PROCES. (See Appendix B for information regarding contract dates and amounts.) PROMIS, or the Prosecutor's Management Information System, was developed under a U.S. Department of Justice grant which was matched by the City at a total combined amount of $253,674 during the late 1970's and was used by the circuit court division. The Department spent $244,794. The Prosecuting Attorney's District Court Division utilized the Prosecutor's Online Courtroom Event System, or PROCES, which was developed for the City in the late 1970's.

The process of replacing the existing systems spanned two administrations. It was recognized by the former Prosecutor that the PROMIS system was unsatisfactory for the current case tracking requirements and needed to be upgraded. In 1988, he specifically included $250,000 in the fiscal 1989 budget with the intention of upgrading the existing mainframe system, PROMIS. However, when the new prosecutor was elected in fiscal 1989, he inherited this budget and had a different concept of how the Department should prosecute crimes.

The new Prosecutor planned to adopt a method of "vertical prosecution" to prosecute felony and certain misdemeanor crimes, rather than the existing "horizonal prosecution" method. To achieve "vertical prosecution" the Department was reorganized into new divisions and branches based on the various types of crimes prosecuted. Deputies were assigned to work in specific branches which would prosecute specific types of crimes; similarly, clerical staff who had previously worked in "pools" utilized by all divisions, now were assigned to work with prosecuting teams within each branch. Therefore, deputies would handle a given case from its initial screening stage through trial, or until

the case was disposed. Conversely, under "horizontal prosecution" divisions were generally organized on a functional basis. For example, certain deputies would exclusively "screen" cases, while others would be involved only in the trial phase. One goal of this reorganization was to achieve a close parity to the organization of the Honolulu Police Department.

Based on the Prosecutor's overall concept of how the Department of the Prosecuting Attorney would be organized, he did not believe an upgrade to the existing PROMIS system was the best solution. It also appeared to make more economic sense to go with a new system since upgrading PROMIS would have cost more than $278,000 to implement. Prior to the Telesis project, the Department's clerical support staff utilized two completely separate systems. The Wang system was used by the clerical "typing pool", while the PROMIS system was used by a separate pool of clerical staff to track cases. Under the Prosecutor's proposed reorganization, the same clerical personnel would perform both functions and consolidate these functions under one computer system, something that could not be accomplished by an enhancement to the existing PROMIS system. At the time consulting services were sought, the Department stated that the existing systems had proven to be unsatisfactory in providing the type of management and statistical information needed by the Department. Neither the PROCES nor the PROMIS systems had the ability to generate case statistics, such as pending, disposed or filed cases. The Department stated they had numerous problems with the mainframe system "going down", resulting in numerous processing delays.

The Prosecuting Attorney initiated the research to address the limitations of the existing mainframe systems. Based on initial investigations, such as discussions with prosecutors in other states, reviews of published studies and editorials, and preliminary discussions with computer vendors, the Prosecutor decided the advantages of a microcomputer-based tracking system outweighed those of mainframe or minicomputer systems. Specifically, microcomputer systems provided independence from the City's mainframe system which

the Department felt were not reliable. Further, the microcomputer systems were determined to be more cost-effective compared to IBM minicomputer alternatives and did not require an expensive air conditioning system to operate. Based on his comparison of the alternatives, the Prosecutor gave final approval to the Telesis software, since he believes it was the most viable alternative and because of assurances by Telesis that the software could be custom designed to the needs of the Prosecutor's Office (although Telesis had no prior experience with case tracking systems based on our discussions with the Department). The Prosecutor's Office and the Department of Data Systems (Data Systems) were given a demonstration of a similar system installed at the Matson Navigation Company. Although this system did not track criminal cases, it did track nearly 50,000 containers used by the company. Data Systems expressed that Matson was very pleased with the system, and they were also impressed with the responsiveness, or speed, of the Matson system.

It should be noted that in 1989 the Department of Data Systems' expertise was primarily with mainframe systems, rather than with micrcomputer-based systems. Although the project was seen by Data Systems as a "pioneering" effort, it was consistent with a general policy to decentralize the data processing of the City.

In 1989, Data Systems assisted the Department of the Prosecuting Attorney in drafting the specifications for a new computer system. In August 1989, Telesis was contracted for $9,900 to provide the Department with a conceptual design and recommendation of a case management system which would operate on a network of microcomputers on a full-time basis and effectively manage the cases handled by the Department. In December 1989, Telesis was selected to develop and implement the case tracking system. The contract amount was $85,215 and performance was to take place from October 3, 1989 to March 31, 1990. However, the terms of this contract were not completed within the specified time and on June 19, 1990 the City entered into the first of three amendments which brought the total contract price to $133,815 and extended the

completion date to January 15, 1991. The Telesis system went "on line" on July 27, 1990.

On October 8, 1991, the Department signed its latest contract with Telesis (now known as TRICON) for $45,000 to perform various consulting services. This contract, written in general terms, allows the Department flexibility over changes which may be requested. Among the items the Department plans to address is the processing speed of the system, limited interfacing of data with the HPD, and certain user screen changes. The total contract price to date for Telesis (including the August 1990 contract for $9,900) is $188,715. We also noted that the counties of Maui and Kauai have recently retained the services of the Telesis Consulting Group to assist with their case tracking requirements.

In our review of the management of the Telesis case tracking project, we noted that although the project is now generating case statistics for the Department, not all of the objectives set forth in the initial Telesis contracts were achieved such as:

(1) The PROCES system was not completely replaced by the Telesis system, since misdemeanor traffic offenses continue to be processed on the PROCES system due to verbal changes to the contract made between the Department and Telesis.

(2) The original contract provided that the system would be able to interface with various other criminal database systems utilized by other City and State departments. The system currently does not interface with any external departments as adequate consideration may not have been given to the overall concept of allowing the interfacing of data systems between the HPD, the Judiciary and the Department.

(3) The original contract was not accomplished within its projected cost and time budget.

These findings are discussed in detail in the "Findings and Recommendations" section of this report.

Jeffrey Yamashita: Jeffrey Yamashita, a licensed private investigator, was hired by the Department of the Prosecuting Attorney in December 1989 to provide advice and assistance in improving investigative services and in providing for adequate internal security measures for the Department. Mr. Yamashita was selected by the Prosecuting Attorney based on his qualifications as a Metropolitan Detective with the Honolulu Police Department (HPD). Since Mr. Yamashita's services were initially perceived to be of a temporary nature, he was hired on a consultant contract. However, the Prosecuting Attorney later decided that his services were needed on a more permanent basis to coordinate the day-to-day investigative operations, to act as a liaison to HPD, to train new investigators, maintain internal security, and numerous other related responsibilities. Mr. Yamashita continues to work on a consultant contract basis, with his current contract extending through June 30, 1992. Mr. Yamashita has had three contracts signed since he began work at the Department in December 1989. Out of the total contract price of $109,599, approximately $102,600 was spent to date. See Appendix B for details of each contract.

Yoshiko Payne: Ms. Yoshiko Payne, a Certified Public Accountant, was hired by the Department of the Prosecuting Attorney in May 1983 to audit, analyze, and evaluate business records confiscated in investigations or otherwise obtained to determine and established the existence of criminal violations. She was hired under a blanket exemption that was approved by the former Mayor. The Department indicated that one of the projects she worked on was related to the "container scam" being investigated during that period. Very little information exists on the details of Ms. Payne's work. Her contract was reviewed by us as a part of the scope of our performance audit of contracts executed during the previous Prosecuting Attorney's term. Her services ended in August 1984

based on a review of the final billing submitted to the Department. Out of the total contract price of $45,000, $40,390 was paid to Ms. Payne.

III. FINDINGS AND RECOMMENDATIONS

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A. Management Of Consultant Contracts

The Revised Charter of the City and County of Honolulu (Article IX, §9-305), the Revised Ordinances of Honolulu, 1990 (Section 2-19), the Rules and Regulations of the Director of Finance (§14.5 - Execution of Contracts), the Division of Purchasing's rules and regulations on the Processing of Consultant and Construction Contracts, and the City's Administrative Directives Manual (§265) provide various guidelines and procedures that are required to be followed in procuring and administering consultant contracts. These guidelines are provided so that the City can maintain controls over the procurement of consultant contracts. During our review of the Department of the Prosecuting Attorney, we found various instances where such procedures were not followed, leading to a breakdown of controls.

The following section discusses the significance of our findings and provides recommendations to correct such deficiencies.

1. The Department Of The Prosecuting Attorney Failed To Obtain Necessary Approvals Prior To Hiring Consultants

Article IX, §9-305, Paragraph 2, of the Revised Charter of the City and County of Honolulu requires that:

> Before execution, contracts involving financial obligations of the City shall also be approved by the Director of Finance as to the availability of funds in the amounts and for the purposes set forth therein. Such contracts shall not extend beyond the term for which an appropriation to finance such obligations has been made, except as otherwise provided by this charter...

Furthermore, the Rules and Regulations of the Director of Finance §14.5 - Execution of Contracts states:

> The contract shall not be binding or of any force until such contract has been fully executed and approved, including full and proper signatures by all the parties thereto and approval by the Mayor, if required, by the Director as to the availability of funds in the amounts and for the purposes set forth therein...

During our review of the Department's contracts with Kroll Associates, Telesis, Jeffrey Yamashita and Yoshiko Payne, we noted that the Department was not in compliance with the above provisions. All of the contracts reviewed had **commenced** prior to the **final approval** of the Director of Finance (certifying the availability of funds). For example, in Appendix B, the approval by the Director of Finance for the contract with Kroll Associates was on June 18, 1990 whereas work on the contract began on April 16, 1990. Similarly, the approval on contract #C59340 with Telesis was on February 2, 1990 whereas work began on October 3, 1989.

We also noted on the contracts with Kroll Associates, Jeffrey Yamashita, Yoshiko Payne and on two of the Telesis contracts that the Director of Finance's signature **certifying the availability of funds** was subsequent to the date the contract was **executed** (date on the face of the contract). For example, in Appendix B, the approval of the Director of Finance for the contract with Kroll Associates was on June 18, 1990 whereas the contract was executed on April 16, 1990. Similarly, the approval on contract #F641-83 with Yoshiko Payne was on June 13, 1983 whereas the contract was executed on May 26, 1983. Our review of the Administrative Directives Manual §265-III.B indicates that the contract execution date should be on or after the approval of funds by the Director of Finance.

We also noted violations of the Division of Purchasing's rules and regulations on the Processing of Consultant and Construction Contracts. In some instances such as with the Kroll contract, we noted that the Request For Funds (M-4) was completed on May 24, 1990, which was subsequent to the commencement of services on April 16, 1990.

While it is the responsibility of the Department of the Prosecuting Attorney to be in compliance with such procedures, the approvals of the Chief Budget Officer, the Managing Director and the Director of Finance appear to condone the violation. For example, when the Chief Budget Officer approves an M-4 after services commence as with the Telesis contract #C56990 or when the Director of Finance signs the contract prior to signing the certificate of approval of funds as in the Kroll case, the Department of Finance condones the Department's tendency to procure the services of consultants without proper approval.

The events surrounding the Kroll contract provides a good example of the consequences of not following procedures. In this instance, the expenses were incurred prior to an executed contract for the additional work performed by Kroll. The M-4 was submitted by the Department after incurring approximately $678,000 of cost overruns above and beyond the initial contract. The Chief Budget Officer and the Managing Director rejected the M-4, leaving the Department with an outstanding payable of $678,000 for services performed by Kroll Associates. This situation could have been avoided if the City's purchasing procedures had been properly followed.

Recommendation

The Department of the Prosecuting Attorney should implement the necessary procedures to facilitate compliance with the City and County of Honolulu's purchasing procedures. An integral part of such procedures should be the responsibility of the Prosecuting Attorney to ensure that no work is begun until a contract is executed and approved by the Director of Finance. A possible control could be the denial of payment by the

Department of Finance for all work performed prior to the Director of Finance's approval. This is a reasonable control given that the Director of Finance's General Terms And Conditions Of Contracts Of The City For Services Of Consultants §2.3 states:

> CONTRACT NOT BINDING UNLESS PROPERLY EXECUTED AND APPROPRIATION AVAILABLE. The Contract shall not be binding or of any force until said contract has been fully and properly signed by all of the parties thereto and approved by the Director as to the availability of funds in the amounts and for the purpose set forth therein.

Furthermore, we also recommend that the Department of Finance strictly enforce such procedures in order to avoid miscommunication and misunderstanding on what may be considered unallowable expenditures. For example, strict enforcement of purchasing procedures by the Department of Finance on previous contracts could have avoided the expenditures incurred under the Kroll contract without the availability of funds to pay for such services. Thus, the lack of strict enforcement by the Department of Finance results in a breakdown of controls surrounding the fiscal process.

