

Audit of the Kaua‘i Fire Department



Submitted by

Spire Hawaii LLP for the
Kaua‘i County Council
County of Kaua‘i
State of Hawai‘i

Report No. 20-01

PREFACE

This performance audit of the County of Kaua‘i Fire Department (“KFD” or “Department”) was designed to examine whether the management of KFD is being conducted effectively and efficiently and whether proper management and oversight of the Department is being provided.

We would like to thank all who contributed data to this report, especially Acting Chief Robert Westerman, Fire Chief Steven Goble, Kathy Tanita, Rose Bettencourt, Managing Director Michael Dahilig and past and present KFD personnel.

This report was originally accepted by the County Council on November 25, 2020. This report has been revised as of December 15, 2020, to incorporate a revised response from KFD to correct a typographical error in its first response. There were no material changes to the report as a result of the revised response.

TABLE OF CONTENTS

PREFACE	1
EXECUTIVE SUMMARY	3
CHAPTER 1	12
Introduction	12
Audit Objectives and Scope	12
Background	13
Audit Methodology	20
CHAPTER 2	22
Summary of Findings	22
AUDITEE RESPONSE	53

Attachment 1 – Auditee Response (Revised)

Appendix 1 – Battalion Organization Chart Example

Appendix 2 – Summary of Pay Differentials

Appendix 3 – RFR Policy effective September 1, 2018

Appendix 4 – Statement of Policy Regarding Hours Worked and Work Performed Outside Normal Work Hours, effective December 1, 2009

Appendix 5 – Glossary of Pension Terms

Appendix 6 – Illustration of Excess Pension Cost Calculation

EXECUTIVE SUMMARY

In 2018, Kaua‘i County (“County”) was assessed \$2,424,741 for excess pension payments by the Hawai‘i Employees’ Retirement System (“ERS”). This Excess Pension Cost assessment¹ was charged because the County had employees whose retirement pay was increased by significant additions to their pay, such as overtime, other forms of premium pay, or salary increases.

Approximately \$2,248,560 of the Excess Pension Cost for the County in fiscal year 2018 was related to Kaua‘i Fire Department (“KFD” or “Department”) personnel who retired in calendar year 2017.

The assessment was of significant concern to the Kauai County Council, which commissioned a performance audit to examine the reasons for the assessment, including whether KFD effectively managed the overtime which contributed to the Excess Pension Cost.

Our company, Spire Hawaii LLP (“Auditor,” “Spire” or “we”), was engaged to conduct this audit. The questions to be answered in the audit were:

- Whether policies and Standard Operating Procedures (“SOPs”) are in place and are being followed when overtime is approved.
- The sources of overtime.
- Whether KFD has made the necessary managerial adjustments to cost effectively manage Rank for Rank (“RFR”).
- Whether the proper and responsible staffing levels for all fire stations are in place.

Our audit methodology included establishing an understanding of the processes surrounding overtime and pension payments, analyzing KFD records, testing a judgmental sample consisting of employees identified by the ERS as high pension cost employees who retired in 2017 (“2017 Retirees”), reviewing ERS data, and researching best practices related to overtime and pension costs.

¹ The ERS’ authority for the assessment was Hawai‘i Revised Statutes (“HRS”) §88-100 (Act 143, SLH 2012).

Finding 1: Certain fire fighters heavily utilized available overtime opportunities before their retirement. KFD has modified its policies in response.

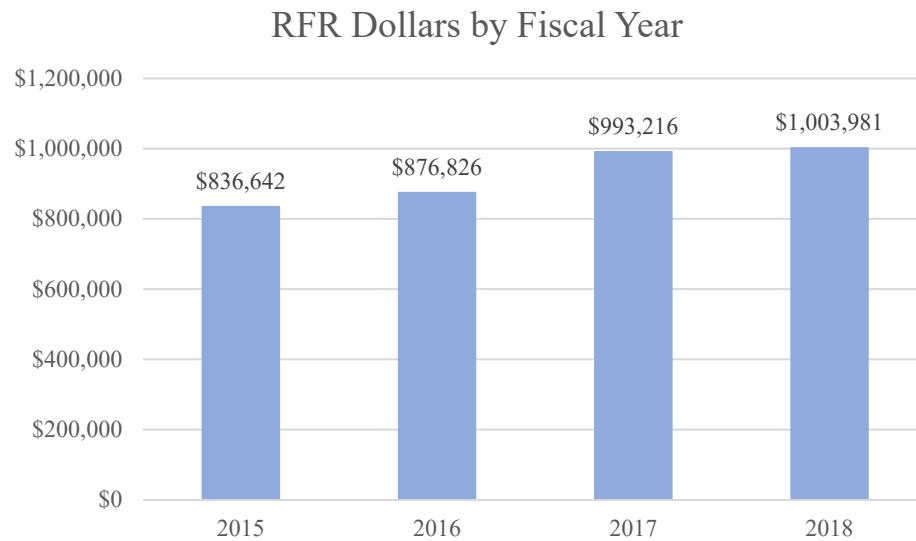
Collective bargaining and lax administrative practices and oversight allowed the sampled fire fighters to heavily utilize available overtime opportunities during the years before retirement. Since the Excess Pension Cost assessment, KFD has made adjustments that should decrease some overtime costs, but more needs to be done.

We found the major sources of overtime included:

Rank for Rank Recall (“RFR”) (67 percent of overtime)

RFR is a provision in the collective bargaining agreement (“CBA”) between the public employers and the Hawai‘i Firefighters’ Association (“HFFA” or “Union”) which requires that when a ranked fire fighter is absent, the opportunity to fill the position must first be offered to a fire fighter of the same rank. Effective July 1, 2014, eligible fire fighters can work up to twelve (12) shifts (288 hours) of RFR per fiscal year.

Between 2014 and 2018, fire fighters overall utilized approximately 89 percent of their allowed RFR hours. The cost of overtime due to RFR increased from approximately \$836,642 in fiscal year 2015 to \$1,003,981 in fiscal year 2018.



The budget for RFR in fiscal year 2014, when RFR was limited to 24 hours per year and only for vacancies due to scheduled vacations, was \$55,000.

We noted one instance of a fire fighter earning more than 288 RFR hours in a fiscal year, which is not allowed under KFD policy or the CBA, and 10

instances of fire fighters earning more than 144 RFR hours in a given six-month period, which is not allowed under KFD policy. These violations indicate a need for better monitoring by the KFD administration.

KFD also appears non-compliant with the CBA, as it has not actively monitored, evaluated or reported on the cost of RFR to the HFFA as required by the CBA. When we requested communications or reports that KFD has provided to the Union in accordance with this section of the CBA, the Acting Fire Chief said that KFD does not provide any reports and that the costs of RFR are included in its annual budget.

Sparky Trailer (6 percent of overtime)

The Sparky Trailer is a mobile learning center that visits all Kaua‘i elementary schools annually and provides students with Learn Not to Burn Curriculum, Ocean Safety Prevention, and Hands-Only CPR lessons. The Trailer is also available to participate in community events by request. The Sparky Trailer activity of the Fire Education program results in overtime hours when fire fighters provide staffing for the trailer outside their normal shifts. Between fiscal years 2014 and 2019, approximately 80 percent of the 7,791 hours that fire fighters spent working on the Sparky Trailer were paid at overtime rates, resulting in \$251,200 in overtime pay.

Seven of the 2017 Retirees participated in the Sparky Trailer program from fiscal years 2014 through 2016, with three of the 2017 Retirees consistently among the top participants (based on number of hours) during this period and one 2017 Retiree incurring as many as 221 hours in a fiscal year. KFD management became aware of potential seniority favoritism associated with signing up for the Sparky Trailer shifts, but did not implement changes until September 2016. Further changes in the sign-up system were not made until 2019.

Training (7 percent of overtime)

Fire fighters are paid overtime for conducting and receiving training outside their normal shifts. Based on sign-in sheets for on-island training in fiscal years 2016 and 2017, approximately 45 percent of the 18,719 total training hours were paid at overtime rates.

After the assessment, KFD made adjustments that should decrease overtime costs to address some of the causes of pension spiking. For example, the Sparky Trailer sign-up system allegedly favored senior fire fighters, and was replaced with a new system similar to call-backs, where once a fire fighter participates in overtime Sparky Trailer activities, his or her name goes to the bottom of the list to allow participation by others interested in working. During our interviews, we were told that in 2019, KFD also implemented changes to

its training policies and procedures to limit the number of training programs that fire fighters can attend and instruct. We understand that these changes were made in response to senior fire fighters teaching too many training programs on overtime. The Acting Fire Chief also stated during his interview that starting this fiscal year, instructors who normally work 24-hour shifts will be moved to 40-hour work weeks to limit the amount of training overtime incurred.

However, these reforms do not affect the largest cause of overtime, RFR. RFR overtime is typically incurred when coverage is needed because of absences due to vacation, sick leave or training. The data we reviewed showed that seven of the 2017 Retirees were paid for 288 hours or more of sick leave in the year in which they retired (2017), compared to an average of approximately 178 hours of sick leave per year in the three years prior.

The data also showed that 2017 Retirees filled sick leave vacancies of other 2017 Retirees with RFR shifts 75 times between 2014 and 2017, 39 of which occurred in 2017. Since sick leave or vacation approvals are documented by a supervisor's signature on time sheets, we were unable to ascertain whether or how the requests were vetted before approval.

While sick leave is a normal cost incurred by employers for the benefit of employees, the cost resulting from the abuse of sick leave is heightened for KFD when fire fighters use a RFR shift to fill in for a sick leave shift. If sick leave is abused or coordinated with fire fighters who are close to retirement, KFD will not only incur extra overtime costs, but could also incur a potential future excess pension cost assessment related to those retiring fire fighters. Put another way, if sick leave is taken inappropriately, instead of the unused sick leave being converted to service time credit, KFD is charged with an actual cost of extra overtime related to RFR shifts that it would not have otherwise incurred.

To avoid or mitigate future Excess Pension Costs, KFD should modify policies and practices concerning approvals to ensure vacation and sick leave requests are vetted properly so as to avoid the appearance of impropriety (preferential treatment, collusion with other fire fighters, etc.).

KFD's prior failure to timely address overtime costs and its lax management over overtime utilization, Sparky Trailer participation and training contributed to overtime costs that ultimately caused the \$2,248,560 Excess Pension Cost assessment. Current KFD management should be aware of the prior opportunities that were utilized by soon-to-be retirees and proactively monitor any overtime abuse that may occur. To the extent it has not done so, KFD also needs to ensure that the reforms it has instituted to control overtime, such as the changes to the Sparky Trailer sign-in sheet and training, are documented in policies, so they remain in place even if changes occur in KFD leadership.

Recommendations:

1. KFD should actively monitor the cost of RFR and be prepared to provide the County with analyses of RFR, including costs, effect on operational efficiency, and distribution of overtime among fire fighter personnel. The data can be used to assist with the collective bargaining process and facilitate staffing decisions made by KFD and the County. It is necessary that KFD fulfill its responsibility and should also provide HFFA with the communications required by the CBA.
2. KFD should continue to actively monitor the utilization of fire fighting personnel on Sparky Trailer activities to ensure appropriate and cost effective staffing, such as primarily using 40-hour personnel.
3. KFD should continue to actively monitor its on-island and off-island training programs to ensure training is appropriate for specific needs and personnel as well as being cost effective. We also recommend that KFD take into consideration the necessity of senior personnel attending off-island training if it is known that their retirement is imminent.
4. KFD should continue to implement procedures to shift 24-hour fire fighters to 40-hour schedules when attending or instructing training courses that are five days or more in length to limit the amount of overtime incurred.
5. KFD should closely monitor sick leave and vacation requests, and be aware of any trends where certain fire fighters may be regularly filling in for each other, particularly when close to retirement.
6. KFD should ensure that all timesheets and requests for leave are properly reviewed, verified and approved by the appropriate supervisors.
7. KFD should generate and maintain reports of overtime hours and expenses by rank and pay type in a consistent format that allows for comparison and analysis so that it can proactively monitor for potential budgetary impacts such as excess pension cost assessments.

Finding 2: KFD's Excess Pension Costs have been significant, but some of the controls that need to be instituted are outside KFD's hands.

The Acting Fire Chief stated in his interview that pension spiking is “nothing new” and that he has been aware of pension spiking “forever.” He believes that pension spiking is an accepted, unregulated practice that is not unique to KFD but rather a problem for public employers throughout the State. Other KFD personnel whom we interviewed also acknowledged a general culture of accepting that senior personnel had “earned” their right to take advantage of overtime opportunities such as RFR, Sparky Trailer and training.

In order to significantly limit its overtime exposure, KFD needs the help of the County and the State. As described above, the largest source of overtime for the sampled employees in the years before their retirement was RFR, which is collectively bargained into the CBA. The Acting Fire Chief, who was the Fire Chief when RFR was first implemented, stated in his interview that he did not support RFR. He further stated that he has limited ability to manage RFR and other overtime payments because they are required by the CBA.

KFD, like most organizations that are subject to collective bargaining agreements, operates in a culture where seniority is rewarded. Collective bargaining agreements consistently allow for preferential treatment based on seniority for issues such as assignments, layoffs and pay structure.

As a result, the heads of these organizations are faced with the difficult situation of managing their budgets while confronting the pressures of senior ranking personnel leveraging their collectively bargained opportunities to earn extra pay. Failure to appropriately manage the costs for non-base pay will result in excess pension costs in future years.

Agreement to change the CBA (including RFR) is determined by the State’s position on the issue, since the State leads collective bargaining negotiations and controls four of the five votes needed to change the CBA. Stated another way, even if all counties did not want the HFFA’s RFR proposal, they would not be able to oppose it at the bargaining table without the State’s four votes. In the case of fire fighters, the State employs fewer fire fighters than the counties, so the cost impact on the State from agreeing to RFR is relatively less. Although this is a historical problem, the documentation provided to us did not indicate whether State assistance has been requested. For this reason, we recommend that KFD (and the County) request the State’s assistance during collective bargaining to ensure that the State’s votes take into consideration the impact of proposed union changes like RFR on the counties and the ERS.

The State also controls the ERS. The County (and the Fire Chief) could benefit if the ERS became more active in preventing pension spiking. We requested data and information from the ERS, and its response shows that the ERS has the expertise and data that might be used to assist the County and other public employers in addressing pension spiking. As an example, the ERS currently provides pension cost ramifications during collective bargaining negotiations, but only for salary increases. It might be able to provide similar projections if other major changes affecting pay (such as RFR) are being considered.

The County and other public employers could also consider requesting that the ERS consider increasing its awareness of the ways ERS policies affect public employers. The Managing Director stated in his interview that the ERS' policy definitions of whether overtime pay can be included in calculating average final salary directly affect the County's pension costs.

Similarly, the public employers such as the County might ask ERS to identify pay anomalies when it conducts its routine reviews of compensation data. The ERS could also supplement the training it currently provides to the public employers to increase awareness of the impact of hiring and compensation decisions on pension costs.

KFD alone cannot make these requests of the State negotiating team and the ERS. It needs the County administration and the Council to make these requests, either alone or with other counties.

Recommendations:

1. KFD should confer with the County Personnel Director and the ERS on how to further manage RFR and overtime costs considering the CBA-mandated non-base pay afforded to fire fighters.
2. KFD should meet with the County Administration and Council to discuss requesting that the State's votes in collective bargaining take into consideration the impact of proposed union changes like RFR on the counties and the ERS. KFD and the County should also review whether changes to the State statutes and the HFFA CBA are necessary to mitigate pension spiking and whether the legislative packages of the County and the Hawai'i State Association of Counties ("HSAC") should include statutory changes to address legislative matters discussed in this audit, including the distribution of employer votes for Unit 11 collective bargaining so that the counties' votes have greater weight.
3. The County could consider discussing with the other public employers whether more input from the ERS on the pension cost implications of major changes affecting pay could be requested during the collective bargaining process in the future.

4. The ERS has current data on active employee pay, and performs validations on the employers' semi-monthly payroll reports, primarily to ensure that required fields are completed and that related fields have corresponding data. The County (and KFD) could consider requesting ERS assistance in identifying unusual or irregular increases in compensation, special compensation or other anomalies as part of the ERS validation process.
5. The County could consider teaming with the other public employers to request the ERS develop training to educate County leaders such as department heads and other supervision about the need to consider pension costs when employees are hired, positions are added, overtime is authorized or salaries are increased.

Finding 3: Fire station staffing is complex and depends on conditions that change. KFD should have a plan for regular assessment of its station staffing.

Staffing is the ability to deploy people and apparatus in a fire station, balancing the needs of providing effective coverage to available resources. Placing, equipping, and staffing fire stations is an ongoing challenge for fire departments.

The Council resolution expressed a concern as to whether the proper and responsible staffing levels for all fire stations are in place. This concern arises from the direct relationship between premium pay related to overtime and staffing costs.

KFD has been questioned about its staffing levels in the past, and the Acting Fire Chief maintains that the current levels of staffing of at least four fire fighters at every station are appropriate and must be maintained to meet insurance standards. This position is consistent with the KFD's statement in the April 7, 2009 budget hearing that "the last 3 years of having appropriately staffed stations have really helped level out insurance premiums."

KFD also testified in the February 12, 2014 County Council meeting that when a second station was added to the Kawaihau District, about 8,000 homeowners benefited from decreased insurance rates. When asked to provide evidence of the decrease, the Acting Fire Chief states that the Public Protection Classification ("PPC") rates for Kapa'a and Ka'iākea went from 6/9 to 5/9, improving or reducing the costs for the owners of property in those areas. We were not provided data to verify this statement.

PPC rates are given by the Insurance Services Office ("ISO"), which is a leading source of information on property and casualty insurance risk for

commercial and personal insurance. The PPC is based on an evaluation of four categories that are major elements of a community's fire protection system. Many insurance companies establish premiums based on PPC ratings, but the method a company uses to calculate premiums may also depend on fire loss experience, underwriting guidelines and marketing strategy. In general, a lower PPC results in a lower insurance rate.

The effect of staffing on PPC ratings is low, as the number of points that depend on fire station staffing is only 15 out of a total of 105.5 points. Rather, distance from a fire station and the availability of water appear to be more critical factors in achieving a lower PPC or insurance premium for commercial or residential insureds. Additionally, the PPC staffing requirement is that at least four fire fighters must be available to respond on the initial alarm to all structure fires (of which one may be the chief officer).

Staffing is a complex, technical risk assessment. The National Fire Protection Association ("NFPA") 1710 Standard for Organization and Deployment of Fire Suppressions Operations, Emergency Medical Operations and Special Operations to the Public by Career Fire Departments ranks structures by their level or fire risk, and expresses that risk by the number of firefighters needed to effectively stop life and property loss. It sets requirements for company crew size and the number of companies deemed to be an effective response to fires in four categories of structures. NFPA 1710 also sets travel time requirements for the first-due company and the full assignment on first alarms.

Making staffing decisions is a dynamic process that involves consideration of the numerous, ever-changing technical factors discussed in NFPA standard 1710. Rather than having a point-in-time audit to determine proper staffing levels, KFD should ensure that it regularly evaluates the adequacy of its staffing as conditions change.

Recommendations:

1. KFD should regularly evaluate its minimum staffing levels, so that it can ensure that the staffing levels are appropriate given the increases or decreases in population, infrastructure and needs in the areas served by fire stations.
2. KFD should continue its work to update its Strategic Plan, last updated in 2015, because it evaluates staffing needs based on population and demographics and sets goals for level of service.
3. KFD should consider engaging outside experts, such as those performing similar evaluations for accreditation, for advice on appropriate staffing and the costs and benefits of implementing scheduling software.

CHAPTER 1

Introduction

This performance audit examines the management of KFD, primarily related to its ability to effectively and efficiently manage overtime and Rank-for-Rank Recall procedures and their related costs.

This audit was conducted pursuant to the authority of the Kaua‘i County Council (“Council”), as provided in the County Charter. For a complete definition of performance audits see Government Auditing Standards section 1.21.²

Audit Objectives and Scope

The audit was designed to answer the following questions:

- Whether policies and Standard Operating Procedures (“SOPs”) are in place and are being followed when overtime is approved.
- The sources of overtime.
- Whether KFD has made the necessary managerial adjustments to cost effectively manage RFR.
- Whether the proper and responsible staffing levels for all fire stations are in place.³

Our audit period spanned from July 1, 2014 through June 30, 2018 (“Period Under Scope”).⁴

² Government Auditing Standards, 2018 Revision.

³ A determination of proper staffing levels in an audit is a point-in-time assessment affected by numerous conditions, including the characteristics of the community surrounding the fire station. Absent these details, we did not determine proper staffing levels, but recommended instead that KFD should ensure that it regularly evaluates the adequacy of its staffing as conditions change.

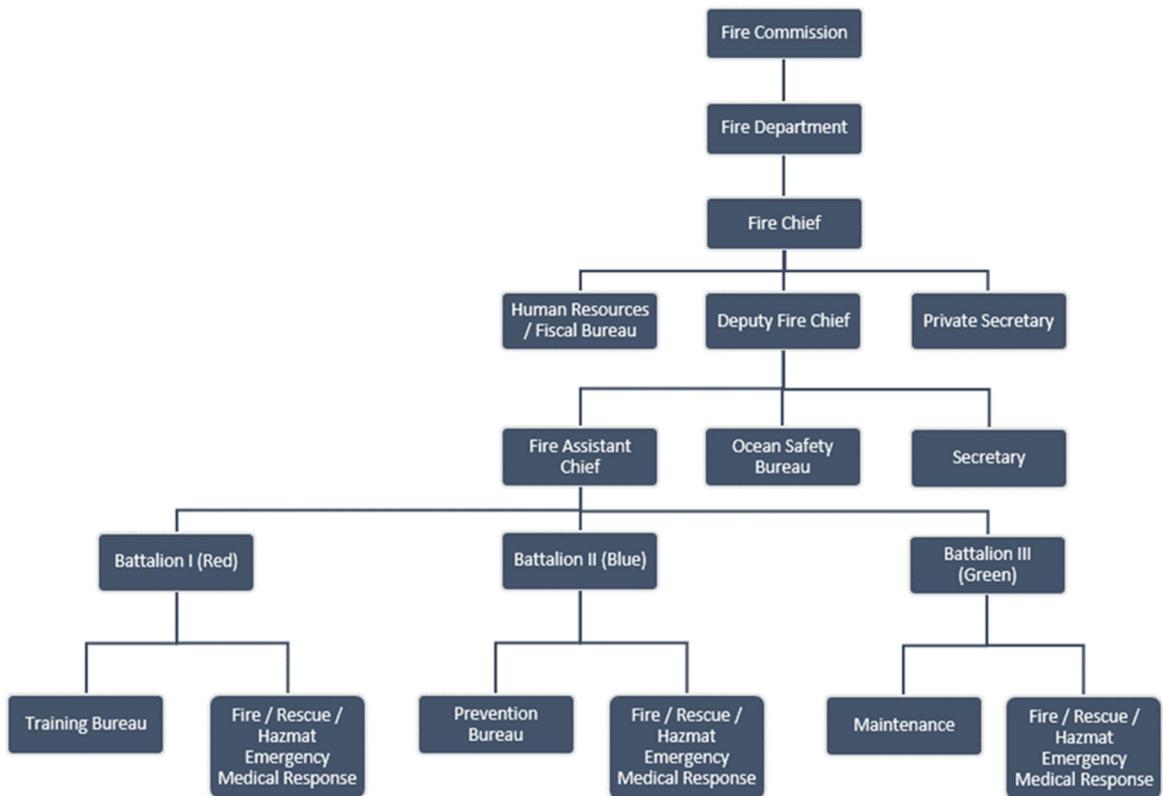
⁴ Findings in this report may be limited to partial time periods within the Period Under Scope based on the availability of data.

Background

The County Charter provides for a fire department consisting of a chief, a fire commission, and the necessary staff. The fire chief is appointed and may be removed by the fire commission. The fire commission consists of seven members, which are appointed by the Mayor of the County of Kaua‘i (“Mayor”) and approved by the Council.

There are eight (8) fire stations on Kaua‘i, located at Hanalei, Ka‘iākea, Kapa‘a, Līhu‘e (both suppression and rescue), Kōloa, Kālaheo, Hanapēpē and Waimea.

KFD is organized into a Fire/Rescue Program (fire/rescue/hazmat emergency medical response) and four (4) Bureaus: Training, Prevention, Ocean Safety and Human Resources/Fiscal. See organizational chart below:



Fire fighters are divided into three (3) battalions: red, blue and green. Each battalion has a Battalion Chief, who oversees his respective battalion composed of a Fire Captain and Fire Fighters III, II and I at each of the eight stations plus the Līhu‘e Rescue team. See Appendix 1 for a sample battalion organizational chart. There are 187 line personnel positions versus 7 supervisory positions (Battalion Chiefs and above).