2. *The Department Of The Prosecuting Attorney Lacked Adequate Documentation And The Technical Review Committee Did Not Adequately Scrutinize The Recommendation For The Selection Of Telesis As Consultants*

In our examination of the case tracking system's Request For Selection Of Consultant form, we noted that the Department had no supporting documentation for any of the three vendors listed on the request. We also noted that none of the vendors listed had submitted a formal proposal and that the Department's recommendation of the Telesis Consulting Group was made on the basis of the vendor's familiarity with the software and the Department's familiarity with the vendor. The Technical Review Committee

(TRC) did not question the lack of documentation and the only inquiry made was a telephone conversation between the Assistant Chief Fiscal and CIP Analyst and the Department's Administrative Officer regarding the reasons for the recommendation.

In connection with the selection of a consultant, the Revised Ordinances of Honolulu, 1990, as amended, Section 2-19.3, states:

> There is hereby established a Technical Review Committee which shall be responsible for coordinating the evaluation and selection process for awarding consultant contracts under the provisions of this article. The committee shall be appointed by the Mayor and include but not be limited to the Chief Budget Officer and the Director of Finance.

Section 2-19.5 further states:

> The Technical Review Committee shall review the evaluations of the user department head and make a recommendation to the Managing Director.

The City's Administrative Directives Manual (§265-III.A.3) for purchasing procedures provides further guidance stating:

> The Technical Review Committee shall screen the selection letter and use the proposal evaluation criteria listed in Section V.B. to make its recommendation to the Managing Director (see copy of §V.B. in Appendix C).

While it is the responsibility of the Department to be in compliance with such procedures, the approval of the TRC without any supporting documentation appears to condone such practices. Our discussion with the Assistant Chief Fiscal and CIP Analyst

revealed that due to the volume of consultant selections to be reviewed, the TRC considers it the Department's responsibility to follow the proper procedures in hiring outside consultants and relies on the Department's recommendations. A detailed review by the TRC appears to occur only when the dollar value of the services is high or when the consultant recommended appears questionable based on our discussion with the Assistant Chief Fiscal and CIP Analyst. Since the purpose of the TRC is to determine that the most qualified vendor is hired (and provide an independent review of the selection criteria), a thorough review of the Request For Selection Of Consultant form by the TRC should be performed. If such a review is not performed, the City may not be hiring the most qualified consultant available for the job and may be paying too much for such services.

Recommendation

The Department should implement the necessary procedures to facilitate compliance with the City and County of Honolulu's purchasing procedures. An integral part of such procedures should be the responsibility of the Prosecuting Attorney to ensure that all documents are properly filed with the Request For Selection Of Consultant since he signs the request.

Since the related control is the responsibility of the Technical Review Committee to review and authorize such requests, the Committee should strictly enforce the policies outlined in the City's Administrative Directives Manual (§265-III.A.3) in approving such requests.

3. *The Department Of The Prosecuting Attorney's Consultant Contracts Are Vague In Specifying Services and Work To Be Performed*

During our review of the consultant contracts, specifically the Kroll Associates contract, we noted that the wording on the contracts were vague and unclear as to the specific

objectives of the contract, nature of services to be performed, the scope of work to be performed and the definition of terms such as "travel", "office expenses" and "incidentals".

For example, the Kroll contract is silent on the objectives of the work to be performed and the scope of work is broad and subject to interpretation. The contract "Scope of Work" states:

> The Consultant shall provide interviews, financial analysis, written reports, and expert testimony relating to the investigation and shall provide the Prosecuting Attorney with bi-weekly reports or reports as requested.

A more specific scope would define the nature and substance of the interviews, the process to be followed for the interviews, the types of financial analysis expected, the structure and format of written reports and the process for approving additional work beyond contract specifications.

The contract also allows room for interpretation when it states:

> That the City shall pay the Consultant a retainer of $250,000 (Two Hundred Fifty Thousand Dollars) upon execution of this Agreement, a daily fee of $1,200 (One Thousand Two Hundred Dollars), a per diem of $120 (One Hundred Twenty Dollars) per day for each of the Consultant's employees who are assigned to work under this contract, and **all other expenses for travel, office expenses and incidentals pertaining to work done under this contract** upon submittal of properly authorized vouchers (emphasis added).

Since "office expenses" and "incidentals" can cover a variety of items, a more specific definition is needed to eliminate the ambiguity of the terms.

The disadvantage of having such vague contracts is that any question as to the proper and adequate performance of the contract is not easily determinable due to the level of interpretation allowed for in such loosely worded contracts. For example, there appears to be some question as to the interpretation of "office expenses" and "incidentals" related to the Kroll contract in determining proper expenses. If these terms had been more precisely defined, such problems of interpretation would not occur.

Recommendation

To reduce the potential for confusion as to the objectives and scope of the work to be performed and payment terms, we recommend that the Department of the Prosecuting Attorney define items such as the objectives of the engagement, the scope of the work to be performed, and to minimize the use of ambiguous terms such as "office expenses" and "incidentals". If the need for confidentiality requires the objectives and scope of the work to be deliberately vague in the contract, then the Department of Finance should set up separate procedures which will allow for the retention of confidentiality but at the same time, will clearly define the terms of the contract. For example, a confidential contract could contain an appendix that clearly sets forth the details of the work to be performed and access to this appendix could be restricted.

4. The Requirements Necessary To Declare A Project A Public Exigency Was Not Properly Documented

The Revised Charter of the City and County of Honolulu, §9-301.3a states that a contract may be negotiated without the advertising requirement if "the public exigency will not admit of the delay incident to advertising". Further, in accordance with the City's Administrative Directives §265.2.1, a public exigency is defined as:

> A sudden and unexpected happening; any unforeseen occurrence or condition; a perplexing contingency or compilation of circumstances; or a sudden or unexpected occasion for action.

The Division of Purchasing's rules and regulations on the Processing of Consultant and Construction Contracts requires that departments using this method must have the approvals of Corporation Counsel, the Managing Director and finally the Director of Finance prior to proceeding with the contract. However, the regulations are silent on the nature and extent of the documentation necessary to properly identify and discuss the nature and reasons for the declaration of a public exigency.

For example, the Kroll contract had no written documentation on the reasons for declaring it a public exigency except for a brief note attached to the M-4 stating that:

> Due to public exigency and the confidential nature of the investigation the Department of the Prosecuting Attorney respectfully requests authorization to hire Kroll Associates...

The Prosecuting Attorney indicated that discussions with the Chief Budget Officer on the propriety of the declaration of a public exigency took place prior to the declaration. We were unable to discover any other documentation or support on the matter.

The documentation is vital since the declaration of a public exigency allows the contracting entity to bypass the bid process and hire a contractor of its own choosing. If the declaration of a public exigency is not carefully monitored and documented, it could be used as a means to circumvent the bid process, thereby defeating its original purpose.

Recommendation

The City and County of Honolulu, the Department of Finance or the Purchasing Division should require proper documentation for situations where a public exigency is declared. It should also provide guidance on the types of supporting documentation necessary when declaring a project a public exigency. The guidance should include examples of what is considered adequate documentation and also examples of what constitutes a public exigency.

5. *The Independent Contractor Status of Jeffrey Yamashita Is Not In Compliance With Internal Revenue Service Regulations*

In our review of contracts C59350, C59350(A) and C59350(B) between the City and County of Honolulu and Jeffrey Yamashita, we noted that Mr. Yamashita is employed on a full time basis through a personal services consulting contract as an independent contractor since December 18, 1989. However, due to the extent of the Department's right to control and direct Mr. Yamashita's activities, it appears that he should be classified as an employee to comply with Internal Revenue Service regulations. The Internal Revenue Service uses Revenue Ruling 87-47 in which twenty questions are listed, with a "yes" answer indicating a factor in favor of assessing the worker as an employee. The twenty questions, which provide guidance on the types of behavior that contradict an independent contractor status are included in Appendix D.

Based on the criteria set forth in this ruling, there is a strong indication that Mr. Yamashita would be more appropriately classified as an employee due to the extent of the Department's control over Mr. Yamashita's activities. If the IRS determines that Mr. Yamashita qualifies as an employee, the Department will be responsible for the payment of various employee related taxes and significant penalties on these unpaid taxes. A preliminary review of Mr. Yamashita's case indicates that the Department (and ultimately the City and County of Honolulu) could be potentially liable for up to $6,000 in back

taxes and penalties. Additionally, the IRS may require the Department to reclassify Mr. Yamashita as an employee and extend regular employee benefits to him.

Recommendation

The Department should consider changing the nature of Mr. Yamashita's employment from an independent contractor to an employee. However, if the Prosecuting Attorney believes that creating a civil service position for Mr. Yamashita is not the best alternative, Mr. Yamashita's position should be an appointed position (since the Prosecuting Attorney's position is an elected office). This would require an amendment to §6-303.c of the Revised Charter of the City and County of Honolulu to include special assistants such as Mr. Yamashita.

B. Organization Of Budgetary And Fiscal Planning Processes

Budgeting is recognized as a key element in the process of matching expected inflows and outflows of funds with an organization's purpose and direction.

The success of any budget is determined primarily by the manner in which the budget is developed. Generally, the most successful budgets are those that permit managers with responsibility over their divisions' costs to prepare their own budget estimates. The result is budgetary information flowing upward from those individuals who are ultimately responsible for compliance with the budget.

The success of a budget for a governmental unit also requires downward communication by top management to those individuals involved in the initial budget preparation since the final budget usually differs from the original request. Additionally, a successful budget program also contains a system of review and supervision by higher organizational levels.

Finally, a successful budgeting process includes periodic comparisons of actual expenditures to budgeted amounts to help forecast potential fiscal problems or recognize possible savings.

The City and County of Honolulu, through the Department of Budget, has a system of budgetary reporting and review and oversees the Department of the Prosecuting Attorney to assure that an annual budget is submitted. However, a specific budgeting process is not mandated by the Department of Budget, and it is up to each City department to organize its own budgeting process.

During our review of the Department of the Prosecuting Attorney, we noted certain deficiencies in its budgeting process. The following section discusses the significance of our findings and provides recommendations to correct such deficiencies.

1. Annual Budgets Are Not Submitted On A Timely Basis

Based on our review of budgets submitted for fiscal years 1985 through 1991, we noted that the annual budget was submitted late to the Department of Budget in each of these years. Generally, the budget has been submitted between 40 to 50 days late. It should be noted that the Department of Budget's deadline is the first working day in September to allow adequate time to examine the various budgets before a total City executive budget proposal is made. Generally, budgets which are submitted more than two months late would significantly impair the ability of the Department of Budget to conduct an adequate review. Appendix E quantifies the number of days the budget has been late for each year under audit.

Recommendation

The Department should establish and implement budgeting processes which will enable annual budgets to be submitted on a timely basis.

Specifically, the Department should consider establishing formal policies identifying when budget information within the Department should be submitted and clearly identifying who has ultimate responsibility for submission of a timely budget. For example, the component steps in the process of finalizing the budget should be scheduled for completion and review well in advance of the budget deadline. Further, the proposed policy should identify who is responsible for the completion of each step. It appears that the policy should formally assign the Prosecuting Attorney with the ultimate responsibility for ensuring that the budget for the Department is submitted on a timely basis.

In addition, if the Department's budget is submitted late to the Department of Budget and an adequate review has not been performed, the Mayor should notify the City Council that the Department's budget was not fully reviewed by the Administration.

2. *Middle Management In The Department Of The Prosecuting Attorney Needs To Be More Actively Involved In The Planning And Management Of The Budget*

Currently, planning and managing the budget is handled at the level of the Prosecuting Attorney with minimal involvement at the divisional level.

Recommendation

Based on our review of the budgetary processes, we recommend that:

a. Division heads should be more involved in budget preparation.

Currently, the initial budget is prepared by the Department's administrative officer. Input from the divisions consists primarily of the preparation and discussion of a "needs list" by division indicating their needs. These lists are considered by the Prosecuting Attorney in the budget preparation process, however, the division heads are not informed on the final status of their requests. Estimates of current expenses for the budget year are made by the fiscal officer, equipment budgets are formulated by the Prosecuting Attorney and division heads, budget estimates for new positions are prepared by the Prosecuting Attorney, and estimates of travel expenses are prepared by the Executive Assistant. The administrative officer then compiles this information and submits it to the Department of Budget after it is reviewed by the Prosecuting Attorney.

The above system could be improved if the initial budgets were prepared by division heads addressing each major budget category: current expenditures, equipment, and salaries. Further the divisional budgets should include estimates of travel expenses. Currently the travel budget is developed by the Executive Assistant due to her specific knowledge of upcoming seminars. We recommend that seminar and other travel information be disseminated to the divisions and that

each division be responsible for submitting their respective travel budgets in conjunction with other budget information.