Collective Bargaining Agreement

Fire fighters are represented by the HFFA. Our Period Under Scope was subject to the CBAs for the period July 1, 2011 to June 30, 2017, and for the period July 1, 2017 to June 30, 2019.⁵

Fire fighters performing operational response functions work 24-hour shifts. In general, fire fighters work three (3) 24-hour shifts, totaling 72 hours, over a consecutive nine (9) day work period.

A **work period** is defined as the nine (9) consecutive day period during which employees are scheduled to work 72 hours and which is used to determine the total number of hours worked.

The four (4) scheduled work hours in excess of 68 hour per work period are defined as **Scheduled Overtime**. That is, fire fighters, in their normal course of work, earn four (4) hours of overtime every nine (9) days.⁶

The maximum number of hours (other than overtime) a fire fighter may work is an average of 56 hours per week over a nine (9) week cycle utilizing 24 hour shifts.

A **platoon** is defined as the three shifts of regular fire fighting employees. An example of a work schedule for a 30-day month is shown here (each colored block is a 24-hour shift):



⁵ The term “CBA” will be used to describe the negotiated employment conditions covering KFD fire fighters during the period under scope. To the extent that any conditions differed between the June 30, 2017 and June 30, 2019 CBAs, we will identify the relevant CBA as such.

⁶ Per the CBA, fire fighters are entitled to various overtime pay and premium differentials, including regular overtime, continuous overtime, callouts, night shift differentials and premiums, standby time, temporary changes in station, holiday pay and premiums and hazardous pay. See Appendix 2 for more information on how the differentials are calculated. The four hours do not include unscheduled overtime, such as responding to emergencies on off days, filling in for other fire fighters, or attending training on days off.

Rank-for-Rank Recall

RFR is a provision in the HFFA CBA which requires that when a ranked fire fighter is absent, the opportunity to fill the position must first be offered to a fire fighter of the same rank.⁷ Per the CBA, RFR arises because the employer and union recognize the need to “recall employees on a rank-for-rank basis to prevent and avoid safety and morale problems.”

Effective July 1, 2014, eligible fire fighters can work up to twelve (12) shifts (288 hours) per fiscal year.

See Appendix 3 for KFD’s RFR Policy effective September 1, 2018, and Appendix 4 for KFD’s Statement of Policy Regarding Hours Worked and Work Performed Outside Normal Work Hours, effective December 1, 2009.

Temporary Assignments

Temporary Assignments (“TA”) are used to fill temporary absences of ranked fire fighters with other qualified fire fighters (not necessarily of the same rank). Currently, TAs are related to short-term (less than a regular shift) fill-ins to cover for other fire fighters. For example, if a driver is needed for an apparatus or a fire fighter is late to work, a TA will be used to cover the need.

Full-shift absences first go through the RFR process. If no ranked fire fighters accept the recall, then the absence is filled through a TA. TAs are made on a rotating basis from among qualified fire fighters within the same company, unit or bureau who are in the same platoon as the employee causing the TA.

Employees’ Retirement System

The ERS administers the only State pension plan for public employees. Most full-time, part-time (50 percent FTE or more), permanent or temporary (more than three months) employees of the State or the counties are required to be members of the ERS as a term and condition of employment.⁸

Fire fighters receive additional retirement benefits not available to other public employees.⁹

⁷ Battalion Chiefs are excluded from collective bargaining coverage under HRS chapter 89. They receive RFR and other premium pay through mayoral Executive Orders.

⁸ HRS §§ 88-21 (“Employee” definition (2)) and 88-42.6 (exempt elected officials). Employees of the University of Hawai‘i can opt out under HRS §88-8.

⁹ Elected officials, judges and selected employees performing law enforcement or public safety duties are also statutorily entitled to special pension benefits.

If a fire fighter meets the age and service requirements,¹⁰ and has served the last five years as a firefighter,¹¹ he or she qualifies for a higher benefit multiplier for every year of service as a firefighter. The 2.25 percent benefit multiplier is for firefighters hired after June 30, 2012,¹² and the 2.5 percent benefit multiplier is for firefighters hired before July 1, 2012. This benefit package is better than the 1.75 percent or 2 percent per year multiplier used for general employees.¹³

The fire fighter pension benefit cannot exceed 80 percent of average final compensation (“AFC”) for fire fighters hired before July 1, 2012 and 75 percent for fire fighters hired after June 30, 2012,¹⁴ and is based on the formula: multiplier x years of service x AFC.¹⁵

AFC is determined as follows:

- For fire fighters hired after June 30, 2012: AFC is the average of the five highest years of base pay earnings excluding any lump sum vacation pay.
- For fire fighters hired between January 1, 1971 and July 1, 2012: AFC is the average of three highest years of earnings excluding any lump sum vacation pay.
- For fire fighters hired before January 1, 1971: AFC is the average of the three highest years of earnings excluding any lump sum vacation pay, or five highest years of earnings including lump sum vacation pay, whichever is greater.¹⁶
- AFC is limited by federal law, and the limit for 2020 is \$285,000.¹⁷

Fire fighters and public safety officers contribute 12.2 percent to 14.2 percent of their monthly salary, depending on their hire date.¹⁸

¹⁰ The requirements for employees hired before June 30, 2012 are age 55 with ten years of service, age 60 with ten years of service or any age with 25 years of service. For employees hired after July 1, 2012, the requirements are age 60 with 10 years of service and age 55 with 25 years of service. HRS §§88-73(1), (2), (4).

¹¹ HRS §88-74(b)(1).

¹² HRS §§88-74(f) and (b).

¹³ HRS §§88-74(b) and (f).

¹⁴ HRS §§88-74(b) and (c).

¹⁵ HRS §§88-74(b) and (f).

¹⁶ HRS §88-81(b).

¹⁷ Section 401(a)(17) Internal Revenue Code.

¹⁸ The fire fighter contribution in the Contributory Plan is 14.2 percent of monthly base salary for employees hired before July 1, 2012 and 12.2 percent of monthly gross salary for employees hired after July 1, 2012. See, HRS §88-45. In contrast, general employees hired prior to July 1, 2012 in the contributory plan must contribute 7.8 percent of their monthly salary, pre-tax. General employees also can elect to participate in a hybrid plan, which requires an eight percent employee contribution. For comparisons between the benefits of Hawai‘i fire fighters and selected public safety employees and similar employees in other states, see <https://www.ncsl.org/research/fiscal-policy/state-retirement-plans-public-safety-tables.aspx>.

After retirement, public employees including firefighters are entitled to a 1.5 percent annual increase in monthly retirement benefit for cost of living expenses, which is paid every July.¹⁹

Pension Spiking

In 2018, the County was assessed with a \$2,424,741 excess pension cost assessment by the ERS related to employees who retired in fiscal year 2018. Approximately \$2,248,560 of the excess pensions cost in fiscal year 2018 was related to KFD personnel who retired in calendar year 2017.²⁰ The following table demonstrates the excess pension costs charged to the County between fiscal years 2014 and 2018.

Table 1: Excess Pension Costs (2014-2018)²¹

Fiscal Year	Total Excess Pension Costs
2014	\$ 213,025
2015	1,155,422
2016	642,767
2017	854,398
2018	<u>2,424,741</u>
Total	<u><u>\$ 5,290,353</u></u>

“Pension spiking” occurs when a public employee’s pay increases through a promotion, raise, or overtime hours just before the employee retires. As discussed earlier, the ERS calculates the expected cost of pension benefits due to public employees based on the salaries they earned throughout their career. However, when an employee’s pay significantly increases in the years just before retirement (the same years upon which the final benefits are calculated) the contributions which ERS had been collecting are deemed inadequate.²²

¹⁹ HRS §88-90(a).

²⁰ Report of the Committee of the Whole, 2019-14, June 19, 2019.

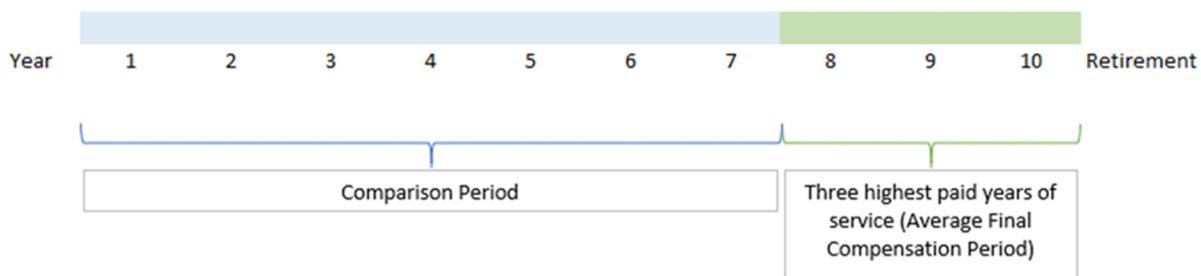
²¹ Source is “Excess Pension Costs due to Act153/2012 (“Pension Spiking”) County of Kauai” exhibit, Council Meeting Minutes, Communication 2019-65, April 10, 2019. Excess Pension Costs were attributable to the following departments in fiscal years 2016-2018: FY 2016 – Parks & Recreation, Public Works, Police, Transportation and Water; FY 2017 – Police, Fire, Public Works and Transportation; FY 2018 – Finance, Fire, Parks & Recreation, Transportation, Public Works and Water.

²² California, Illinois and Kentucky have implemented versions of anti-pension spiking regulations.

Pension spiking is not unique to Kaua‘i, the other counties, or the State of Hawai‘i. Several states, including Hawai‘i, have passed legislation to address this significant contributor to the high cost of public sector pensions.

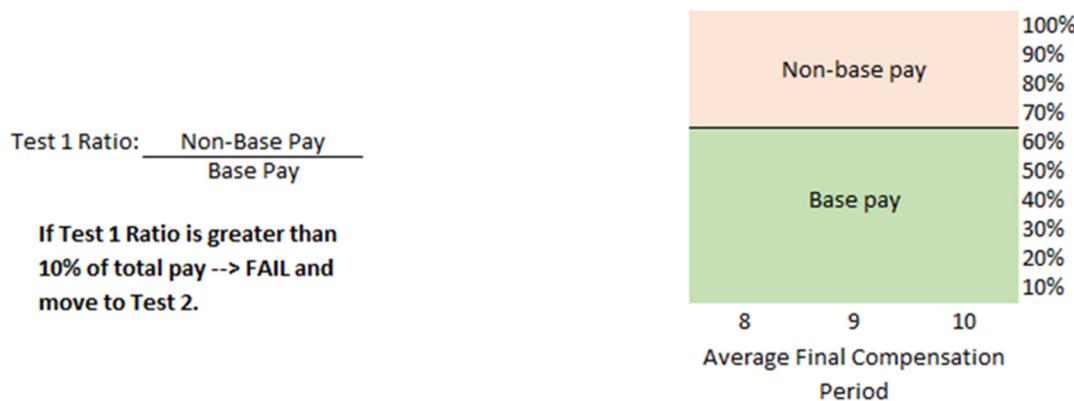
Act 153, SLH 2012, was introduced to prevent unexpected increases in pension benefits and in the unfunded actuarial accrued liability of the ERS by 1) limiting the amount of compensation included in “average final compensation” and 2) requiring employers to pay the additional costs resulting from significant non-base pay increases.

Codified into law as HRS §88-100, Act 153 requires, for retirees after June 30, 2012, that the retiree’s last employer must pay the pension costs attributable to excessive “non-base pay” during the retiree’s highest earning years of employment. See Appendix 5 for a glossary of relevant pension terms.

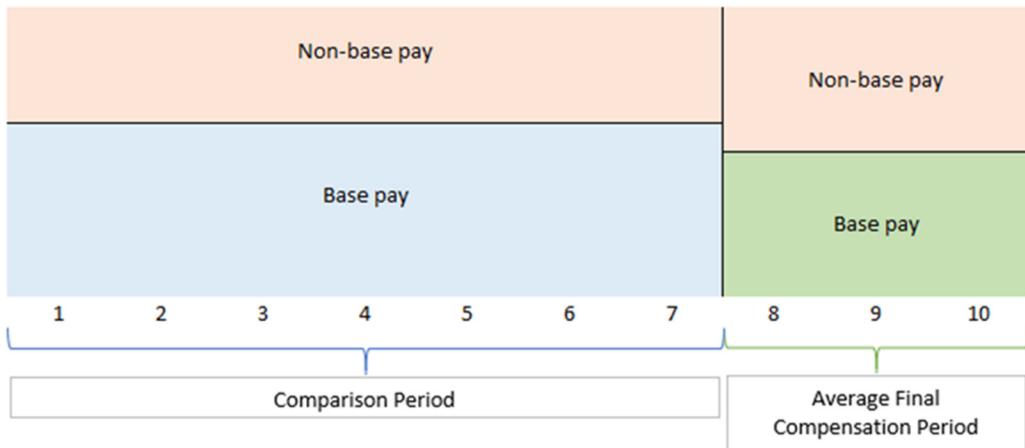


An excess maximum retirement allowance resulting from significant non-base pay increases (“Excess Pension Cost”) is assessed to employers according to a two-test calculation.

Test 1: If, during the employee’s three highest paid years (“AFC Period”), the employee’s non-base pay is more than 10 percent of the employee’s base pay, the employee fails Test 1 and moves to Test 2.



Test 2: If the employee's AFC Period non-base pay ratio is greater than or equal to 120 percent of the Comparison Period non-base pay ratio, an excess pension cost is assessed to the employer.



Comparison Period Non-Base Pay Ratio:

$$\frac{\text{Comparison Period Non-Base Pay}}{\text{Comparison Period Base Pay}}$$

Test 2:

$$\frac{\text{Test 1 Ratio}}{\text{Comparison Period Non-Base Pay Ratio}}$$

If Test 2 Ratio is greater than 120% → Excess

The amount of the Excess Pension Cost is calculated as follows:

Limited AFC = Average base pay during AFC Period x (1 + Comparison Period Non-Base Pay Ratio). The Limited AFC estimates what the employees' total pay during the AFC Period would have been if it were based on the employees' historic (Comparison Period) non-base pay ratio.

The pension costs are then calculated based on the AFC and Limited AFC, and the difference between the pension costs equals the Excess Pension Cost, according to information provided by ERS to the County. (See Appendix 6 for an illustration of how ERS calculates the Excess Pension Cost assessment.)

The ERS provided the County information, including the number of spiking retirees, payroll data used for each employee and employee-specific calculations of pension costs. The ERS data corroborates that the Excess Pension Cost assessments accurately reflect the ERS' calculations of base pay, eligible pay and excess pension costs.²³

²³ However, the ERS' definitions of "base pay" appear to be different than used by the County payroll purposes, so we could not compare the ERS' base pay calculations to base pay as shown on County payroll records.

Audit Methodology

We developed an overall audit plan and risk-based strategy to approach and address the audit objectives, which included three distinct stages: planning, fieldwork and reporting.

The planning stage involved obtaining an understanding of KFD's staffing, scheduling and overtime, and other premium pay policies and practices. Through telephone interviews and written requests, we reviewed documents from KFD and the County including collective bargaining agreements, time sheets, pay records, department policies and guidelines, council meeting minutes, the HRS, and other documentation to familiarize ourselves with overtime and pension processes and the rules and regulations by which the County must abide. We then identified areas of risk. We also selected those to interview and walk us through each process to identify areas of risk and key controls to test.

Once we established our understanding of the processes surrounding overtime and pension payments, we analyzed the records of KFD and identified a population of past and present fire fighters to sample and test. We defined the Period Under Scope from July 2014 to June 2018. In some instances, we referenced activity outside of this time period for comparison purposes. We asked KFD for time sheets and other pay-related records for the period under scope. Based on our interviews and review of KFD's internal policies, collective bargaining agreements and the applicable provisions of the HRS, we developed procedures to test for compliance. We tested a judgmental sample consisting of employees identified by the ERS as high pension cost employees who retired in 2017 ("2017 Retirees").²⁴

We requested the source data used by the ERS in the calculation of the Excess Pension Cost assessment. We also asked the ERS about any activities to prevent pension spiking, including but not limited to, data analysis to identify potential spiking, risk assessment tools for high risk employees or reporting units, or education to employer units about the costs of hiring. The ERS provided data, including the number of spiking retirees, payroll data used for each employee and employee-specific calculations of pension costs.

The approval of timesheets was a key control that was significant to our audit objectives. As such, we tested the sign-off, verification and approval process for the 2017 Retirees.²⁵ We followed-up on any issues and noted any

²⁴ Report of the Committee of the Whole, 2019-14, June 19, 2019.

²⁵ During our testing of the 2017 Retirees' timesheets, we noted that three (3) timesheets (each representing one pay period), did not have the required verification or officer approval signatures. We have included a recommendation for this finding in Chapter 2. As these deficiencies make up 0.25 percent of the 1,198 timesheets tested, we have deemed that the timesheets were sufficiently reviewed and reliable for our analysis.

mitigating circumstances or controls. Remaining findings that still posed a risk were summarized in Chapter 2 of this report. The procedures we performed and documents reviewed are described as follows as well as in the respective sections in Chapter 2.

We interviewed the Acting Fire Chief and other KFD personnel as well as the County Managing Director. We reviewed the following documents:

- HFCA Collective Bargaining Agreements
- KFD policies and procedures related to Rank-for-Rank
- Timesheets for the 2017 Retirees
- Payroll records for the 2017 Retirees
- Summary payroll reports, including base pay, overtime and premium pay
- Summary Rank-for-Rank reports by rank
- Sparky Trailer pay detail
- Training sign-up sheets
- Temporary Assignment hours and amount data
- Correspondence and documentation regarding Sparky Trailer sign-up process
- County Council minutes regarding KFD budgeting and staffing, Excess Pension Cost allocation transfer, pension spiking presentations
- Executive Orders regarding excluded managerial personnel

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

Information deemed confidential under the Hawai‘i state open records law (HRS chapter 92F) was omitted from this report. The determination of whether information was confidential was based on Office of Information Practices (“OIP”) Guideline No. 3, effective September 7, 2011 and OIP memorandum dated May 1, 2002, “OIP Guidance Regarding Disclosure of Agency Records and Information to Auditors.” Under the guidance of these documents, the following were omitted as confidential: employee names, employee social security numbers and actual base rates of pay and gross salaries for employees covered by or included in bargaining units as defined in the Hawai‘i collective bargaining law (HRS chapter 76).

CHAPTER 2

Summary of Findings

Finding 1. Certain fire fighters heavily utilized available overtime opportunities before their retirement. KFD has modified its policies in response.

Finding 2. KFD's Excess Pension Costs have been significant, but some of the controls that need to be instituted are outside KFD's hands.

Finding 3. Fire station staffing is complex and depends on conditions that change. KFD should have a plan for regular assessment of its station staffing.

Finding 1. Certain fire fighters heavily utilized available overtime opportunities before their retirement. KFD has modified its policies in response.

Firefighting personnel, regardless of jurisdiction, have unique work schedules that are vastly different than the typical public servant or private industry worker. The public expects fire fighters, as first responders, to be immediately ready for any emergency. Accordingly, the HFFA and the counties and State have agreed upon compensation that is intended to take into account that expectation and anticipated level of security.

As discussed earlier, the CBA affords fire fighters various overtime and premium pay differentials to account for the uniqueness of first responder scheduling, including regular overtime, continuous overtime, callouts, night shift differentials and premiums, standby time, temporary changes in station, holiday pay and premiums and hazardous pay. For example, in fiscal year 2017, KFD paid all fire fighters approximately \$2,918,381 in premium pay, compared to \$11,089,061 in base pay.

The following table shows the types, number of incidents and number of acres burned that KFD responded to between 2014 and 2019.

Table 2: Summary of Incidents Responded to by KFD (2014-2019)²⁶

Incident Type	2014	2015	2016	2017	2018	2019
Fire	176	301	258	309	270	328
Rescue & EMS	4,375	4,376	4,422	4,806	4,592	5,025
Hazardous Condition (No Fire)	42	43	48	48	59	62
Service Call	292	298	328	515	415	392
Good Intent Call	691	765	693	641	696	685
False Alarm & False Call	200	192	194	201	200	245
Other	17	13	9	11	14	10
Total	<u>5,793</u>	<u>5,988</u>	<u>5,952</u>	<u>6,531</u>	<u>6,246</u>	<u>6,747</u>
Acres Burned	22.7	1,911.9	69.5	1,808.1	19.5	7,249.9

KFD provided us with overtime and base pay information for all KFD personnel, which we summarized in Table 3 below. It should be noted that KFD was not able to provide consistent data either by ranked personnel or by year. Data for calendar year 2014 was not available, and calendar year 2015 data was only available for the Fire Chief, Deputy Chief, Fire Captains and Fire Fighter IIIs. The fiscal year 2017 data includes July through December 2016 amounts, which are also included in the CY 2016 column. Data for July through December 2017 and fiscal year 2018 were also not available.

Table 3: Summary of All KFD Overtime, Premium and Base Pay (2016-2018)²⁷

	CY 2016	FY 2017	CY 2018
Regular Overtime	\$ 217,199	\$ 282,964	\$ 476,927
Training Overtime	133,580	195,319	255,221
Rank-for-Rank	783,419	997,692	1,002,064
Holiday Pay	601,270	688,289	659,087
Scheduled Overtime	259,147	295,158	282,214
Hazardous Assignment	49,308	91,084	88,360
Bureau Opportunity Benefit Incentive	22,750	29,750	33,711
Standby	14,919	30,244	31,811
Temporary Assignment	-	125,319	-
Misc. Premium	<u>267,280</u>	<u>182,563</u>	<u>301,458</u>
Total Overtime/Premium	2,348,873	2,918,381	3,130,852
Base Salary	9,399,517	11,089,061	10,913,348
Vacation Payout	-	-	245,088
Total Gross Pay	<u>\$11,748,390</u>	<u>\$14,007,442</u>	<u>\$14,289,289</u>

²⁶ Source is Incident Call Volume Report provided by KFD.

²⁷ Sources are Payroll Detail Reports provided by KFD.

We analyzed the timesheets of the 2017 Retirees and found that approximately 67 percent of the overtime hours they worked was related to RFR, with eight (8) percent related to Sparky Trailer participation, eight (8) percent related to standby time, and seven (7) percent related to training.

Table 4: 2017 Retirees Earned Overtime Hours (2014-2017)²⁸

Earned Overtime Category	2014	2015	2016	2017	Total Hours	Percent of Total
Rank for Rank	1,565	2,718	3,009	3,191	10,482	67.4%
Sparky Trailer	504	440	253	33	1,229	7.9%
Standby	351	540	286	17	1,195	7.7%
Training/Conferences	568	213	174	139	1,093	7.0%
Other ²⁹	291	78	104	71	544	3.5%
Meetings ³⁰	119	82	116	147	464	3.0%
Radio Work	30	60	109	37	235	1.5%
Incidents/Emergencies	100	31	62	41	234	1.5%
Interviews	7	24	25	17	72	0.5%
Total	3,534	4,184	4,138	3,692	15,548	100.0%

During our interviews of KFD personnel and analysis of timesheets and payroll records, we noted certain 2017 Retirees heavily utilized opportunities other than RFR to earn overtime pay by participating in the Sparky Trailer program and as instructors for various training programs. A discussion of RFR, Sparky Trailer and training opportunities follows.

²⁸ Sources are Earned Overtime and Descriptions on 2017 Retiree timesheets and Sparky Trailer data provided by KFD. We understand that prior to 2015, fire fighters would keep track of the hours spent participating in the Sparky Trailer on their timesheets. Beginning in 2015, Sparky Trailer hours were maintained on training sign-in sheets, which were used to process payroll in addition to the timesheets. As such, the Sparky Trailer hours shown in this table are sourced from a combination of 2017 Retiree timesheets and Sparky Trailer data.

²⁹ Includes task descriptions such as filling in for BC shifts, working on contract bids, maintenance, human resources, and other required duties as approved by supervisors.

³⁰ Includes executive staff meetings, County communications meetings and contract meetings.

Rank-for-Rank Recall

As discussed earlier, RFR is a provision in the CBA which requires that when a ranked fire fighter is absent, the opportunity to fill the position must first be offered to a fire fighter of the same rank.