Once all division budgets have been submitted to the administrative officer, the administrative officer should consolidate the budgets to arrive at a Department budget. The Prosecuting Attorney could then review the overall budget and make any necessary revisions prior to submission to the Department of Budget.

b. **The Department should improve the downward communication of the details contained in the approved budget.**

In order for the divisions to be more integrated with the budgeting process, they should be aware of which budget requests were approved or denied. The approved budget should be provided to the divisions so that division heads can compare their budget requests with the final approved budget and plan accordingly. Currently, the divisions operate without this information.

c. **The Department should perform monthly or quarterly comparisons of budget to actual expenditures at the Department and divisional levels.**

Currently, the division heads do not monitor expenditures for their programs. Instead, the administrative officer performs a budget to actual comparison, usually on a monthly basis, for the Department as a whole. If problems are noted during this comparison, the administrative officer will inform the Prosecuting Attorney on an "as needed" basis. For example, during 1991, the administrative officer kept the Prosecuting Attorney informed of overtime cost problems enabling the Prosecuting Attorney to communicate the need to control overtime worked to division heads. However, if monthly comparisons of budget to actual expenditures had been made at the divisional level, the Department could have identified the problem before it occurred and planned its staff scheduling accordingly. Thus, monthly or quarterly comparisons of budget to actual

expenditures should become an integral part of the fiscal process of the Department.

In summary, we recommend that the Department consider delegating a greater portion of the budgeting process to the divisional level and prepare regular budget to actual expenditure comparisons at both the Department and divisional levels. The benefits of this approach will be to:

- encourage an upward flow of information in forming the initial budget;
- help to more quickly isolate budgetary overages and shortages to specific divisions as they occur; and
- allow division heads to identify potential overages or shortages on a more timely basis and more effectively allocate and utilize limited resources, thereby encouraging them to be better managers of their programs.

Greater involvement at the divisional level may improve the overall fiscal management of the Department by increasing the divisions' awareness of their budgetary constraints and allowing for a more timely recognition of budgetary shortages or overages. For example, division heads who are informed about their budgetary status will be able to recognize early in the year that amounts budgeted for overtime pay are not adequate based on their expectations of future workloads. Early identification of such problems provides adequate time to plan alternative strategies.

3. *The System Lacks The Ability To Track Purchases Of Equipment With Grant Money*

The Department does not have effective policies and procedures in place to ensure that equipment purchased with grant money is used only for the purposes of that grant. Usually, a grant will specify a purpose for which the grant money may be used. If equipment is purchased with these grant moneys, then that equipment should be used

exclusively for the purpose of the grant until the project is completed. In our review of the control procedures surrounding the use of grant money, it appears that there are controls in place to ensure that funds are initially spent for the purpose specified by the grant. However, in the case of equipment, the Department does not have effective controls in place to track a specific asset to ensure that it is not subsequently moved and used for a purpose outside the purpose of the original grant. Although we noted no specific instance where equipment purchased with grant funds was subsequently used for purposes outside the original grant, no control procedures are currently in place to prevent a misuse of equipment from occurring.

In the context of this comment it should be noted that the Department is subject to the City-wide controls over the custody of fixed assets. These controls require that the Department maintain a fixed asset listing identifying the assets and their locations. Therefore, under the existing controls, information about the location of assets is available even if the asset is subsequently moved. However, no information exists about whether or not the equipment was purchased with grant money, the term of the project for which it was purchased, and whether or not the equipment is being used for the specific purpose of the grant during that term.

Recommendation

The Department should consider implementing procedures to ensure that equipment purchased with grant money is used only for the purpose of the grant, subsequent to its initial purchase. The Department's current fixed asset system could be expanded to include information about whether or not the equipment was purchased with grant money, its specific use, and the termination date of that grant. This information would be helpful not only in tracking the assets which were purchased with grant moneys, but in also indicating when grant assets may be used for other purposes. In many cases assets may be properly used for purposes outside the original grant after the termination date. The responsibility for monitoring the use of these assets should be given to the

division heads as the purpose of the grants typically align with the responsibilities of the various divisions.

C. Other Issues Relating To The Department's Case Management System

During our review of the Department of the Prosecuting Attorney, we noticed certain other issues that should be addressed by the Department. The following section discusses these issues and provides recommendations to correct them.

1. The Project Objectives As Stated In The Provisions Of The Contract With The Telesis Consulting Group Were Not Met

In August 1989, the City entered into a contract with the Telesis Consulting Group which stated that:

> The City and County of Honolulu Prosecuting Attorney's Office is seeking consulting services to design, develop, program, test, and implement a case management system which will operate on a network of microcomputers and will replace two existing IBM mainframe systems, PROMIS and PROCES.

Through discussions with the Department of Data Systems and a review of contract provisions, it was noted that the contract also provided for data interfaces with other government systems. The system was to provide the following data interfaces or to create transaction files for future data interfaces:

PROMIS interfaces:

- Police Records Management System
- Police Identification
- State Offender Based Transaction System (OBTS)
- State Juvenile Justice Information System (JJIS)

PROCES interfaces:

- State Traffic Violations System
- Police Law Enforcement System

- Police Records Management System
- Police Personnel System
- State Offender Based Transaction System (OBTS)

Based on our review, it does not appear that these contract provisions have been completely achieved.

Although the Telesis system has successfully replaced the PROMIS system used to prosecute felony crimes, the functions of the PROCES system, with regard to the processing of misdemeanor traffic cases, have not been replaced. We noted that the Traffic Branch does not utilize the Telesis system and cases continue to be processed on the PROCES system. It is estimated that only 50% of the DUI and criminal misdemeanor cases are processed using Telesis due to the lack of staff time to convert to the new system.

According to the Prosecuting Attorney, the Traffic Branch was never intended to be part of the Telesis network. The Prosecuting Attorney indicated that traffic violations may be decriminalized in the future, removing the processing of traffic violations from the Department. Therefore, a costly replacement to convert to a new case tracking system would not be justified. Our discussions with Traffic Branch personnel also indicated that there was never an attempt to convert standard traffic violations to the Telesis system. However, this is contrary to the language of the original contract which indicates that the new case tracking system would replace the PROCES system, a system that includes the Traffic Branch. Based on our discussions with Data Systems, who assisted in the writing of the initial contract specifications, the traffic crimes were included as part of the original contract. We also noted that the traffic cases are part of the PROCES system and the provisions of the contract specifically included the Traffic Violation Bureau Calendar File as a major PROCES input. We were informed that soon after the work began, it was determined through verbal discussions between the

Prosecutor and Telesis that due to time and cost constraints, the conversion of traffic cases to the Telesis system would not be performed.

Certain criminal misdemeanor cases have not been input into the system due to the slow processing time. It is estimated that approximately four cases can be input into the PROCES system in the time it takes to input one case on the Telesis system. Data Systems also agreed that the speed or "response time" of the system is not adequate. Generally, Data Systems uses a sub-second response time for its design criteria, with a one or two second response time being the longest acceptable response. However, Data Systems estimated that the current response time on the Telesis system is approximately 20 seconds.

Based on our discussions with the Department and Data Systems, three factors may be responsible for the relatively slower processing time for the Telesis system:

(1) personnel who input cases have had many years of experience with the PROCES system and have become proficient at inputting cases on that system,

(2) the microcomputer processing environment is inherently slower than a mainframe environment, such as PROCES, and

(3) there may be problems with the design of the software.

Data Systems personnel indicated that the Telesis software is capable of handling the existing caseload of the Misdemeanor Division and that continued clerical exposure to Telesis may increase clerical proficiency thereby reducing input time. However, Data Systems does not know whether the system is inherently slow due to inadequate design as they were not involved in the review of the Telesis design, even though a review of the design of any new City system is normally a function of their department.

Data Systems expressed that they were generally unfamiliar with the type of microcomputer-based system Telesis was proposing. Based on this apparent lack of expertise and the Prosecuting Attorney's close involvement with the Project, they indicated that they were kept at "arms length" by the Prosecutor. They were not involved in the direct review of the original Telesis contract and were not involved in the above mentioned conceptual design. The Prosecuting Attorney, however, indicated that he felt Data Systems was sufficiently involved in the Project since its inception since a Data Systems staff member was located at the Department of the Prosecuting Attorney to provide support for the Project, and other staff members were involved with the conversion to the Telesis system and the setting up of a local area network.

In our review of the project we also noted that the Appellate/Research Branch of the Legal Support Division has a backlog of cases which have not been input into the system. Instead, a manual system of tracking cases continues to be used. As this division handles significantly fewer cases than other divisions, processing speed is not a factor in implementation. Rather, the lack of staff time to convert to the new system is the cause for the delay in the implementation.

The Department has recognized the need to increase the processing speed of the Telesis system. Consequently on October 8, 1991, the Department entered into another contract with Tricon (formerly Telesis) to provide modifications including increasing the processing speed or response time.

Recommendation

The problems mentioned above were basically due to two factors: (1) lack of adequate cooperation between Data Systems and the Department of the Prosecuting Attorney and (2) based on our discussions with the Department, the tracking of criminal cases was a new application for the Telesis Consulting Group.

We recommend that future data processing contracts be jointly managed by the Department of Data Systems and the Department of the Prosecuting Attorney. While the Department of the Prosecuting Attorney is active in the definition of user needs, the Department of Data Systems should be primarily responsible for the technical aspects of the Project. We noted that the City Charter states that the Department of Data Systems shall operate a data processing system and provide technical expertise in data processing to the city government. In the case of the Telesis contracts, the contracts were largely managed by the Department. After the initial selection phase, Data Systems' involvement was limited primarily to assisting the Department in drafting the contract and its provisions. According to Data Systems, their department would generally be involved in the drafting of the contract, the review of the conceptual and functional design, and the day-to-day monitoring of the contract including authorizing and documenting any changes to the original contract. Because a design review was not performed by Data Systems, they were unsure if the slow response time is due to inadequate design or whether the problem is correctable through minor software and hardware modifications. The Prosecutor and certain personnel, who managed, reviewed and authorized specification changes, believe the current response time problem is solvable through hardware changes and improvements.

More active involvement by Data Systems may have also assisted the Department in minimizing problems such as inadequate documentation on contract specification changes, the feasibility of inputting traffic cases and to adequately connect the Telesis network to other governmental databases.

We recommend that the Department continue to pursue its objective of tracking cases within each branch of the Department on one case tracking system to generate comprehensive statistical information. This would include dedicating adequate human resources to the Appellate/Research Branch so that all of its cases will be on the Telesis system. These statistics will assist management to effectively manage their daily

workloads and divisional needs, forecast future needs and generate reliable data for budgetary purposes.

2. *The Use Of The Statistics Generated By The Telesis Case Tracking System Should Be Expanded*

In our review of the Telesis case tracking system, we noted that one of the goals of the new system was to enable the Department to generate and use statistical information. In our review of the capabilities of the new system we noted that Telesis is capable of producing a variety of statistics, operating much like a database system from which various reports can be extracted. While the basic goal of generating case statistics has been accomplished, it appears that the Department could expand the use of such statistics to better monitor pending cases and support budgetary requests.

Currently, the Department generates reports on a weekly and monthly basis. On a monthly basis the following reports are produced for the Department and reviewed by the Prosecuting Attorney:

- Number of Defendants Report
- Court Charges Report
- Number Of Transactions Report

The Number of Defendants Report tallies the defendants by the various types of crime, the Court Charges Report tallies the number of counts according to the applicable Hawaii Revised Statute code section, and the Number of Transactions Report displays, in graphical format, the number of transactions which were input into the case tracking system in a given month. A "transaction" represents a change to a case's information, for example, if a case goes on appeal a transaction would be recorded when the clerical staff changed the status of the case on the system. A Transactions report is another measure of workload. These reports provide the Prosecuting Attorney with information

about the level of activity and measures the workload for the Department. On a weekly basis, two reports are generated:

- DPA Previous Week Calendar Sorted by Branch
- DPA Upcoming Week Calendar Sorted by Branch

These reports are used by both the Prosecuting Attorney and the divisional heads to summarize the status of cases handled in the previous week and to identify which deputies are scheduled to appear in court in the coming week. Basically, the case tracking system is used at this level to support the calendaring function. Other statistics are generated on an "as needed" basis to support external requests or satisfy grant requirements.

While these reports are effectively used, our recommendation incorporates further ideas on the potential use of other reports for management and budgetary purposes.