RFR has been in existence in various forms since 2003. The following table shows how RFR has changed over time:

Table 5: Rank-for-Rank History³¹

Applicable Period	Maximum RFR Overtime (per CBA and KFD Policy)	Applicability
FY 2004	192 hours/year	Limited to Fire Captains (“FC”) and vacancies due to scheduled vacations.
FY 2005	288 hours/year; Revised: 144 hours/year.	Limited to FC, Fire Apparatus Operators (as of 2/22/05) (“FAO”) and Fire Rescue Specialists (as of 2/22/05) (“FRS”) and vacancies due to scheduled vacations. FAO and FRS are allowed (3) days for Rank-for-Rank until 6/30/05.
FY 2006	144 hours/year	Limited to FC, FAO and FRS and vacancies due to scheduled vacations.
FY 2007	216 hours/year; No longer limited to (1) shift per month	Limited to FC, FAO and FRS, Fire Fighter (“FF”) II (as of 2/17/06), and FF III (as of 2/17/06) and vacancies due to scheduled vacations. FF II, and FF III are allowed (3) shifts until 6/30/06.
FY 2008-2010	216 hours/year	Limited to FC, FAO, and FRS and vacancies due to scheduled vacations.
FY 2011-2012	48 hours/year, 24 hours/3 months	Limited to FC, FF II, FF III, and vacancies due to scheduled vacations.
FY 2013-2014	24 hours/year	Limited to FC, FF II, FF III, and vacancies due to scheduled vacations.
FY 2015-2018	288 hours/year; 144 hours/6 months	Limited to FC, FF II, FF III, and vacancies due to sick leave, CTO, and scheduled vacations.
FY 2019	288 hours/year; 144 hours/6 months	Limited to FC, FF II, FF III, and vacancies due to sick leave, CTO, scheduled vacations, family leave, military leave, funeral leave, LWOP, AWOL, and unfilled vacant positions and 40-hour work week.

³¹ Sources are CBAs and KFD policies and procedures.

Beginning July 1, 2014, the CBA increased the number of available RFR hours to 12 shifts (288 hours) per fiscal year. KFD implemented new RFR policies and procedures in accordance with the new CBA on July 1, 2014. The policies and procedures dictate the process by which fire fighters are to pre-arrange and inform their respective Battalion Chiefs about RFR openings. KFD policies and procedures followed the CBA's 12 shift limit, but also included language that ranked personnel "can take six (6) shifts (144 hours) every six (6) months. No time is carried forward."

KFD revised its RFR policies and procedures in September 2015 and September 2018. The only substantive change made in the September 2015 policies and procedures was related to the process of emailing a confirmation of RFR to the respective Battalion Chiefs.

The September 2018 RFR policies and procedures contained more substantive changes, including the following new language:

- RFR will be offered in 12- or 24-hour shifts. Exceptions to this can be made at the discretion of the Battalion Chiefs.
- Ranked personnel who work the 144 hours of RFR in the six-month allotment period shall ensure that 48 hours of the RFR hours worked are during the 0700-1900 work shift period.
- Ranked personnel will be responsible for tracking RFR hours worked. If RFR hours worked exceeds 144 hours in the six-month period, disciplinary measures may be taken and the excess hours will be charged against the next six-month period.

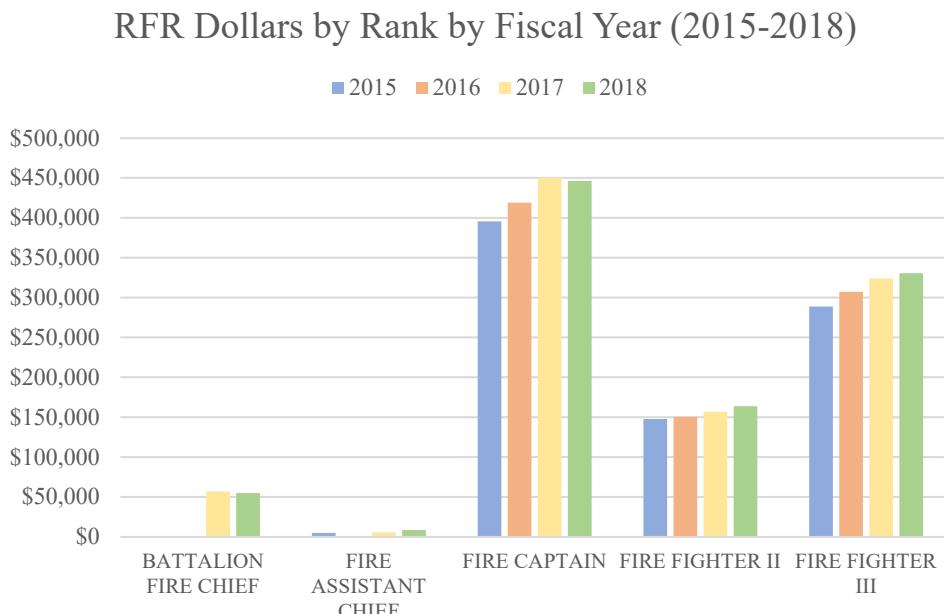
When we asked KFD personnel why the changes in September 2018 were made, we were told that there were some instances of fire fighters taking more than the allowed six shifts in a given six-month period. It appears to us that while the 2014 policies and procedures technically prohibited working more than six shifts every six months, the language "can take six shifts" did not specifically prohibit or identify consequences for exceeding six shifts in a given six-month period.

We analyzed RFR hours for 2014 through 2018 for all eligible KFD personnel.³² The cost of overtime due to RFR increased from approximately \$836,642 in fiscal year 2015 to \$1,003,981 in fiscal year 2018. The budget for RFR in fiscal year 2014, when RFR was limited to 24 hours per year and only for vacancies due to scheduled vacations, was \$55,000. KFD's budgeted and actual RFR costs are shown below:

Table 6: Rank-for-Rank Budget to Actual Comparison³³

Fiscal Year	Budget	Actual	Over / (Under) Budget
2015	\$ 859,923	\$ 836,642	\$ (23,281)
2016	937,361	876,826	(60,535)
2017	996,219	993,216	(3,003)
2018	1,027,914	1,003,981	(23,933)

The RFR dollars by rank for fiscal years 2015, 2016, 2017 and 2018 are shown below:



³² Fiscal year 2015 and 2016 data was unavailable for Battalion Chiefs.

³³ Source is RFR data provided by KFD and budget information provided by the Council.

We also compared the total RFR hours used by KFD personnel to the total allowed RFR hours (288 hours per year or 144 hours per six-months).³⁴ The average utilization, or the percentage of total allowed RFR hours that were used, was 89 percent, as shown below. In other words, fire fighters on average used between 10 and 11 of their allowed 12 shifts per year.

Table 7: Rank-for-Rank Utilization³⁵

Calendar Year	Total RFR Hours	Total Allowed RFR Hours	Utilization Percentage	Average Approx. Number of Shifts Used
July-Dec. 2014	9,632	10,512	92%	5
2015	19,004	20,736	92%	11
2016	19,457	21,600	90%	11
2017	19,922	24,336	82%	10
2018	19,915	22,032	90%	11
Total	<u>87,929</u>	<u>99,216</u>	<u>89%</u>	

Between 2014 and 2018, fire fighters worked the maximum number of allowed shifts approximately 47 percent of the time.³⁶

Table 8: Rank-for-Rank Utilization Rate Distribution (2014-2018)³⁷

Utilization Rate	Number of Instances	Percent of Total
0-25%	13	3%
26-50%	25	6%
51-75%	40	10%
76-90%	36	9%
91-99%	95	24%
100%+	<u>189</u>	<u>47%</u>
Total	<u>398</u>	<u>100%</u>

³⁴ The total allowed RFR hours were based on the time period that a fire fighter took RFR shifts. For example, if a fire fighter took six RFR shifts during a calendar year over a 10-month period, we used a full year (288 hours) as the total allowed RFR hours. If a fire fighter took six RFR shifts during a calendar year but only incurred them over the first or last six months of a calendar year, we used a half-year (144 hours) as the total allowed RFR hours for that calendar year.

³⁵ Source is RFR data for Battalion Chiefs, FCs, FF IIIs and FF IIs provided by KFD.

³⁶ We evaluated 398 line items of data between 2014 and 2018, with each line item being one fire fighter's RFR hours in a calendar year. We compared the number of RFR hours that each fire fighter worked to the number of allowed RFR hours in each year. Approximately 47 percent of the instances we analyzed had utilization rates of 100 percent or greater, meaning that the fire fighter utilized all of the RFR hours offered during the calendar year (or six-month period if the fire fighter only worked six months).

³⁷ Source is RFR data for Battalion Chiefs, FCs, FF IIIs and FF IIs provided by KFD.

We noted 10 instances where fire fighters earned more than 144 RFR hours in a given six-month period, as shown below:

Table 9: Fire Fighters with More than 144 Rank-for-Rank Hours in Six-Month Period³⁸

Rank	Hours During Six- Month Period	Period
Fire Captain	152	July-Dec. 2016
Fire Captain	162	Jan.-June 2017
Fire Captain	150	Jan.-June 2017
Fire Captain	156	Jan.-June 2018
Fire Fighter III	168	July-Dec. 2014
Fire Fighter III	168	July-Dec. 2017
Fire Fighter II	156	July-Dec. 2014
Fire Fighter II	156	July-Dec. 2014
Fire Fighter II	168	Jan.-June 2016
Fire Fighter II	145	Jan.-June 2017

According to KFD personnel and in accordance with the RFR policy, if a fire fighter takes more than 144 RFR hours, the excess hours will reduce the available RFR hours in the next six-month period so that the maximum hours charged within a fiscal year would be 288 hours.³⁹

We also noted that one senior fire fighter earned 312 RFR hours in fiscal year 2015, which is 24 RFR hours or one shift more than the total allowable RFR hours per fiscal year. This fire fighter recorded 132 hours of RFR in the subsequent six-month period, or 12 hours less than the maximum. However, we have not been able to determine whether this was mandated by KFD or if it was a function of the fire fighter voluntarily not taking the maximum hours. Regardless, it does not appear that the fire fighter's RFR hours were reduced by the full extra 24 hours of RFR that he earned.

³⁸ Source is RFR data for Battalion Chiefs, FCs, FF IIIs and FF IIs provided by KFD.

³⁹ We were unable to verify if fire fighters were charged the excess hours in subsequent periods because the data that was provided to us contained redacted names and was presented on a calendar year basis.

We did not evaluate the timesheets of all fire fighters during the Period Under Scope and cannot conclude whether KFD's control processes caught or corrected any instances of fire fighters utilizing more than their allowed RFR shifts. Nonetheless, as discussed previously, KFD made changes to address the RFR when it clarified the language "can take six shifts" to prohibit more than six shifts because there were occurrences of fire fighters taking more than their allowed RFR shifts.

Temporary Assignment

A prior audit of RFR in another jurisdiction brings up two points: 1) RFR is more costly than TA and 2) RFR prevents lower ranking fire fighters from gaining experience at higher ranks that they would have received if TA were utilized rather than RFR.⁴⁰ Meanwhile, proponents of RFR point out that replacements need the equivalent experience, qualifications and certifications to safely fill vacant positions.

A precise calculation of the cost of RFR compared to TA (i.e., if all RFR hours had been filled via TA) would take a significant effort based on individual circumstances. For example, in order to determine the cost of filling a shift via TA versus RFR, one would need to know the rank and pay of other available fire fighters during that shift and evaluate which fire fighter would likely fill the temporary vacancy. One would also need to determine whether any overtime would be required.

The primary cost difference between RFR and TA is caused by calling in a ranked fire fighter at time-and-a-half overtime rather than filling the vacancy with lower-ranked fire fighters who are already on-shift. However, overtime is sometimes necessary using TA as well. Without overtime factored in, TA costs are essentially the difference between the pay rate of the fire fighter filling the position and the pay rate of the position being temporarily filled.

An analysis of the number of TA hours incurred by each rank between fiscal years 2011 and 2018 shows that FC's and FF III's TA hours decreased significantly once the current RFR policy was implemented in fiscal year 2015.

⁴⁰ County of Maui, Office of the County Auditor, Audit of Premium Pay/Overtime of the Department of Fire and Public Safety, October 2017.

Table 10: Temporary Assignment Hours by Fiscal Year and Rank⁴¹

Temporary Assignment Hours				
Fiscal Year	Fire Captain	Fire Fighter III	Fire Fighter II	Fire Fighter I
2011	13,615	24,907	6,150	12,026
2012	12,103	25,253	4,678	12,700
2013	12,672	25,346	5,895	11,734
2014	12,566	24,682	7,789	10,712
2015	9,062	18,820	6,533	9,785
2016	7,491	16,252	5,921	12,248
2017	7,913	15,887	7,064	12,719
2018	4,824	13,275	7,354	13,093
Total	<u>80,246</u>	<u>164,422</u>	<u>51,382</u>	<u>95,018</u>

FF Is experienced a decrease in TA hours in fiscal year 2015, the first year of the current RFR policy. However, their TA hours increased to pre-RFR levels in fiscal years 2016 through 2018. Further analysis would need to be conducted to determine whether lower level fire fighters lost TA opportunities and what impact that may have had on their experience and development.

Sick Leave

Hawaii pension law provides that public employees who retire or leave government service in good standing with sixty days or more of unused sick leave are entitled to additional service credit in retirement.⁴²

We noted that seven of the 2017 Retirees took 288 hours (12 24-hour shifts) or more of sick leave in 2017, with one 2017 Retiree taking 726 hours.⁴³ These seven 2017 Retirees had averaged approximately 178 hours of sick leave per year in the three years prior to 2017. Since KFD did not have records that were robust enough to document the reasons for the sick leaves or the vetting process that took place before approval, we are unable to make any conclusions about the adequacy of the approval process for sick leaves.

⁴¹ Source is TA data provided by KFD.

⁴² HRS §88-63 Credit for unused sick leave. An employee with sixty days of unused sick leave will have their years of service increased by three months for the purpose of computing the employee's retirement allowance. For each additional twenty days or major fraction thereof of unused sick leave in excess of sixty days, the employee shall have their years of service increased by one month for the purpose of computing the employee's retirement allowance.

⁴³ Fire fighters who work 24-hour shifts earn 10 working shifts of sick leave per year. Earned sick leave may be accumulated without limitation for the fire fighter's use in subsequent years.

While sick leave is a normal cost incurred by employers for the benefit of employees, the cost resulting from the abuse of sick leave is heightened for KFD when fire fighters use a RFR shift to fill in for a sick leave shift. If sick leave is abused or coordinated with fire fighters who are close to retirement, KFD will not only incur extra overtime costs, but could also incur a potential future excess pension cost assessment related to those retiring fire fighters. Put another way, if sick leave is taken inappropriately, instead of the unused sick leave being converted to service time credit, KFD is charged with an actual cost of extra overtime related to RFR shifts that it would not have otherwise incurred.

We evaluated whether any of the 2017 Retirees used a RFR shift to fill in the sick leave vacancies of other 2017 Retirees. As shown in the table below, over half of such occurrences happened in 2017, the year in which the 2017 Retirees retired.

Table 11: Sick Leave Vacancies filled via Rank-for-Rank among 2017 Retirees⁴⁴

Year	Number of Sick Leave Shifts Taken by 2017 Retirees and Filled via RFR by Other 2017 Retirees
2014	5
2015	10
2016	21
2017	<u>39</u>
Total	<u>75</u>

The data shows that certain 2017 Retirees regularly filled in for each other, and also indicates that the practice of filling in sick leave shifts of other 2017 Retirees increased in the three years leading up to retirement, which would contribute to overtime costs and have an impact on the excess pension cost assessment. However, it should also be noted that RFR inherently limits who can fill in for the vacant position, so the potential pool of replacement fire fighters is also limited. KFD should monitor for any potential abuse of sick leave and coordination with other fire fighters, particularly those that are close to retirement.

We also analyzed whether sick leave or RFR shifts occurred on holidays or events such as Super Bowls, and found that of the 540 sick leave shifts taken by the 2017 Retirees, there were six instances that occurred on a holiday. In

⁴⁴ Source is 2017 Retiree timesheets.

addition, 140 RFR shifts out of 4,778 total shifts for all fire fighters occurred on a holiday. As such, it does not appear that there was widespread abuse of coordinating sick leave or RFR on holidays. As discussed later in this report, fire fighters regularly work holidays and are compensated with holiday premiums.

Compliance with CBA

Finally, KFD also has not actively monitored, evaluated or reported on the cost of RFR, or provided the same to the HFFA as required by the CBA as follows:

“[e]ach jurisdiction shall, in good faith, meet with the Union at least annually [to] monitor the costs, the operational efficiency, the equitable distribution of overtime among the various fire fighter ranks and to assess the viability of modifying, continuing or expanding this program prior to the expiration of the Unit 11 Agreement.”⁴⁵

When we requested any analyses or reports that KFD had provided to the Union in accordance with this section of the CBA, the Acting Fire Chief said that KFD does not provide any reports and that the costs of RFR are included in its annual budget. We recommend that KFD conduct analyses which clearly address the costs, operational efficiency and distribution of overtime among its fire fighter personnel to assist itself and the County in making staffing and collective bargaining decisions, and to provide HFFA the data required by the CBA.

Fire Education/Sparky Trailer Program

The Fire Education program utilizing the Sparky Trailer results in overtime hours when fire fighters provide staffing for the trailer outside their normal shifts. The Fire Education section of the Prevention Bureau is responsible for developing and implementing programs that increase the public's fire safety awareness. One such program is the Sparky Trailer, which visits all Kaua'i elementary schools annually and presents students with the Learn Not to Burn Curriculum, Ocean Safety Prevention, and Hands-Only CPR



⁴⁵ HFFA CBA, Section 27-A Rank-for-Rank Recall, A.4.

lessons. The Sparky Trailer is also available to participate in community events by request.

Fire prevention training programs offered through the Sparky Trailer include fire extinguisher training, childhood education, kitchen safety and natural disaster preparedness. Public education programs such as the Sparky Trailer are an essential service provided by fire departments, as they are shown to reduce fires, and the injuries and deaths from fire incidents. Robust public education programs also favorably affect fire department ratings by peer evaluators and insurance rating agencies.⁴⁶

Fire fighters sign up for the Sparky Trailer by responding to an e-mail sent out by the Fire Prevention Captain.

Over 80 percent of the hours that all fire fighters spent participating in the Sparky Trailer program were overtime hours, as shown in the table below:

Table 12: Sparky Trailer Participation and Hours by Fiscal Year and Pay Type⁴⁷

Fiscal Year	Participating Fire Fighters	Pay Type and Hours					Total
		Overtime	Regular Time	Comp. Time	Other		
2014	51	2,325	477	137	-	2,938	
2015	48	1,311	58	138	-	1,507	
2016	34	857	12	295	-	1,163	
2017	26	110	17	39	236	401	
2018	34	770	5	112	-	887	
2019	51	824	21	48	3	896	
Total		<u>6,196</u>	<u>589</u>	<u>767</u>	<u>239</u>	<u>7,791</u>	
Percent of Total		80%	8%	10%	3%	100%	

⁴⁶ For example, ISO PPC scoring criteria includes an evaluation of Community Risk Reduction, which involves assessing the risks that a community faces and developing meaningful and effective risk mitigating policies and practices to reduce or even eliminate potential hazards. Public fire safety education makes up 2.2 points of the 5.5 points in the Community Risk Reduction category. See also *Fire Rescue Magazine*, “Protecting the Public,” Issue 11 and Volume 9, dated November 1, 2014.

⁴⁷ Source is Sparky Trailer data provided by KFD.

The nearly 6,200 overtime hours over this period resulted in approximately \$251,200 in overtime pay, with the majority of overtime pay incurred by Fire Captains.

Table 13: Sparky Trailer Pay for All Participants (FY 2014-2019)⁴⁸

Rank	Total Pay	Overtime Pay	Overtime as Percentage of Total Pay
Fire Captain	\$ 164,259	\$ 146,307	89.1%
Fire Fighter I	46,506	44,214	95.1%
Fire Fighter II	27,138	26,551	97.8%
Fire Fighter III	36,959	34,134	92.4%
Fire Prevention Inspector	8,420	-	0.0%
Total	\$ 283,281	\$ 251,206	88.7%

Seven of the 2017 Retirees participated in the Sparky Trailer program from fiscal years 2014 through 2016. Three of the 2017 Retirees were consistently among the top participants (based on number of hours) during this period, with one 2017 Retiree incurring as many as 221 total hours in a fiscal year.

A current KFD fire fighter told us that when he signed up for a Sparky Trailer shift, one of the 2017 Retirees confronted him and asked why he signed up because he should have known that this was for the senior fire fighters. The same fire fighter also said that the Sparky Trailer spots would fill up within minutes of the e-mail announcement going out.

The Acting Fire Chief said that when he became aware of this issue in 2016, he told the Fire Prevention Captain that the seniority favoritism needed to stop. In September 2016, the Fire Prevention Captain sent an e-mail to all KFD personnel, explaining that KFD was creating a new list of people who wanted to work on the Sparky Trailer. In 2019, KFD changed the Sparky Trailer sign-up system to address seniority favoritism. The new system was similar to that used for call-backs, where once a fire fighter participates, his or her name goes to the bottom of the list to ensure anyone interested in working has a fair chance to work. Further, Sparky Trailer staffing was limited to one FC, one FF III and two fire fighters.

⁴⁸ Source is Sparky Trailer data provided by KFD.

Fire prevention education and public awareness programs such as the Sparky Trailer are commonly referenced as key factors in reducing fire emergencies. KFD should continue to manage overtime costs related to this important educational program as part of its overall fire prevention strategy. However, any new changes that are implemented should be documented in policies and procedures to ensure the new safeguards continue despite any administrative changes.

Training

Training is relevant to fire fighter overtime, since fire fighters are paid overtime for conducting and receiving training outside their normal shifts. KFD's Training Bureau is responsible for training fire fighters in a variety of disciplines, including incident command, fire suppression, emergency medical services, hazardous materials, acts of terrorism, rescues and operation of trucks and boats.

The Training Officer acts as the Safety Officer on major operations under the incident command system and also chairs the safety committee of KFD personnel meetings.

The types of training can be separated into mandatory and non-mandatory training classes.

Mandatory training includes:

- Scheduled Training: All uniformed fire personnel must complete refresher classes and drills when scheduled, including Medical Refresher, CPR, Hazmat Refresher, U.S. Lifesaving Association training, and Driver Training. Personnel who are absent on their assigned day must attend a make-up class.
- Fire Company Training: Fire companies are required to attend training such as Fire Ground Initial Attack, Fire Ground Survival, and Vehicle Extrication.
- Position Specific Training: Personnel must possess any certifications specified by their position description and attend training as necessary.
- Fire Captains' Meetings: Required for all FCs unless on leave.
- Monthly Drill Schedule: Monthly training led by Company officers.

Non-mandatory training includes:

- Additional Company Training: Training led by Company officers at their discretion.
- Non-mandatory Training Classes: Training classes that are not required for the position currently held by the employee. Personnel who wish to attend non-mandatory training classes may do so with approval from the Department.

KFD has 16 Training Programs, as shown here:

Each Training Program is administered by a Program Director, who manages and oversees a cadre of instructors. All Training Programs are under the authority of the Training Captain. Personnel can be on no more than two Programs and can be a program director for only one Program.

The selection of a Program Director is made by the Deputy Fire Chief following a written recommendation from the Training Captain. Program Director selection is based on the individual's knowledge of the subject, skills in the subject, experience in the subject, dependability, attitude, and teamwork. Program Directors must obtain a Fire Instructor II Certification within one year of selection.

TRAINING PROGRAMS
ASHER/NFPA 3000
Blue Card Command
Drivers Training
Extrication
Fire Ground Initial Attack
Fire Ground Survival
HAZMAT
Health and Wellness
Helicopter
NREMT/Medical
PADO/AADO
Professional Development
Recruit Training IFSTA
Ropes
Swift Water Rescue
USLA

We analyzed sign-in sheets for KFD training sessions conducted on island for fiscal years 2016 and 2017, noting attendees, course titles, instructors, pay code type and number of hours spent attending. As shown in the table below, between fiscal years 2016 and 2017, approximately 45 percent of the total hours that fire fighters spent attending training was paid at their overtime rate.