Recommendation

The Department should consider producing statistical reports, for divisions and for the department as a whole, to better monitor pending cases. For example, a measurement of the age of cases being handled, or a measure of time taken to accomplish each major step in a prosecution, would serve as valuable management indicators in assessing workload or divisional or branch efficiency. In other words, these reports would be a useful management tool to quantify the status of the current case inventory. The status of the current case inventory is important from a management perspective because it will allow for the recognition of problems in a timely manner.

It should be noted that the Department is aware of the importance of such statistics and the fact that they are currently not being generated. A current project of the Data Systems support personnel is to develop reports to address this problem. We also noted that the entire case tracking system was implemented in August 1990 and as only one

Data Systems employee supports the entire network, problems and projects have to be addressed on a priority basis.

Although the National Association of Prosecuting Attorneys has not specifically addressed the question of case statistics, the Executive Committee on Technology, through technical assistance provided by the Institute of Court Management of the National Center for State Courts, has identified the following reports which they feel are important in case flow management:

Case Flow Management:

- Age of cases pending at disposition
- Status of cases
- Age of cases at each event in case processing
- Time intervals between events in case processing
- Exceptions reports
- Current time lapse data compared to standards

Delay Assessment

- Disposition time measures
- Median time intervals between events in case processing

It should be noted that this suggested list of management reports was developed for the state court systems and is not necessarily a comprehensive list of useful reports. However, we recommend that the Department consider developing and using these types of reports, focusing on the current timing and status of cases.

The Department should also consider utilizing statistical information to support its budgetary requests. The National Center for State Courts feels that caseload statistics are analogous to financial information used by business firms. The National Center recognizes that the court case is the common measure of what courts are currently doing

and the best indicator of what they will do. Further, they point out that the executive and legislative branches of government are sophisticated producers and consumers of caseload statistics and that they are powerful evidence for justifying claims for needed resources. Therefore, it appears that utilizing the case tracking system to generate statistical information to support budgetary requests would improve the budgeting process by quantifying the needs of the Department, and provide the Department of Finance with a better understanding of the Department's needs.

3. ***The Telesis Contract Was Not Completed Within The Amount And Timeframe Specified By The Contract***

Contract #C59340 between the Telesis Consulting Group and the Department was executed on December 31, 1989 for $85,215 but was not completed by its termination date of March 31, 1990, and therefore, on June 19, 1990 the City entered into the first of three amendments which brought the total contract price to $133,815 and extended the completion date to January 15, 1991. The Telesis system went "on line" on July 27, 1990. We noted that the subsequent amendments included a scope of services similar to the original contract and, therefore, there was no apparent scope increase. On October 8, 1991, another contract was signed for $45,000 which brought the total contract price to $188,715 (including the August 1990 contract for $9,900).

Assessing whether or not the project was in fact over budget requires an assessment of the circumstances. As discussed in the "Significant Projects Reviewed" section of this report, the former Prosecuting Attorney included approximately $250,000 in the fiscal 1989 budget for an upgrade of the existing case tracking system. From a budgetary perspective, the Telesis project did not exceed this amount as the total cost was $188,715. However, the project did exceed the original time and cost estimates as stated in the original contract.

Based on our discussions with the Data Systems personnel working at the Department of the Prosecuting Attorney, the extension of the original contract was primarily due to problems with the hardware and the complexity of the Department's processing needs. Data Systems indicated that they had approved the Telesis project with reservations over the contract amount. They were hesitant to question the assertions made by Telesis that programming in a microcomputer environment was significantly less expensive than a mainframe environment, due to their lack of experience with the hardware and programming language recommended by Telesis.

In addition, the Prosecuting Attorney and Data Systems indicated that the vendor was requested to make changes to the software specifications. These changes, however, were not formally documented. Therefore, all of the specifications in the original Telesis contract were not satisfied and the additional work performed was not adequately documented. This creates a problem in assessing what the City actually received for its money.

Recommendation

We recommend that all data processing contracts be reviewed by the Department of Data Systems. This may help to identify design problems or potentially unrealistic contract amounts or deadlines. If Data Systems is not qualified to perform such tasks, it should be the responsibility of Data Systems to obtain the necessary resources and ensure proposed data processing systems are adequately reviewed.

We also recommend that any contract changes be properly documented on a formal written change order. Based on our discussions with Data Systems, this is a normal procedure employed by their department to maintain a record of contract changes and to verify that these changes were achieved. Without the objectives of a project clearly documented, effective management is difficult.

4. *The Ability Of The Telesis System To Interface With Other Database Systems Was Not Given Adequate Consideration*

It does not appear that adequate consideration was given to the ability of the Telesis system to interface with the data processing systems of the Honolulu Police Department (HPD) and the Judiciary. As discussed in a previous comment, the original Telesis contract did specify that the system would interface with a variety of other databases. However, we noted that this contract provision was not achieved.

Based on our discussions with the Department of Data Systems, it is the goal of the State and local government to interface the databases of the HPD, the Department of the Prosecuting Attorney and the State Judiciary system. This would promote efficiencies and accuracy of data as cases input by the HPD would not have to be re-entered by the Department nor the Judiciary, except for their own unique information. For example, a case may be received by the Department from the HPD through a database interface, however, the Department may still require additional data for its own case tracking system before a case can be prosecuted. We noted that the Department has signed a recent agreement with TRICON (formerly Telesis) to attempt to achieve some limited interfacing with the HPD.

According to Data Systems, the Attorney General has been trying for approximately ten years to promote interfacing between departments. Currently, a project is under way to accomplish this for juvenile crimes known as the Juvenile Justice Information System (JJIS). Another project for adult crimes known as the Offender Based Transaction System (OBTS) is also under study. These projects are not expected to be completed for several years.

Data Systems has also stated that departments may have resisted this interfacing concept because they would be responsible in financing and researching the feasibility of the

proposed plan and felt that a large portion of the benefit would be realized at the State level. Also, such proposed projects are complex and involve the cooperation of many departments. In the case of the Department of the Prosecuting Attorney, it was determined by the Prosecuting Attorney that a new system was needed in a relatively short period of time to effectively manage and accomplish its day-to-day work. Therefore, interfaces were not the priority of the Department.

However, we believe that this structure may promote short-term solutions and could be more costly for the City in the long run. Data Systems has indicated that they are not sure whether the Telesis system, as currently designed, will be compatible with other City or State departments. Preliminary assessments of the ability of the system to interface with the HPD are encouraging, but a definite conclusion cannot be reached. Therefore, the ability of the Telesis system to interface with other database systems is not known at this time.

Recommendation

We recommend that the City consider pursuing this overall concept of interfacing the database systems with the State and local governments with respect to the tracking of Hawaii's criminals. We also recommend that Data Systems be charged with the responsibility of ensuring that data processing systems are developed with this long-range program in mind. For example, in the case of the Department of the Prosecuting Attorney, no design should be approved unless it allows the system to interface with other systems. Furthermore, appropriate policies should be in place to promote cooperation between various governmental units where there is a common goal.

IV. APPENDICES

APPENDIX A

DEPARTMENT OF THE PROSECUTING ATTORNEY
BUDGET APPROPRIATIONS
FOR THE FISCAL PERIODS 1984–1991

Fiscal Year End	Funds					Total Appropriations	General Fund Expenditures	General Fund Appropriations > General Fund Expenditures	Increase in Total Appropriations		Comments (1)
	General		Fed. Rev. Sharing	Special Projects	Federal						
	Original	Supplemental/ Provisional							$	%	
1984	4,370,785	106,372	67,610	–	–	4,544,767	4,475,618	1,539	n/a	n/a	(a)
1985	5,718,531	–	–	–	–	5,718,531	5,697,449	21,082	1,173,764	26%	(b)
1986	6,094,829	–	35,240	–	–	6,130,069	5,869,202	225,627	411,538	7%	–
1987	6,401,993	–	700	–	–	6,402,693	6,401,875	118	272,624	4%	–
1988	6,950,728	50,000	–	–	–	7,000,728	7,000,570	158	598,035	9%	(c)
1989	8,121,645	–	–	–	–	8,121,645	8,070,501	51,144	1,120,917	16%	(d)
1990	8,946,719	–	–	1,347,466	–	10,294,185	8,941,638	5,081	2,172,540	27%	(e)
1991	10,516,068	50,000	–	1,800,809	516,990	12,883,867	10,299,628	266,440	2,589,682	25%	(f)

(1) See comment legend on following pages. Explanations are provided for significant changes.

DEPARTMENT OF THE PROSECUTING ATTORNEY BUDGET APPROPRIATIONS FOR THE FISCAL PERIODS 1984-1991

Explanations for Budget Increases Based On Discussions With The Department

(a) The $106,372 supplemental appropriation in fiscal 1983-84 was for:

- $76,903 expended for lump-sum vacation payment
- $29,469 for collective bargaining which occurs every two years

(b) The budget increase from fiscal 1984 to 1985 was the result of an increase in various positions from 150 positions in 1984 to 192 positions in 1985. The additional positions consisted of 24 attorneys, 14 support clerks, 2 clerks and 2 administrative support positions (a messenger and an account clerk). This resulted in the salary budget increasing from approximately $3,601,000 in fiscal 1984 to approximately $4,393,000 in fiscal 1985, or a $792,000 increase, accounting for 67% of the budget increase. The budgetary justification for the increase in personnel was an overall increase in Departmental workload such as the large increase in the number of people served in the Victim Witness Program.

(c) Additional funds of $50,000 in fiscal 1987-88 was received from the General Fund provisional account. A significant amount of employee turnover occurred in this fiscal year resulting in departing employees being paid out their accrued vacation. Because of insufficient funds to accommodate a large vacation payout, the Department requested, and received, funds from the provisional account.

(d) Budget increase in fiscal 1988-89 was due to an increase in positions from 198 to 218. The additional 20 positions consisted of 2 attorneys, 7 support clerks, 3 investigators, 1 auditor, 1 administrative messenger, 1 audio/visual position, 1 administrative position, and 4 paralegal positions. This resulted in the salary budget increasing from approximately $5,397,000 in fiscal 1988, to approximately $6,171,000 in fiscal 1989, or a $774,000 increase, accounting for 69% of the budget increase. An overall increase in the workload of the Department, especially in family court and in the juvenile cases handled, were cited as reasons for requesting additional positions.

(e) Budget increase in fiscal 1989-90 was a result of two factors - an increase in positions from 218 to 227 and the inclusion of the Special Projects Fund in the budget. The added positions consisted of 5 paralegals, 2 Victim Witness counselors, 1 planner, and 1 systems analyst (the analyst position was subsequently transferred to the Department of Data Systems). A planner position was added to make the Department more effective in obtaining federal grant money. Therefore, the additional positions increased the salary budget by approximately $513,000 and accounted for 62% of the overall budget increase.

The inclusion of the Special Projects Fund in the fiscal 1989-90 budget represented a budget increase of approximately $1,347,000. Prior to 1990, special projects moneys were included in the budget for information only and were not specifically appropriated. This is the first year that such funds were specifically appropriated and it represented both federal and state funds for such programs as Career Criminal, Victim Witness (VW), Victims of Criminal Acts (VOCA), and the Youth Gang Program.

(f) The budget increase in fiscal 1990-91 was due to:

- salary increases
- increase in expenses due to the $900,000 Kroll contract
- increases in funding for various special projects
- a supplemental appropriation of $50,000.

Salary costs increased by approximately $1,120,000. No new positions were added, however, increases resulted from pay increases, overtime, and the conversion of 10 law clerks initially created in fiscal 1984-85 to deputy prosecutors.

The budget for special projects increased as follows - Career Criminal increased by $173,000, Victim Witness increased by $38,000, Victims of Criminal Acts increased by $35,000, Youth Gang increased by $300,000 and a new program, Narcotics Prosecution (NARCO) was added at a cost of $100,000.

It should be noted that the fiscal 1991 budget required the Federal Funds to be segregated from the Special Projects Fund. In fiscal 1990 federal funds were budgeted through the Special Projects Fund. The $516,990 reallocation represents federally funded projects. The original appropriation was for approximately $192,000 to fund VOCA and NARCO. Through Council resolution, an additional $325,000 was received to fund Domestic Violence and VOCA projects.

The $50,000 of additional funds received in fiscal 1991 was due to expenditures for lump sum vacation payments of approximately $105,000, overtime costs of approximately $175,000, and office rent of approximately $101,000. Note that only an additional $50,000 was required to fund $381,000; the balance came from savings in other budget categories.