Table 14: On-Island Training Hours by Fiscal Year and Pay Code⁴⁹

Pay Code	FY 2016		FY 2017		Total	
	Hours	Percent of Total	Hours	Percent of Total	Hours	Percent of Total
Overtime	3,653	58%	4,835	39%	8,488	45%
Comp. Time	1,195	19%	1,764	14%	2,959	16%
On Duty	1,471	23%	5,802	47%	7,272	39%
Total	<u><u>6,318</u></u>	<u><u>100%</u></u>	<u><u>12,401</u></u>	<u><u>100%</u></u>	<u><u>18,719</u></u>	<u><u>100%</u></u>

The training sign-in sheets show that all fire fighters averaged approximately 130 hours of on-island training over the two-year period between fiscal years 2016 and 2017.⁵⁰

⁴⁹ Source is training sign-in sheets. The training sign-in sheets included sign-ups for the Sparky Trailer. These hours have been excluded from this table.

⁵⁰ The average of 130 training hours is based on fire fighters who participated in training in both fiscal years 2016 and 2017.

Four of the 2017 Retirees had more than 130 training hours between fiscal years 2016 and 2017, with one incurring 372 hours over this period. The percentage of training hours that these four fire fighters earned as overtime was 76 percent, compared to 45 percent for all fire fighters during the same period.

Certain training sign-in sheets listed the instructor for the session. Based on the available instructor information listed, we noted that two of the four 2017 Retirees mentioned above incurred approximately 48 percent and 30 percent of their training hours teaching training courses. Approximately 83 percent and 88 percent of these hours were paid at overtime rates.

During our interviews, we were told that in 2019, KFD implemented changes to its training policies and procedures to limit the number of Training Programs that fire fighters can attend and instruct. We understand that these changes were made in response to certain fire fighters teaching too many Training Programs and earning overtime to do so. The Acting Fire Chief also stated during his interview that instructors who normally work 24-hour shifts were recently moved to 40-hour work weeks to limit the amount of overtime incurred.

Fire fighters also attend off-island training and conferences from time to time. Certain training is hosted by other counties, and attendance requires interisland travel. Mainland based training and conferences such as the Fire Department Instructor Conference (“FDIC”) and HotZone HazMat Conference are attended by KFD personnel as funds permit. According to KFD personnel, the Program Directors identify upcoming off-island training and submit a budget request with the number of fire fighters they would like to attend the training. In general, preference is given to fire fighters based on seniority.

We analyzed timesheet and payroll records to identify any off-island training or conferences attended by the 2017 Retirees between 2014 and 2017. The training, locations and number of hours attended by the 2017 Retirees are shown in the table below:

Table 15: Hours Attended at Off-Island Training and Conferences by 2017 Retirees (2014-2017)⁵¹

Training/Conference	2014	2015	2016	2017
Ammonia Safety Day @ Kapolei, HI	-	-	12	-
CASM Training Oahu	-	-	15	-
CNH Conference Lake Tahoe	8	-	-	-
DAG's Pesticide Table Top Oahu	-	-	-	3
Deccan Conference San Diego, CA	40	24	-	-
FCS Train the Trainer Class Kona	28	-	-	-
FDIC Indianapolis	35	40	-	13
Fire Ground Survival Class	13	-	-	-
Fire RMS Denver, CO	-	-	37	40
Fire Show West Conference	8	42	59	43
First Net Meeting Oahu	10	20	-	-
FRI / IAFC @ Dallas	8	-	-	-
Grant Workshop Honolulu, HI	-	32	12	-
Hazmat; CST on Big Island	-	24	-	-
HFCA Conference Maui	-	-	11	-
Homeland Security Grant Meeting Oahu	11	11	13	-
HotZone Conference	-	52	-	-
HSERC Meeting Oahu	12	-	-	-
IFSAC Skills Cert @ HFD	-	5	-	-
IWCE @ Las Vegas	-	-	14	-
LEPC Meeting Oahu	-	-	13	-
NASTTPO / HotZone Workshop Houston, TX	40	-	-	-
NASTTPO Conference	40	-	-	-
NFA Hazardous Materials Incident Management	40	-	-	-
Training Name Not Listed on Timesheet	-	10	-	-
Pre-Construction Trip Appleton, Wisconsin	-	40	-	-
Quint Presentation Nebraska/South Dakota	-	-	16	-
RAD/NUC (Nevada)	64	-	-	-
Reno Fire Show	40	-	-	-
Total Hours	396	300	201	99

⁵¹ Source is 2017 Retiree timesheets.

Approximately 52 percent of the off-island training hours incurred by the 2017 Retirees was paid to them at an overtime rate, as shown below:

Table 16: Off-Island Training Hours by Pay Code (2014-2017)⁵²

Pay Type	Total Hours	Percent of Total
Fire OT @ OT Rate	188	19%
Overtime - Comp. Time	44	4%
Overtime - Training	293	29%
Other Required Duties	335	34%
Training	136	14%
Total	996	100%

KFD management should continue to monitor its training expenses, especially when off-island training is involved, to appropriately manage overtime costs. According to the Acting Fire Chief, starting this fiscal year, when 24-hour fire fighters attend or teach trainings that are five (5) days or more, they will shift to a 40-hour work week so that no overtime is paid. This practice, along with the changes that KFD has made with limiting the number of Programs a fire fighter can teach, are steps in a positive direction to ensure KFD and the public are receiving training at an appropriate cost.

We recommend that KFD continue to evaluate its training program and take into consideration the necessity of senior personnel attending off-island training if it is known that their retirement is imminent.

The relevance and quality of the trainings attended and taught are beyond the scope of this audit. We understand that KFD has made efforts to critically evaluate the necessity and length of training programs and have modeled their training programs after the Honolulu Fire Department.

⁵² Source is 2017 Retiree timesheets.

Recommendations:

1. KFD should actively monitor the cost of RFR and be prepared to provide the County with analyses of RFR, including costs, effect on operational efficiency, and distribution of overtime among fire fighter personnel. The data can be used to inform collective bargaining and staffing decisions made by KFD and the County. KFD should also provide HFFA with the communications required by the CBA.
2. KFD should continue to actively monitor the utilization of fire fighting personnel on Sparky Trailer activities to ensure appropriate and cost effective staffing, such as primarily using 40-hour personnel.
3. KFD should continue to actively monitor its on-island and off-island training programs to ensure training is appropriate for specific needs and personnel as well as being cost effective. We also recommend that KFD take into consideration the necessity of senior personnel attending off-island training if it is known that their retirement is imminent.
4. KFD should continue to implement procedures to shift 24-hour fire fighters to 40-hour schedules when attending or instructing training courses that are five days or more in length to limit the amount of overtime incurred.
5. KFD should closely monitor sick leave and vacation requests, and be aware of any trends where certain fire fighters may be regularly filling in for each other, particularly when close to retirement.
6. KFD should ensure that all timesheets and requests for leave are properly reviewed, verified and approved by the appropriate supervisors.
7. KFD should generate and maintain reports of overtime hours and expenses by rank and pay type in a consistent format that allows for comparison and analysis so that it can proactively monitor for potential budgetary impacts such as excess pension cost assessments.

Finding 2. KFD's Excess Pension Costs have been significant, but some of the controls that need to be instituted are outside KFD's hands.

One of the questions this audit was designed to answer was whether KFD has made the necessary managerial adjustments to cost effectively manage RFR and overtime costs.

In order to attempt to answer this question, it is critical to acknowledge the culture of maximizing pension payments within many government agencies. It is not uncommon for public employees and management to strategically manage positions, salaries and overtime opportunities to maximize high-three figures. The high-three years tend to be the last years of employment for public sector employees in the State. The reasons are that senior employees receive collectively bargained pay increases over a longer period of time and that employees are more likely to be promoted as their experience increases.

In 2012, the State Senate used the City and County of Honolulu Emergency Medical Services and State Department of Public Safety as examples of pension spiking and requested an audit of departments with high rates of additional compensation paid to employees.⁵³ EMS' ten highest-paid employees worked extensive amounts of overtime, more than doubling their annual average base salary of \$63,252 to an average of nearly \$140,000 annually. The State Department of Public Safety had 75 employees who worked more than 1,000 hours of overtime.

Pension spiking as a result of an increase in high-three pay will increase an employee's pension payments and may trigger an Excess Pension Cost assessment in accordance with HRS §88-100 (Act 143, SLH 2012), as discussed earlier in this report.

The Acting Fire Chief stated in his interview that pension spiking is "nothing new" and that he has been aware of pension spiking "forever." He believes that pension spiking is an accepted, unregulated practice that is not unique to KFD but rather a problem of public employers throughout the State. Pension spiking is facilitated by a general culture, as related to us by KFD personnel interviewed, of accepting that senior personnel had "earned" their right to take advantage of overtime opportunities.

⁵³ Senate Concurrent Resolution No. 34, SLH 2012.

The Acting Fire Chief, who was the Fire Chief when RFR was first implemented, also stated in his interview that he did not support RFR. He further stated that he has limited ability to manage RFR and other overtime payments because they are required by the CBA. For example, fire fighters earn premium pay when they work on holidays. Between 2014 and 2017, the 2017 Retirees⁵⁴ worked on average 88 percent of all holidays, which equates to working approximately all but one or two holidays per year. According to KFD, this is a normal practice for all KFD personnel. The average fire holiday premium earned over this period for the 2017 Retirees ranged from \$4,800 to \$8,500 per year. The Acting Fire Chief also stated in his interview that the “straight overtime,” which is overtime that he can control, equaled approximately \$20,000 per year.

KFD, like most organizations that are subject to collective bargaining agreements, operates in a culture where seniority is rewarded. Collective bargaining agreements consistently allow for preferential treatment based on seniority for issues such as assignments, layoffs and pay structure. As a result, the heads of these organizations are faced with the difficult situation of managing their budgets while confronting the pressures of senior ranking personnel leveraging their collectively bargained opportunities to earn extra pay. Failure to appropriately manage these non-base costs will result in excess pension costs in future years.

As discussed earlier, for fire fighters hired after June 30, 2012, the AFC is the average of the five highest years of base pay earnings excluding any lump sum vacation pay, as opposed to the high-three criteria for fire fighters hired between January 1, 1971 and July 1, 2012. While this does address the overtime component for newly hired fire fighters, KFD and the County will likely not see any impacts of this change until these fire fighters begin to retire, sometime around 2042.

⁵⁴ One 2017 Retiree who did not earn holiday premium pay was excluded from this analysis.

Help is Needed from the State

The Managing Director stated in his interview that the ERS' policy definitions of whether overtime pay can be included in calculating average final salary directly affect the County's pension costs. Since the State leads the collective bargaining process and controls the ERS, Kaua'i and the other counties need the State's assistance to manage pension spiking.

Help is also needed in collective bargaining. Although the counties employ the majority of the fire fighters,⁵⁵ the Governor has half of the votes needed on the employers' side to agree to the HFFA's collective bargaining proposals. HRS §89-6(d)(2) dictates that for firefighters (bargaining unit 11):

- (d) For the purpose of negotiating a collective bargaining agreement, the public employer of an appropriate bargaining unit shall mean the governor together with the following employers:

- (2) For bargaining units (11) and (12), the governor shall have four votes and the mayors shall each have one vote;

Agreement to change the CBA (including RFR) is determined by the State's position on the issue, since the State leads collective bargaining negotiations and controls four of the five votes needed to change the CBA. Stated another way, even if all counties did not want the HFFA's RFR proposal, they would not be able to defeat it at the bargaining table without the State's four votes. In the case of fire fighters, the State employs fewer firefighters than the counties, so the cost impact on the State from agreeing to RFR is relatively less. The County needs the State's assistance during collective bargaining for fire fighters to ensure that the State's votes take into consideration the impact of proposed union changes like RFR on the counties and the ERS. KFD alone cannot make these requests of the State negotiating team and the ERS. It needs the County administration and the Council to make these requests, either alone or with other counties.

The State also controls the ERS. The County (and the Fire Chief) could benefit if the ERS became more active in preventing pension spiking. We requested data and information from the ERS, and its response shows that the ERS has the expertise and data that might be used to assist the County and other public employers in addressing pension spiking. As an example, the ERS currently provides pension cost ramifications during collective bargaining negotiations, but only for salary increases. It might be able to provide similar projections if other major changes affecting pay (such as RFR) are being considered.

⁵⁵ An April 24, 2019 Associated Press report states that of the 2,000 firefighters represented by the HFFA throughout Hawai'i, 1,002 union firefighters are employed by the City and County of Honolulu.

The ERS can also help the County and other public employers. The County could consider utilizing the expertise and analytical resources of the ERS to help it manage employee expenses, including pension spiking costs. The ERS states⁵⁶ that it is consulted about the impact of proposed pay increases on the system's unfunded liability. However, as the County's experience shows, other negotiated terms and conditions of employment, such as RFR, may also have a significant financial impact on employers. Therefore, the County could consider discussing with the other public employers whether more input from the ERS on the pension cost implications of major changes affecting pay could be requested during the collective bargaining process in the future.