DEPARTMENT OF THE PROSECUTING ATTORNEY

CONTRACT PROCEDURES COMPLIANCE MATRIX

APPENDIX B

Contracts:		M-4 Approvals				Managing Director	Contract Cert. Approval (Dir. of Finance)	Contract Execution	Commencement of Work
		Fiscal Officer	Dept. Head	Director of Civil Service	Chief Budget Officer				
Kroll Associates									
#C62040	$900,000	May 24, 1990	May 24, 1990	May 25, 1990	May 29, 1990	May 30, 1990	June 18, 1990	April 16, 1990	April 16, 1990
N/A (1)	$250,000	May 6, 1991	May 6, 1991	N/A	N/A	N/A	N/A	N/A	Continued (4)
N/A (2)	$450,000	July 17, 1991	July 22, 1991	(3)	July 25, 1991	July 25, 1991	N/A	N/A	Continued (4)
Telesis									
#C56990	$9,990	Aug. 7, 1989	Aug. 7, 1989	Aug. 9, 1989	Aug. 21, 1989	Aug. 22, 1989	Sept. 6, 1989	Aug. 8, 1989	Aug. 7, 1989
#C59340	$85,215	Aug. 7, 1989	Aug. 7, 1989	Aug. 9, 1989	Aug. 21, 1989	Aug. 22, 1989	Feb. 2, 1990	Dec. 31, 1989	Oct. 3, 1989
#C59340(A)	$45,000	Feb. 5, 1990	Feb. 5, 1990	Mar. 2, 1990	Feb. 27, 1990	Mar. 6, 1990	June 19, 1990 (6)	June 19, 1990 (6)	Continued (4)
#C59340(B)	N/A	(7)	(7)	(7)	(7)	(7)	(7)	Aug. 24, 1990(7)	Continued (4)
#C59340(C)	$3,600	Jan. 17, 1991	Jan. 17, 1991	(8)	Mar. 13, 1991	Mar. 15, 1991	Mar. 28, 1991	Mar. 28, 1991(9)	Continued (4)
Jeffery Yamashita									
#C59350	$21,450	Dec. 11, 1989	Dec. 11, 1989	Dec. 13, 1989	Dec. 15, 1989	Dec. 18, 1989	Feb. 12, 1990	Jan. 25, 1990	Dec. 18, 1989
#C59350(A)	$41,976	June 15, 1990	June 15, 1990	June 19, 1990	June 20, 1990	June 20, 1990	July 27, 1990	July 6, 1990	Continued (4)
#C59350(B)	$46,173	May 9, 1991	May 10, 1991	May 14, 1991	June 5, 1991	June 6, 1991	July 22, 1991	July 11, 1991	Continued (4)
Yoshiko Payne									
#F641-83	$25,000	(5)	(5)	(5)	(5)	(5)	June 13, 1983	May 26, 1983	June 1, 1983
#F06413(A)	$20,000	(5)	(5)	(5)	(5)	(5)	Nov. 9, 1984	Oct. 24, 1984	Continued (4)

SEE LEGEND ON FOLLOWING PAGE

(1) Request for additional $250,000 submitted. No approval or denial noted.

(2) Request for additional $450,000 denied by the Department of Finance.

(3) Director of Civil Service waived certification.

(4) Services continued under previous contract.

(5) No M-4 requirement at this time.

(6) Note that contract #C59340 expired on March 31, 1990.

(7) No M-4 or certificate necessary since no additional funds were involved. Contract #C59340(A) expired on June 30, 1990.

(8) Certification of Director of Civil Service waived under RCH 6-303(i).

(9) Note that contract #C59340(B) expired on August 31, 1990 and Telesis services per contract ended on January 15, 1991 which was prior to contract execution on March 28, 1991.

DEPARTMENT OF THE PROSECUTING ATTORNEY

V. GUIDANCE FOR SELECTION OF CONSULTANTS

A. General Policy

The selection of a consultant/firm shall be on the basis of availability, demonstrated competence, and professional qualifications necessary for the satisfactory performance of the services required. Such services are to be engaged at fair and reasonable prices. This section does not apply to consultants contracted through the DF-71 process.

B. Selection of the consultant/firm shall be based on:

1. Examination of the scope of work and project schedule.

2. The consultant/firm's ability to perform in accordance with the project schedule.

3. Information providing assurance that there is no personal and organizational conflict of interest, prohibited under State and local law, by the consultant/firm and each of its associates, joint venture partners, or subcontractors (proposed to be used in the project).

4. Past record of the consultant/firm's performance on contracts with the City, in relation to type of work, organizational and technical methods of accomplishing the work, ability to complete work on schedule, and cost control methods.

5. Same as (4) for each of the consultant/firm's associates, joint venture partners, or subcontractors.

6. Technical competence and specialized experience of the consultant/firm's personnel available for the project.

7. Same as (6) for each of the consultant/firm's associates, joint venture partners, or subcontractors.

8. Past record of the consultant/firm's performance on contracts with other governmental agencies or public bodies and with private industry in relation to type of work, organizational and technical methods of accomplishing the work, ability to complete work on schedule, and cost control methods.

9. Same as (8) for each of the consultant/firm's associates, joint venture partners, or subcontractors.

10. Current and planned workload of the consultant/firm's.

11. Same as (9) for each of the consultant/firm's associates, joint venture partners, or subcontractors.

12. The consultant/firm's proposed methods for technically accomplishing the work, including, where appropriate, demonstrated capability to explore and develop innovative or advanced techniques and designs.

DEPARTMENT OF THE PROSECUTING ATTORNEY

13. Same as (12) for each of the consultant/firm's associates, joint venture partners, or subcontractors.

14. The existing organizational structure for the consultant/firm and each of its associates, joint venture partners, or subcontractors and any proposed organizational relationship between the firm and each of its associates, joint venture partners, or subcontractors.

15. No cost information will be requested. If submitted, such information may be examined.

C. The requesting department may solicit proposals and may hold interviews with the consultant/firms to be considered.

1. The invitations for proposals shall include the following:

   (a) Scope of work, including times for project task completions.

   (b) A solicitation statement if required by federal regulations.

   (c) Criteria for selection of the consultant listed in Section V. B.1 through 15.

2. Where proposals have been submitted, the requesting department shall forward these to the Technical Review Committee with the selection letter.

DEPARTMENT OF THE PROSECUTING ATTORNEY
INTERNAL REVENUE SERVICE QUESTIONS

The 20 questions from Revenue Ruling 87-41 to evaluate independent contractor status. Note that a "Yes" answer indicates that the contractor is more appropriately classified as an employee.

1) Is the worker required to comply with instructions about when, where and how the work is to be done? **Yes**

2) Is the worker provided training that would enable him or her to perform a job in a particular method or manner? **Yes**

3) Are the services provided by the worker an integral part of the business's operations? **Yes**

4) Must the services be rendered personally? **Yes**

5) Does the business hire, supervise or pay assistants to help the worker on the job? **Yes**

6) Is there a continuing relationship between the worker and the person for whom services are performed? **Yes**

7) Does the recipient of the services set the work schedules? **Yes**

8) Is the worker required to devote his full time to the person he performs services for? **Yes**

9) Is the work performed at the place of business of the company, or at specific places designated by the company? **Yes**

10) Does the recipient of the services direct the sequence in which the work must be done? **Yes**

11) Are regular oral or written reports required to be submitted by the worker? **Yes**

12) Is the method of payment hourly, weekly or monthly (as opposed to commission or by the job)? **Yes**

13) Are business and/or traveling expenses reimbursed? **Yes**

14) Does the company furnish tools and materials used by the worker? **Yes**

15) Has the worker failed to invest in equipment or facilities used to provide the services? **Yes**

16) Does the arrangement put the person in the position of realizing either a loss or a profit on the work? **No**

17) Does the worker perform services exclusively for the company rather than working for a number of companies at the same time? **Yes**

18) Does the worker in fact not make his services regularly available to the general public? **Yes**

19) Is the worker subject to dismissal for reasons other than nonperformance of contract specifications? **Yes**

20) Can the worker terminate his relationship without incurring a liability for failure to complete a job? **Yes**

DEPARTMENT OF THE PROSECUTING ATTORNEY
TABLE OF BUDGET DELAYS

Requested Date for Submission of Annual Budget (1) (for the following fiscal year)	Actual Date the Annual Budget was Submitted to the Department of Budget (2)	Number of Days Late (3)
September 1, 1983	(4)	(4)
September 3, 1984	December 20, 1984	108
September 2, 1985	October 10, 1985	38
September 1, 1986	October 29, 1986	58
September 1, 1987	November 4, 1987	64
September 1, 1988	October 20, 1988	49
September 1, 1989	October 12, 1989	41

(1) Date represents the first working day of September, the date the Department of Budget requests that all budgets be submitted.

(2) Date represents the date the budget was completed and signed by the Prosecuting Attorney.

(3) Represents the actual number of days based on a 7 day work week.

(4) Information not available.

DEPARTMENT OF THE PROSECUTING ATTORNEY CITY PURCHASING PROCEDURES FOR CONSULTANT CONTRACTS

Independent Contractor Funded by the Operating Budget

Independent contractor requests that are funded by the operating budget will be processed in the following manner:

1. The requesting department shall complete the appropriate parts of Form M-4 and submit the original and 4 copies to the Department of Civil Service.

2. The Department of Civil Service shall certify the eligibility of the proposed services in accordance with RCH 6-303.

3. Certified M-4's shall be forwarded to the Budget Department for review and recommendation to the Managing Director.

4. The Managing Director is responsible for the final approval or denial of the request. If approved, the Managing Director shall send all copies back to the requesting department for follow-up action. If denied, the Managing Director shall send all copies back to the requesting department for distribution.

5. Upon approval of the M-4 by the Managing Director, the requesting department shall submit a selection letter to the Technical Review Committee. The letter should provide the following as a minimum:

   a. Definition of the contract scope

      (1) Purpose and goals of the contract

      (2) Activities to be undertaken by the contractor

   b. Project code, source of funds and estimated cost of contracts. Also, attach a copy of the approved M-4.

   c. List of three or more recommended firms or individuals in alphabetical order.

In its evaluation of individuals and firms, departments shall establish and periodically review internal policies and procedures for soliciting interest from such individuals/firms and recommending candidates to the Technical Review Committee. Each department shall be responsible for the conformity of such procedures to the requirements of federal, state or other non-City programs it administers.

6. The Technical Review Committee shall screen the selection letter and use the proposal evaluation criteria listed in Section V. B. to make its recommendation to the Managing Director. The Technical Review Committee may require that the requesting department submit a supplemental list of eligible individuals or firms.

7. Upon selection of a consultant by the Managing Director, the requesting department shall prepare a draft contract and forward it to the Finance Department and Corporation Counsel, in that order, for review.

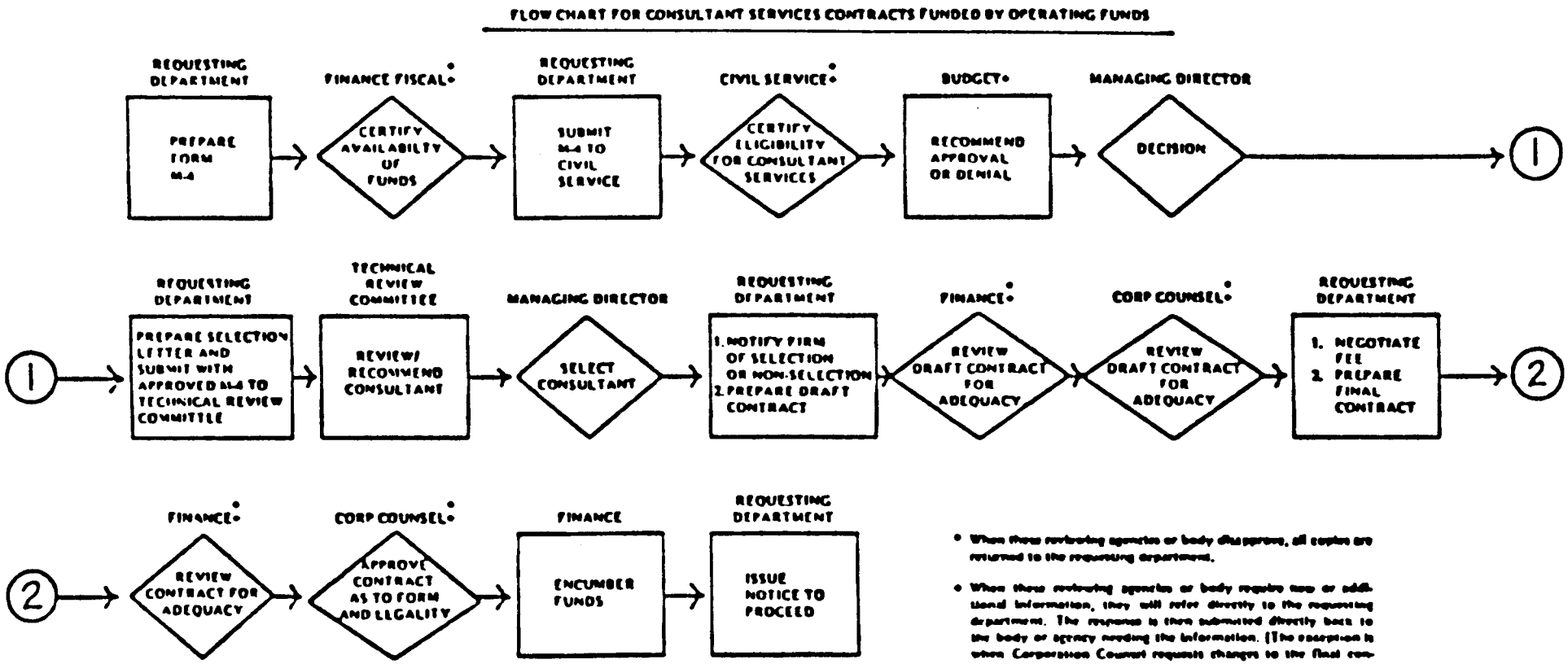
8. The requesting department shall negotiate with the selected firm to arrive at a fair and reasonable fee. The consultant shall provide a detailed projection of costs and profit. Negotiations with the selected consultant and the completion of the agreement provisions shall be done by the department according to accepted City procedures and applicable federal regulations. In the event agreement cannot be reached, negotiations shall be terminated by written notices and a new list shall be sent to the Technical Review Committee.

9. After negotiations are successfully concluded, a contract is prepared by the requesting department and sent to Finance and Corporation Counsel for approval.

10. Upon final approval of the contract, Finance will encumber the funds for the project and distribute copies to the appropriate agencies.

11. Upon receipt of the executed contract from the Finance Department, the requesting department shall prepare and issue the notice to proceed to the contractor.

DEPARTMENT OF THE PROSECUTING ATTORNEY



* When these reviewing agencies or body disapprove, all copies are returned to the requesting department.

* When these reviewing agencies or body require new or additional information, they will refer directly to the requesting department. The response is then submitted directly back to the body or agency needing the information. (The exception is when Corporation Counsel requests changes to the final contract documents. The revised contract must be resubmitted through Finance.)

CITY AND COUNTY OF HONOLULU
DEPARTMENT OF THE PROSECUTING ATTORNEY

PROJECTS REVIEWED

Fiscal Year	Project
1984	White collar crime unit established to focus on economic crimes on Oahu
1985	Consultant contract with Yoshiko Payne for litigation support services
1988	Victim/Witness positions funded by the State converted from temporary to permanent positions
	The creation of seven permanent positions
1989	Youth gang prosecution team established
1990	Reorganization of the Department of the Prosecuting Attorney
	Telesis contracted to develop a case management system
	Deputies reassigned to screen the backlog of nine hundred cases
	Consultant contract with Jeffrey Yamashita for investigative services
1991	Establishment of review teams for special purposes
	Kroll investigation of the management of the City's bus system
	Contract with Mothers Against Drunk Driving for support service to victims of homicide crimes

CITY AND COUNTY OF HONOLULU
DEPARTMENT OF THE PROSECUTING ATTORNEY

INTERVIEW LIST

Name	Title	Date
Alm, Steve	Director (MPD)	10/11/91
Bender, Dan	Budget Analyst	10/25/91
Ching, Armina	Director (SPD)	October (various)
Dunn, Dennis	Director (VWA)	October
Fujise, Alexa	Branch Chief (LSS - Appellate)	10/22/91
Graham, Robert	Director of Data Systems	January (various)
Kaneshiro, Keith	Prosecuting Attorney	September/October (various)
Kan, Wesley	Deputy (SPD)	10/23/91
Kimura, Nora	Fiscal Officer	September/October (various)
Kuwahara, George	Administrative Services Officer	September/October (various)
Lau, Henry	Consultant	10/7/91
Lee, Ben	Judiciary Statistician	10/25/91
Lee, Randy	Director (FPD)	10/16/91
Leong, Paul	Chief Budget Officer	September/October (various)
Lum, Cora	First Deputy	10/11/91
Mau, Paul	Data Processing Systems Analyst	January (various)
Mishina, Cynthia	Clerk (SPD)	10/21/91
Naito, Janice	Senior Legal Clerk (MPD)	10/21/91
Nelson, James	Investigator (FPD)	10/15/91
Patterson, Jean	Clerical Supervisor (FPD)	10/23/91
Senaga, Carol	Executive Assistant	September/October (various)
Taniguchi, Gladys	Clerk (MPD)	10/25/91
Weatherwax, Wallace	Director (LSS)	10/7/91
White, Iwalani	Deputy (SPD)	10/25/91
Yamashita, Jeffrey	Special Assistant - Investigations	10/17/91
Yuen, Jane	Clerk (VWA)	10/24/91

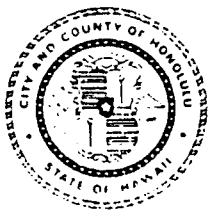
V. RESPONSES OF THE AFFECTED DEPARTMENTS

V. RESPONSES OF THE AFFECTED DEPARTMENTS

A preliminary draft of this report was transmitted to the Department of the Prosecuting Attorney and to the Managing Director of the City and County of Honolulu on February 11, 1992 by the Office of Council Services. Copies of the transmittal letters are included as Attachment 1. The responses of the Department and the Managing Director, which were received by us on February 21, 1992, are included as Attachment 2 and 3, respectively.

Based on their comments, some changes were made to the draft report to clarify our findings and statements and have been incorporated in this final report.

ATTACHMENT 1



OFFICE OF COUNCIL SERVICES

CITY AND COUNTY OF HONOLULU
530 SOUTH KING STREET
HONOLULU, HAWAII 96813
TELEPHONE: (808) 523-4911 FAX: (808) 527-5581

DAVID T. E. LUM, PH.D.
DIRECTOR

February 11, 1992

Mr. Keith Kaneshiro
Prosecuting Attorney
Department of Prosecuting Attorney
1164 Bishop Street, 10th Floor
Honolulu, Hawaii 96813

Dear Mr. Kaneshiro:

RE: AUDIT OF THE DEPARTMENT OF PROSECUTING ATTORNEY

Attached for your review and comment are two copies of the preliminary draft of the Performance Audit of the Department of Prosecuting Attorney conducted by Coopers & Lybrand pursuant to Resolution 91-131. Please return any written comments you wish to make on the report to my office no later than February 19, 1992. Comments returned by the deadline will be included as part of the final draft of the report.

Since the report is still in a preliminary draft form and subject to further amendment, please limit access to the report to those assisting you in preparing your response. Also, please be aware that dissemination of the report is to be made only after it has been finalized and released by the Council.

Thank you for your department's continuing cooperation in enabling the auditors to conduct the audit work. If you have any questions, please call me at 523-4914 or Ivan Kaisan of my staff at 523-4911.

Sincerely,

David T. E. Lum
Director

Attachments

ATTACHMENT 1

OFFICE OF COUNCIL SERVICES
CITY AND COUNTY OF HONOLULU
530 SOUTH KING STREET
HONOLULU, HAWAII 96813
TELEPHONE: (808) 523-4911 FAX: (808) 527-5581

DAVID T. E. LUM, PH.D.
DIRECTOR

February 11, 1992

Mr. Jeremy Harris
Managing Director
City and County of Honolulu
City Hall, Third Floor
Honolulu, Hawaii 96813

Dear Mr. Harris:

RE: AUDIT OF THE DEPARTMENT OF PROSECUTING ATTORNEY

Attached for review and comment by you and any departments you deem pertinent are six copies of the preliminary draft of the Performance Audit of the Department of Prosecuting Attorney conducted by Coopers & Lybrand pursuant to Resolution 91-131. The Department of Prosecuting Attorney has been provided copies of the draft report under separate cover. Please return any written comments you or your departments wish to make on the report to my office no later than February 19, 1992. Comments returned by the deadline will be included as part of the final draft of the report.

Since the report is still in a preliminary draft form and subject to further amendment, please instruct report recipients to limit access to the report only to those involved in preparing a response. Also, dissemination of the report is to be made only after it has been finalized and released by the Council.

The Administration's continuing cooperation in enabling the auditors to conduct the audit work is greatly appreciated. If you have any questions, please call me at 523-4914 or Ivan Kaisan of my staff at 523-4911.

Sincerely,

David T. E. Lum
Director

Attachments

ATTACHMENT 2

DEPARTMENT OF THE PROSECUTING ATTORNEY

CITY AND COUNTY OF HONOLULU

1164 BISHOP STREET HONOLULU HAWAII 96813
AREA CODE 808 • 523-4511

KEITH M. KANESHIRO
PROSECUTING ATTORNEY

CORA K. LUM
FIRST DEPUTY
PROSECUTING ATTORNEY

February 21, 1992

Mr. David T.E. Lum, Director
Office of Council Services
530 South King Street
Honolulu, Hawaii 96813

Re: AUDIT OF THE DEPARTMENT OF THE PROSECUTING ATTORNEY

Dear Mr. Lum:

This is in response to your request for comment on the preliminary draft of the Performance Audit of the Department of the Prosecuting Attorney, which was conducted by Coopers & Lybrand pursuant to Resolution 91-131.

After reviewing the preliminary draft with my staff, a number of factual errors were discovered. Before we can even begin to respond to the auditor's report, we request that these factual errors be corrected and the audit be redrafted to reflect the corrections.

Please find enclosed a listing of the factual errors that were found. The list cites where in the report the errors are located and what the corrections should be.

Again, I would like to emphasize our preference of having these errors corrected before we respond to the specific points raised.

Thank you for your consideration of this matter. If you have any questions, please do not hesitate to contact me at 527-6407.

Very truly yours,

Keith M. Kaneshiro

KEITH M. KANESHIRO
Prosecuting Attorney

KMK:cs
Enclosure

LISTING OF FACTUAL ERRORS IN AUDIT

1. **FINDING:** "Based on his comparison of the alternatives, the Prosecutor was most impressed with the Telesis software, although Telesis had no prior experience with case-tracking systems." (Page 12)

CORRECTION: **This is an incorrect representation of how Telesis was selected by the Prosecutor's Office.**

The Prosecutor gave final approval to the Telesis contract, despite his reservations, largely because of recommendations from the First Deputy Prosecuting Attorney and the Department of Data Systems.

The DDS staff assigned to the Prosecutor's Office was asked to do a computer search for existing software possibilities. Telesis was brought to the attention of the First Deputy after a DDS staff member attending a trade show observed a demonstration which showed how the software was used by the Matson Navigation Company.

Other DDS and Prosecutor staff did an on-site visit at Matson to see first-hand how the Telesis system operated. They reported that Matson was pleased with the system. The DDS personnel themselves said they were impressed with the speed of the Matson system.

Despite the strong recommendation by DDS in favor of Telesis, the Prosecutor remained concerned that Telesis may not be as successful when applied to criminal cases because of different requirements. However, the Prosecutor agreed to proceed with a conceptual design because of assurances by Telesis that the software could be custom designed to the needs of the Prosecutor's Office.

Another important consideration in the Prosecutor's decision was that Telesis made more economic sense than upgrading the existing PROMIS software, which was inefficient. Upgrading PROMIS would have cost in excess of $278,340 compared to $95,215 for Telesis.

2. **FINDING:** "The Department of the Prosecuting Attorney failed to obtain necessary approvals prior to expending funds for consultant contracts. (Page 15, Table of Contents).

CORRECTION: **The Department cannot "expend" and has not "expended" funds without the appropriate approvals.**

3. **FINDING:** "2. The Department of the Prosecuting Attorney lacked adequate documentation. . . for the selection of Telesis as consultants." (Page 18).

CORRECTION: **Telesis submitted a formal, written proposal to the Department.**

4. **FINDING:** "Input from the divisions is limited to the annual preparation of a 'wish list' by division indicating their needs." (Page 28).

CORRECTION: **Division Directors are not "limited" to submitting a "wish list" and in fact are intimately involved in formulating the budgets of their respective divisions. The Directors are involved in the following ways:**

1) **The Department conducts an annual retreat for all Division Directors plus clerical and investigator supervisors.**

2) **The retreat agenda includes budget planning for the upcoming fiscal year, reporting of past accomplishments, problem solving and goal setting. (See attached agendas for 1990 and 1991.)**

3) **Needs of the Department and the divisions are discussed in the context of the Department's mission statement and goals.**

4) **Supervisors provide justification for their staff and equipment needs.**

5) **Supervisors discuss and prioritize all budget requests.**

6) **Budget is prepared and submitted. If a cut is made by the Budget Department, Directors have the opportunity to submit written justification and Prosecutor will appeal before City Council.**

5. **FINDING:** "No system exists for tracking purchases of equipment with grant money." (Page 30).

CORRECTION: **Existing systems that allow for tracking of grant-purchased equipment are described below:**

1) **An inventory list is maintained of all equipment (including grant-purchased equipment) in the department;**

2) **Quarterly reports detailing equipment expenditures are filed with the State for State and Federal grants; and**

3) **Monthly reports are sent to the Prosecuting Attorney detailing grant expenditures (including equipment expenditures).**

6. **FINDING:** "It is estimated that only 50% of the DUI and criminal misdemeanor cases are processed using Telesis." (Page 34)

CORRECTION: **All DUI cases are in Telesis and all new criminal misdemeanor cases are in Telesis.**

7. **FINDING:** "It is estimated that approximately 30 cases can be input into the PROCES system in the time it takes to input one case on the Telesis system." (Page 35)

CORRECTION: **Approximately 3 cases, not 30 can be input into the PROCES system in the time it takes to input one case in Telesis.**

8. **FINDING:** "Based on this apparent lack of expertise and the Prosecuting Attorney's 'hands on' approach, they were kept at 'arms length' by the Prosecutor." (Page 35).

CORRECTION: **DDS was not kept at "arm's length" by the Prosecutor. The record shows DDS involvement from inception of the Telesis project:**

1) **Two DDS staff members were located at the Prosecutor's Office to coordinate and facilitate development of new case tracking system (May - September, 1989).**

2) **One DDS staff member remained permanently assigned to the Prosecutor's Office and kept DDS apprised on a regular basis of the system development (June, 1989 - present).**

3) **DDS staff were present when consultants interviewed members of the Prosecutor's staff during the development of the software conceptual design (August - October, 1989).**

4) **DDS authored both the software and hardware contracts for the Prosecutor's new case tracking system (July and November, 1989).**

5) **DDS designed, coordinated and implemented the mainframe download programs to convert the PROMIS data to the Telesis system (October, 1989 - July, 1990).**

6) **DDS set up the local area network (LAN) that allowed Telesis to operate (June, 1989 and December, 1989).**

7) **DDS staff assisted the consultants in loading the new Telesis software (April - July, 1990).**

6. **FINDING:** "In our review of the project we also noted that the Telesis system has also failed to replace the functions of the PROMIS system in the Appellate/Research Branch of the Legal Support Division." (Page 36).

CORRECTION: **Telesis has fully replaced PROMIS in the Appellate/Research Branch.**

7. **FINDING:** "While the basic goal of generating case statistics has been accomplished, it appears that the Department could expand the use of such statistics to monitor case workloads and support budgetary requests." (Pages 37-38).

CORRECTION: **Deputy Prosecutor caseload reports are already available to, and being used by, Division Directors to monitor attorney workload.**

8. **FINDING:** "Another project for adult crimes known as the Offender Based Information System (OBIS) is also under study." (Page 43, second paragraph, third sentence).

CORRECTION: **The correct name for the system under study is the Offender Based Tracking System, or OBTS.**

9. **FINDING:** "(c) Additional funds of $50,000 in fiscal year 1987-88 was received from the General Fund provisional account. A significant amount of employee turnover occurred in this fiscal year due to the election of a new Prosecutor, resulting in departing employees being paid out their accrued vacation." (Appendix A (c).

CORRECTION: **The additional $50,000 could not have been related to employee turnover "due to the election of a new Prosecutor" since these funds were requested prior to the election of the new Prosecutor.**

10. **FINDING**: "The $50,000 of additional funds received in fiscal 1991 was due to excess expenditures. . ." (Appendix A (f).

CORRECTION: **The expenditures were not "excess." The correct reason is "lump sum vacation payments."**

11. **FINDING:** Kau, Westley (Appendix I).

CORRECTION: **Kan, Wesley**

SUPERVISORS' RETREAT

JEFFERSON HALL, EAST-WEST CENTER
KANIELA ROOM, #207
OCTOBER 3, 1990

AGENDA

7:45 a.m. - 8:00 a.m.	-	Coffee/Juice Service
8:00 a.m. - 9:00 a.m.	-	Year In Review *(10 minute report by each Division)*
9:00 a.m. - 10:00 a.m.	-	Mission Statement *(Discuss criteria of excellence)*
10:00 a.m. - 10:15 a.m.	-	Break *(Refreshments to be served)*
10:15 a.m. - 12:00 noon	-	Budget 1991-1992 * *Equipment* * *Personnel* * *Priority List*
12:00 noon - 1:00 p.m.	-	Lunch *(Sandwich Buffet in the Pumehana Room)*
1:00 p.m. - 3:30 p.m.	-	Enhancing Productivity Through Teamwork * *Improving management skills* * *Employee evaluation* * *Handling personnel problems* * *Training*
3:30 p.m. - 3:45 p.m.	-	Break *(Refreshments to be served)*
3:45 p.m. - 4:00 p.m.	-	Office Manuals
4:00 p.m. - 4:30 p.m.	-	1991 Legislative Package
4:30 p.m. - 5:30 p.m.	-	Division Goals for 1991
5:30 p.m. - 6:00 p.m.	-	Wrap Up and Evaluation

(9/28/90)

SUPERVISORS' RETREAT

BOARD ROOM, MOANA SURFRIDER
AUGUST 23, 1991

AGENDA

7:00 a.m. - 7:30 a.m	-	*Coffee / Juice Service*
7:30 a.m. - 8:00 a.m.	-	Introduction *(Division Reports)*
8:00 a.m. - 8:15 a.m.	-	Responsibilities of Managers
8:15 a.m. - 8:30 a.m.	-	LONG RANGE PLANNING
8:30 a.m. - 9:30 a.m.	-	Review of Division Goals (Division Teams)
9:30 a.m. - 9:45 a.m.	-	*Break*
9:45 a.m. - 10:45 a.m.	-	Report on Division Goals
10:45 a.m. - 11:45 a.m.	-	PROBLEM SOLVING
		Ranking of Problems within the Division
11:45 a.m. - 1:00 p.m.	-	*Lunch* *(Buffet lunch at the Beachside Cafe)*
1:00 p.m. - 2:00 p.m.	-	Report on Problem Solving
2:00 p.m. - 3:00 p.m.	-	Priorities and Needs (Division)
3:00 p.m. - 3:15 p.m.	-	*Break*
3:15 p.m. - 4:15 p.m.	-	Division Budgets FY 1992 -1993
4:15 p.m. - 5:00 p.m.	-	Department Project

Attachment 3

OFFICE OF THE MANAGING DIRECTOR

CITY AND COUNTY OF HONOLULU

HONOLULU, HAWAII 96813 • AREA CODE 808 • 527-5796

92 FEB 21 A11 : 47

OFFICE OF COUNCIL SERVICES
CITY COUNCIL
HONOLULU, HAWAII

FRANK F. FASI
MAYOR

JEREMY HARRIS
MANAGING DIRECTOR

February 20, 1992

Mr. David Lum
Director
Office of Council Services
Honolulu Hale, Room 207
Honolulu, Hawaii 96813

Dear Mr. Lum:

Thank you for the opportunity to review the performance audit of the Department of Prosecuting Attorney conducted by Coopers and Lybrand.

The Administration's staff who reviewed the audit found that a major shortcoming of the audit was its failure to consider the independent and autonomous status of the Prosecuting Attorney's Office. The report also overlooked the spirit of cooperation tendered by the Administration during this period as the Administration responded to the Prosecuting Attorney's request that "exigency" and "confidentiality" be attached to these reports.

Nevertheless, we submit to you our responses and comments on the audit, which you will find attached.

Sincerely,

JEREMY HARRIS
MANAGING DIRECTOR

JH:dm
Attachment

ADMINISTRATION'S RESPONSES AND COMMENTS

A. MANAGEMENT OF CONSULTANT CONTRACTS

1. The Department Of The Prosecuting Attorney Failed To Obtain Necessary Approvals Prior To Expending Funds for Consultant Contracts

Finding. (Page 16). We also noted on the contracts with Kroll Associates, Jeffrey Yamashita, Yoshiko Payne and on two of the Telesis contracts that the Director of Finance's signature **certifying the availability of funds** was subsequent to the date the contract was **executed** (date on the face of the contract). Our review of the Administrative Directives Manual §265-III.B indicates that the contract execution date should be on or after the approval of funds by the Director of Finance.

Comment. While it is not "normal" practice, contractors at times start work before the contract is approved and executed; however, it is with a clear understanding that this is done at the contractors' "own risk".

The Administration's interpretation of the "General Terms and Conditions of Contracts of the City for Services of Consultants §2.3" is that once a contract is approved and executed, the contract is binding and all costs incurred within the scope of the contract, from the starting date can be approved to be paid.

It should be pointed out that the approval and execution of a contract occur simultaneously, as the Director of Finance signs both the certificate of availability of funds and the contract at the same time.

We would like to make the following comments on Appendix B and Appendix G in the audit report.

Appendix B

The dates reflected under the heading "Contract Execution" are not the dates the contracts were actually executed (signed). The dates reflected on "Appendix B" represents the start dates and in some cases could be earlier than the contract execution (sign) dates.

Appendix G

The flowchart does not include the process of formally certifying the availability of funds and the execution (signing) of the contract by the Director of Finance. Between the "approve contract as to form and legality" task and "encumber funds" task, there should be a task reflecting the formal certification as to the availability of funds and the execution (signing) of the contract by the Director of Finance. The signatures for the two documents take place at the same time.

Finding. (Page 17). We also noted violations of the Division of Purchasing's rules and regulations on the Processing of Consultant and Construction Contracts. In some instances, such as with the Kroll contract, we noted that the Request for Funds (M-4) was completed on May 24, 1990, which was subsequent to the commencement of services on April 16, 1990.

Comment. Due to time constraints and the confidential nature of the Kroll investigation, all necessary documents were accepted by the Administration after the contract start date. Confidential discussions for the need of the contract were held between the Chief Budget Officer and the Prosecuting Attorney prior to the beginning of the investigation and verbal approval was given. The City Administration made every effort to assist the Department of Prosecuting Attorney at this time.

However, no approval, expressed or implied, was given to the Department of Prosecuting Attorney to extend the contract in time, or to increase the amount of the contract beyond the original $900,000. As stated in the audit report "The Prosecuting Attorney...made an executive decision to continue the investigation without a new contract...". (See page 9). The Department was instructed to submit their request to the City Administration only after the Prosecuting Attorney made this unilateral decision.

In light of the foregoing, the City Administration decided that the increase in the cost of the investigation was not justified, and an M-4 submitted to the City Administration on May 6, 1991, and a subsequent M-4 submitted on July 17, 1991, were not approved.

The proper procedure for any department that determines that a contract will not be completed in the time specified, or that there will be insufficient funds to complete the contract, is to obtain all necessary approvals prior to the termination date in the contract, and to process an amendment to the contract.

2. The Department Of The Prosecuting Attorney Lacked Adequate Documentation And The Technical Review Committee Did Not Adequately Scrutinize The Recommendation For The Selection Of Telesis As Consultants

Recommendation. The Department should implement the necessary procedures to facilitate compliance with the City and County of Honolulu's procedures. Since the related control is the responsibility of the Technical Review Committee to review and authorize such requests, the Committee should strictly enforce the policies outlined in the City's Administrative Directives Manual (§265-III.A.3) in approving such requests.

Comment. Legal requirements were complied with, and proper City and County of Honolulu purchasing procedures were exercised. The project was advertised on August 10, 1989 in both newspapers of general circulation: The Honolulu Advertiser and Honolulu Star Bulletin. Three firms responded to the advertisement within the designated time of thirty days. The Technical Review Committee was informed by the Administrative Officer of the Department of Prosecuting Attorney that, of the three firms, one disqualified itself and another did not meet all of the City's qualifications, leaving Telesis as the remaining qualified applicant.

Due to the specialized nature of the services required by the Prosecuting Attorney's Office, the Technical Review Committee relied on the evaluation and recommendation of the agency. Consideration was also given to the Prosecuting Attorney as a duly elected official responsible to his constituents.

The minutes of the Technical Review Committee of September 26, 1989 clearly show that the selection of Telesis was discussed. We also note that no member of the Technical Review Committee was contacted and interviewed by the auditors on this matter.

3. The Department Of The Prosecuting Attorney's Consultant Contracts Are Vague In Specifying Services and Work To Be Performed

Recommendation. If the need for confidentiality requires the objectives and scope of the work to be deliberately vague in the contract, then the Department of Finance should set up separate procedures which will allow for the retention of confidentiality but at the same time, will clearly define the terms of the contract. For example, a confidential contract could contain an appendix that clearly sets forth the details of the work to be performed and access to this appendix could be restricted.

Comment. The Administration agrees with the recommendation of the auditor that the Department of the Prosecuting Attorney could have provided more detail in its contract in order to effectively monitor Kroll's performance of the contract and evaluate allowable expenses under the contract.

Moreover, this could have been accomplished without jeopardizing the need for confidentiality. Under Chapter 92F, Hawaii Revised Statutes (HRS), entitled the "Uniform Information Practices Act," government records that must remain confidential "to avoid the frustration of a legitimate government function" are protected from public

disclosure. Section 92F-13(3), HRS. Thus confidentiality does not negate the Prosecutor's responsibility to comply with City contracting requirements.

4. The Requirements Necessary to Declare A Project A Public Exigency Was not Properly Documented

Recommendation. The City and County of Honolulu, the Department of Finance or the Purchasing Division should require proper documentation for situations where a public exigency is declared. It should also provide guidance on the types of supporting documentation necessary when declaring a project a public exigency. The guidance should include examples of what is considered adequate documentation and also examples of what constitutes a public exigency.

Comment. As pointed out by the auditor, the phrase "public exigency" is specifically mentioned in the Revised Charter of the City and County of Honolulu and further defined in [accordance with] the City's Administrative Directives §265.2.1.

Further delineation of what constitutes a "public exigency" is unwarranted in light of the existing definition and contracting procedures already in place. Each request declaring a "public exigency" is reviewed on a case-by case basis. Initial review is made by the Department of the Corporation Counsel to determine whether the request satisfies the legal definition of "public exigency." Only after this legal determination is made is the managerial approval sought from the Finance Director and Managing Director.

In this case, the proper procedures and approvals were followed and obtained. Based upon the justifications of the Prosecuting Attorney, stressing the confidential nature of the project, the "critical time constraints" under which the investigative services had to be performed, and "in connection with anticipated and ongoing" criminal prosecutions, the request was approved. (See May 23, 1990 memorandum to Mr. Theodore Jung, Director of Finance, from Keith M. Kaneshiro, Prosecuting Attorney).

The discussion between the Chief Budget Officer and the Prosecuting Attorney reflected the need for immediate action by the City Administration. Due to the confidential nature of the project, and because of the unique special services that were required, the Prosecuting Attorney's request to hire Kroll Associates was approved. Approval by the Director of Finance, Corporation Counsel and the Managing Director is required for a department to contract using the public exigency method.

5. The Independent Contractor Status of Jeffrey Yamashita Is Not In Compliance With Internal Revenue Service Regulations

Recommendation. The Department should consider changing the nature of Mr. Yamashita's employment from an independent contractor to an employee.

Comment. The Department of Civil Service will discuss this recommendation with the Department of Prosecuting Attorney, and take appropriate action.

B. ORGANIZATION OF BUDGETARY AND FISCAL PLANNING PROCESSES

Finding Nos. 1, 2 and 3 will be addressed by the Department of Prosecuting Attorney.

C. OTHER ISSUES RELATING TO THE DEPARTMENT'S CASE MANAGEMENT SYSTEM

1. The Telesis Consulting Group Failed To Meet Project Objectives As Stated In The Provisions Of The Contract

2. The Use Of The Statistics Generated By The Telesis Case Tracking System Should Be Expanded

3. The Telesis Contract Was Not Completed Within The Amount And Timeframe Specified By The Contract

4. The Ability of The Telesis System To Interface With Other Database Systems Was Not Given Adequate Consideration

Comment. We agree with the findings of the auditors in regard to many of the problems encountered with the Telesis contract, both technical and managerial. As pointed out by the auditor "based on...the Prosecuting Attorney's 'hands on' approach, they (Data Systems) were kept at 'arms length' by the Prosecutor". (See page 35). This limited the level of involvement by the Department of Data Systems.

The most effective management of data processing contract is joint management by the user and Data Systems. The user is responsible for the functional requirements and Data Systems is responsible for the technical requirements. Both sets of requirements must be documented prior to bid. The deliverables so defined will be used to measure progress. This provides a clear definition of responsibilities.

This will assure that citywide information process standards are developed and adhered to as defined by the City Charter. It will also assure the integration and compatibility of all systems.

Finding Nos. 1, 2, 3 and 4 will be further addressed by the Department of Prosecuting Attorney.

ADDITIONAL RESPONSE BY THE DEPARTMENT OF THE PROSECUTING ATTORNEY

DEPARTMENT OF THE PROSECUTING ATTORNEY

CITY AND COUNTY OF HONOLULU

1164 BISHOP STREET, HONOLULU, HAWAII 96813
AREA CODE 808 • 523-4511

KEITH M. KANESHIRO
PROSECUTING ATTORNEY

CORA K. LUM
FIRST DEPUTY
PROSECUTING ATTORNEY

February 28, 1992

HAND DELIVER

Mr. David T.E. Lum, Director
Office of Council Services
530 South King Street
Honolulu, Hawaii 96813

Re: AUDIT OF THE DEPARTMENT OF THE PROSECUTING ATTORNEY

Dear Mr. Lum:

The following is the response of the Department of the Prosecuting Attorney to a performance audit conducted by Coopers & Lybrand at the direction of the City Council pursuant to Resolution 91-131.

We are submitting our response for inclusion into the final draft of the audit. As you are aware, our previous submittal on February 21, 1992 was to correct factual errors in the preliminary audit draft. We notified you then that before we could even begin to respond to the audit report, the factual errors should be corrected and the audit redrafted to reflect the corrections.

Most of the errors we found have since been acknowledged and corrected by the auditor.

The unauthorized release of the preliminary audit draft to the news media resulted in published accounts which were based on an inaccurate draft which did not include our response. We expect that the final draft will reflect a more conscientious effort to present a balance of viewpoints.

Very truly yours,

for KEITH M. KANESHIRO
Prosecuting Attorney

KMK/DW:wf

RESPONSE BY THE DEPARTMENT OF THE PROSECUTING ATTORNEY TO THE AUDIT BY COOPERS & LYBRAND

FORWARD

The following is the response by the Department of the Prosecuting Attorney to the findings of the audit conducted by Coopers & Lybrand at the direction of the City Council pursuant to Resolution 91-131. It is important to note that the auditors have confirmed that they focused on what they felt were deficiencies in the program and disregarded accomplishments.

The Department notes for the record its disappointment with the unauthorized release to the news media of the preliminary audit draft, which contains significant factual errors and erroneous conclusions.

RESPONSE TO AUDIT FINDINGS

A. MANAGEMENT AND CONSULTANT CONTRACTS

1. FINDING: "The Department Of The Prosecuting Attorney Failed To Obtain Necessary Approvals Prior To Hiring Consultants."

RESPONSE: The audit is critical of contracts that are started before the Finance Director signs the documents. This is a city administration practice. If the practice is wrong, then the Prosecuting Attorney should not be faulted for following what is established city procedure.

The audit confirms that the Department does not spend public funds without first getting approval of the city administration.

2. FINDING: "The Department Of The Prosecuting Attorney Lacked Adequate Documentation And The Technical Review Committee Did Not Adequately Scrutinize The Recommendation For The Selection Of Telesis As Consultants."

RESPONSE: No criteria for documentation was required of the Department. If documentation was inadequate, it was the responsibility of the Technical Review Committee to request more or to reject the Department's recommendation.

Again, it is inaccurate to fault the Department, which followed the proper review procedure and obtained the proper approval of its recommendation.

3. FINDING: "The Department Of The Prosecuting Attorney's Consultant Contracts Are Vague In Specifying Services And Work To Be Performed."

RESPONSE: All consultant contracts of the Department must be reviewed by attorneys in the Department of the Corporation Counsel. If the contracts are vague, it is the responsibility of the Corporation Counsel to request more details or reject the contract.

The Prosecuting Attorney properly followed procedure; if the procedure is inadequate, then the procedure and not the Prosecuting Attorney should be faulted.

4. FINDING: "The Requirements Necessary To Declare A Project A Public Exigency Was (sic) Not Properly Documented."

RESPONSE: We concur with the finding that the "City and County of Honolulu, the Department of Finance or the Purchasing Division should require proper documentation for situations where a public exigency is declared."

Again, the Department of the Prosecuting Attorney followed the proper procedure in requesting and obtaining the necessary approvals from the city administration.

5. FINDING: "The Independent Contractor Status of Jeffrey Yamashita Is Not In Compliance With Internal Revenue Service Regulations."

RESPONSE: Jeffrey Yamashita's contract was submitted to the City Finance and Budget Departments for review and approval. It is the responsibility of those departments to ensure the propriety of the contract.

The Department of the Prosecuting Attorney followed proper procedure in submitting Mr. Yamashita's contract for required city administration approval.

B. ORGANIZATION OF BUDGETARY AND FISCAL PLANNING PROCESSES

1. FINDING: Annual Budgets Are Not Submitted On A Timely Basis.

RESPONSE: We acknowledge this problem and will correct it.

2. FINDING: "Middle Management In The Department Of The Prosecuting Attorney Needs To Be More Actively Involved In The Planning and Management Of The Budget."

RESPONSE: Division Directors are intimately involved in formulating the budgets of their respective divisions. The directors are involved in the following ways:

1) **The Department conducts an annual retreat for all Division Directors plus clerical and investigator supervisors.**

2) **The retreat agenda includes budget planning for the upcoming fiscal year, reporting of past accomplishments, problem solving and goal setting. (See attached agendas for 1990 and 1991.)**

3) **Needs of the Department and the divisions are discussed in the context of the Department's mission statement and goals.**

4) **Supervisors provide justification for their staff and equipment needs.**

5) **Supervisors discuss and prioritize all budget requests.**

6) **Budget is prepared and submitted. If a cut is made by the Budget Department, Directors have the opportunity to submit written justification and the Prosecuting Attorney will appeal before City Council.**

An official from the auditing firm acknowledged subsequent to this finding that the auditor's criticism did not take into account a significant fact: the Department of the Prosecuting Attorney is unlike any other city agency because the Department is headed by an elected official. Since he is directly accountable to the public, it is therefore appropriate that he determine the degree to which his staff is involved in the budgeting process.

3. FINDING: "The System Lacks The Ability To Track Purchases Of Equipment With Grant Money."

RESPONSE: The Department agrees with this finding and concurs with the recommendation.

C. OTHER ISSUES RELATING TO THE DEPARTMENT'S CASE MANAGEMENT SYSTEM

1. **FINDING:** "The Telesis Consulting Group Failed To Meet Project Objectives As Stated In The Provisions Of The Contract"

RESPONSE: The original Telesis contract which was drafted by DDS erroneously stated that PROMIS had interfaces with the following:

Police Records Management System
Police Identification
State Offender Based Tracking System (OBTS)
State Juvenile Justice Information System (JJIS)

In actuality, PROMIS did not have any of these interfaces. The intention of DDS was to require in the Telesis contract that the contractor provide for these interfaces <u>in the future</u>.

While the Department accepts ultimate responsibility for the Telesis contract, the Department asserts that DDS was more qualified to determine that the interface objective was unrealistic.

The audit also incorrectly states that the Appellate/Research branch does not input its cases into the Telesis system. The Appellate/Research Branch is 100% on line.

In addition, the audit also incorrectly states that "It is estimated that only 50% of the DUI and criminal misdemeanor cases are processed using Telesis." All DUI cases are in Telesis and all new criminal misdemeanor cases are in Telesis.

2. **FINDING:** "The Use Of The Statistics Generated By The Telesis Case Tracking System Should Be Expanded."

RESPONSE: We concur.

3. **FINDING:** "The Telesis Contract Was Not Completed Within The Amount And Timeframe Specified By The Contract."

RESPONSE: We concur with this finding. However, the Department feels compelled to clarify that the final cost of Telesis reflects additional programs that were determined to be necessary subsequent to the original contract. Therefore, the $188,715 is not a cost overrun of the initial contract. The Telesis expenditure was in actuality a cost-efficient decision.

An allocation of $250,000 was budgeted for FY 1989 by the previous administration to upgrade the PROMIS software. The current Prosecutor met with the PROMIS vendor and learned that merely upgrading the PROMIS software would cost $278,340. In addition, an annual maintenance fee of $15,600 would be charged. Thus, the selection of Telesis resulted in a more efficient system at substantial savings to taxpayers.

4. FINDING: "The Ability Of the Telesis System To Interface With Other Database Systems Was Not Given Adequate Consideration."

RESPONSE: The Department disagrees with this finding. There is NO statewide interfacing of database systems despite 10 years of trying. In light of this, the Prosecuting Attorney determined that the Department could not afford to delay its development of Telesis.

The Department also disputes the audit's contention that the "ability of the Telesis system to interface with other database systems is not known at this time." In fact, a study by the State Attorney General has demonstrated that it is possible to interface Telesis with the future JJIS project.

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Performance audit of the Department of
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