The ERS currently invites employer personnel and finance directors to attend actuarial briefings every January prior to the legislative session and collective bargaining. The County could request ERS to provide educational material or training for County leaders such as department heads and other supervision about the need to consider pension costs when employees are hired, positions are added, overtime is authorized or salaries are increased.

The ERS has current data on active employee pay, and performs validations on the employers' semi-monthly payroll reports, primarily to ensure that required fields are completed and that related fields have corresponding data. The County could also consider requesting ERS assistance in identifying unusual or irregular increases in compensation, special compensation or other anomalies during these validations.

The County could explore these and other ways to engage the ERS in helping the County address pension spiking. Examples of the pension spiking prevention efforts by other retirement system administrators are described below.

⁵⁶ Letter dated September 16, 2020 from ERS Executive Director, Thomas Williams, to Council Chair Arryl Kaneshiro.

The California State Teachers' Retirement System (“CalSTRS”) has engaged in efforts to improve its ability to aggressively detect and pursue instances of suspected inappropriate pension benefit enhancement (spiking). These efforts include:

- Regularly conducted audits and analyses of employer compensation reports to identify excessive increases that could enhance a member’s final pension benefit. This includes an analysis of other risk factors, such as large amounts of special compensation and inconsistent pay raises throughout a member’s career;
- Establishment of an anti-spiking Compensation Review Unit, which analyzes individual instances to determine if compensation changes have resulted in pension spiking; and
- Enactment of regulations to give employers and CalSTRS staff clear guidelines to ensure all members are being credited properly, consistently and fairly for their service.⁵⁷

The California Public Employees’ Retirement System (“CalPERS”) states that it has:

- Significantly increased audit staff and expanded the number and frequency of agency audits;
- Provided comprehensive education for employers, including training courses;
- Implemented procedures to review compensation of active employees for pay increases and inappropriate reporting by employers;
- Targeted for review public agencies that have highly paid (>\$245,000/yr.) employees; and
- Developed an additional technology review program using business intelligence and data analytics to identify anomalies regarding membership and payroll reporting.⁵⁸

⁵⁷ <https://www.calstrs.com/preventing-pension-spiking>

⁵⁸ From an auditee response dated September 3, 2014 to the California State Controller’s Office, Division of Audits.

Recommendations:

1. KFD should confer with the County Personnel Director and the ERS on how to further manage RFR and overtime costs considering the CBA-mandated non-base pay afforded to fire fighters.
2. KFD should meet with the County Administration and Council to discuss requesting that the State's votes in collective bargaining take into consideration the impact of proposed union changes like RFR on the counties and the ERS. KFD and the County should also review whether changes to the State statutes and the HFFA CBA are necessary to mitigate pension spiking and whether the legislative packages of the County and the Hawai'i State Association of Counties ("HSAC") should include statutory changes to address legislative matters discussed in this audit, including the distribution of employer votes for Unit 11 collective bargaining so that the counties' votes have greater weight.
3. The County could consider discussing with the other public employers whether more input from the ERS on the pension cost implications of major changes affecting pay could be requested during the collective bargaining process in the future.
4. The ERS has current data on active employee pay, and performs validations on the employers' semi-monthly payroll reports, primarily to ensure that required fields are completed and that related fields have corresponding data. The County (and KFD) could consider requesting ERS assistance in identifying unusual or irregular increases in compensation, special compensation or other anomalies as part of the ERS validation process.
5. The County could consider teaming with the other public employers to request the ERS develop training to educate County leaders such as department heads and other supervision about the need to consider pension costs when employees are hired, positions are added, overtime is authorized or salaries are increased.

Finding 3. Fire station staffing is complex and depends on conditions that change. KFD should have a plan for regular assessment of its station staffing.

Staffing is the ability to deploy people and apparatus in a fire station, balancing the needs of providing effective coverage with available resources.⁵⁹ Placing, equipping, and staffing fire stations is an ongoing challenge for fire departments.

The CBA places the responsibility for staffing with the fire chief:

Section 10. PLACEMENT AND TRANSFER. A. Placement of Employees.

The placement of Employees within each Fire Department shall be the responsibility of the respective Fire Chiefs or designees..."

Section 20. HOURS OF WORK.

...The Fire Chief in each jurisdiction shall assign fire fighting Employees to their respective work groups and platoons.

The Council resolution expressed a concern as to whether the proper and responsible staffing levels for all fire stations are in place.⁶⁰ This concern arises from the direct relationship between premium pay related to overtime and staffing costs. Rank-for rank and other forms of overtime are often required to maintain staffing levels when scheduled fire fighters are absent, most commonly due to sick or vacation leave, or training.

As a part of our audit scope, we evaluated KFD's rationale for current staffing levels. In the past, KFD has been questioned about its staffing levels, and the Acting Fire Chief maintained that the current levels of staffing at least four (4) fire fighters at every station are appropriate and must be maintained to meet insurance standards. This position is consistent with the KFD's statement in the April 7, 2009 budget hearing that "the last 3 years of having appropriately staffed stations have really helped level out insurance premiums."

KFD also testified in the February 12, 2014 County Council meeting that when a second station was added to the Kawaihau District, about 8,000 homeowners benefited from decreased insurance rates. When asked to provide evidence of the decrease, the Acting Fire Chief states that the PPC rates for Kapa'a and

⁵⁹ ESCI, Indianola Fire Department Staffing Study, April 2018 ("Staffing Study").

⁶⁰ C2019-95, dated April 25, 2019.

Ka‘iākea went from 6/9 to 5/9, improving or reducing the insurance costs for the owners of property in those areas.⁶¹

The documents we were provided for the audit did not contain any evidence to document KFD’s arguments that its staffing levels must be maintained to meet insurance standards or reduce insurance costs. Upon review of the components of the PPC rating system, we found that staffing is not a significant scoring category of the system.

PPC rates are given by ISO, which is a leading source of information on property and casualty insurance risk for commercial and personal insurance. The PPC is based on an evaluation of four categories that are major elements of a community’s fire protection system. The scoring categories and weighting are:

- Emergency Communications (10 points)
- Fire Department (50 points)
- Water Supply (40 points)
- Community Risk Reduction (5.5 points)

The evaluation factors for the fire department are as follows:

Engine companies: ISO compares the number of in-service pumper trucks and the equipment carried with the number of needed pumper trucks and the equipment identified in the FSRS. The number of needed engines depends on the basic fire flow, the size of the area served, and the method of operation.	6 points
Reserve pumper trucks: ISO evaluates the number of reserve pumper trucks and their pump capacity; other factors include hose and equipment carried.	0.5 points
Pump capacity: ISO compares the pump capacity of the in-service and reserve pumper trucks (and pumps on other apparatus) with the basic fire flow. ISO considers a maximum basic fire flow of 3,500 gpm.	3 points
Ladder/service companies: Communities use ladders, tools, and equipment normally carried on ladder trucks for ladder operations, as well as for forcible entry, utility shut-off, ventilation, salvage, overhaul, and lighting. The number and type of apparatus depend on the height of the buildings, needed fire flow, and size of the area served.	4 points
Reserve ladder/service trucks: ISO evaluates the number of reserve ladder/service trucks and the equipment they carry.	0.5 points

⁶¹ March 21, 2020 email from Acting Fire Chief Robert Westerman (March 21 email).

Deployment analysis: ISO credits the percentage of the community within specified response distances of pumpers (1.5 miles) and ladder/service apparatus (2.5 miles). As an alternative, a fire protection area may use the results of a systemic performance evaluation. That type of evaluation analyzes CAD history to demonstrate that, with its current deployment of companies, the fire department meets the time constraints for initial arriving engine and initial full-alarm assignment. The timing is in accordance with the general criteria in NFPA 1710, Standard for the Organization and Deployment of Fire Suppression Operations, Emergency Medical Operations, and Special Operations to the Public by Career Fire Departments.	10 points
Personnel: ISO credits the personnel available to respond to first alarms for structure fires. For personnel not normally in the fire station (on-call and off-duty members), ISO reduces credit for the responding members to reflect the time needed for notification, travel, and assembly on the fireground. ISO then applies an upper limit for the credit for personnel because it is impractical for a very large number of personnel to operate a piece of apparatus.	15 points
Training: Trained personnel are vital to a competent fire suppression force. ISO evaluates training facilities and their use; company training at fire stations; training and certification of fire officers; driver/operator, hazardous materials, and recruit training; and building familiarization and pre-incident planning inspections.	9 points
Operational considerations: ISO credits the standard operating procedures for structure firefighting and the establishment of an incident management system.	2 points
Fire department total:	50 points

The minimum requirements to obtain a PPC score are:

- Must have a fire department organized permanently under state or local laws with definite boundaries
- Must demonstrate at least four fire fighters respond on the initial alarm to all structure fires (one of the four may be the chief officer)
- Must conduct training for members for a minimum of three hours every three months
- Communications must operate without delay when alarms come and dispatch firefighters
- Must have at least one apparatus meeting the criteria of NFPA 1901, Standard for Automotive Fire Apparatus
- Must house apparatus to protect it from weather

Many insurance companies establish premiums based on PPC ratings,⁶² but the method a company uses to calculate premiums may also depend on fire loss experience, underwriting guidelines and marketing strategy. In general, a lower PPC results in a lower insurance rate.

The effect of staffing on PPC ratings is low, as the number of points that depend on fire station staffing is only 15 out of a total of 105.5 points. Rather, distance from a fire station and the availability of water appear to be more critical factors in achieving a lower PPC or insurance premium for commercial or residential insureds.⁶³ Additionally, the PPC staffing requirement is that at least four fire fighters must be available to respond on the initial alarm to all structure fires (of which one may be the chief officer). Thus, PPC ratings alone appear to be insufficient to justify current staffing levels.

Staffing is a complex, technical risk assessment. The National Fire Protection Association (NFPA) 1710 Standard for Organization and Deployment of Fire Suppressions Operations, Emergency Medical Operations and Special Operations to the Public by Career Fire Departments ranks structures by their level or fire risk, and expresses that risk by the number of firefighters needed to effectively stop life and property loss. It sets requirements for company crew size and the number of companies deemed to be an effective response to fires in four categories of structures. NFPA 1710 also sets travel time requirements for the first-due company and the full assignment on first alarms. However, most fire departments do not comply with NFPA 1710's crew size requirements. NFPA reports that few of them staff their companies with the minimum of four fire fighters, and that fewer yet meet the response time requirements.⁶⁴

⁶² However, some do not, like State Farm. "State Farm drops ISO homeowners rating to use own data Insurer says it can save money and gain flexibility by using its own claims database instead of ISO's Public Protection Classification Program," *Insurance Times*, Vol. XX No. 17, August 21, 2001. In Hawai'i, PPC grading is compiled by the Hawaii Insurance Bureau ("HIB"). HIB is a private non-profit organization comprised of property and casualty insurers that conduct business in Hawai'i. Not all property and casualty insurers belong to HIB.

⁶³ Any home more than five miles from a fire station and 1,000 feet from a 4" hydrant is rated a 10 unless that area has an "automatic aid agreement" with a rated fire department to respond to fires in that area.

⁶⁴ "Can fire chiefs without proper staffing protect communities?" Fire Rescue, November 7, 2016.

The reason for noncompliance is that staffing decisions must consider the funds available to the fire department and balance that against the potential risks. As stated by one expert:

Decisions on deployment define the response capability of the fire department. These decisions need to weigh multiple considerations including risk exposure, response times, access challenges, deployment, community expectations, personnel safety, and fire department capacity. Those decisions need to balance the financial considerations. These decisions are strategic and are in the purview of the elected officials and mayor, based on recommendations of the fire chief.

Ultimately, these individuals are responsible to the public to provide the level of service that the citizens desire and for which they are willing to pay.⁶⁵

Making staffing decisions is a dynamic process that involves consideration of the many technical factors discussed in NFPA standard 1710. Staffing studies are intended to be ongoing operational assessments, and are not meant to be conducted through an audit. Audits involve looking at program conditions, exploring the cause of such conditions and measuring program execution to best practice and other criteria. On the other hand, staffing evaluations, such as those conducted by experts in the accreditation process, analyze the appropriate staffing levels based on external conditions such as those identified in NFPA 1710, to assess whether current condition require more or less staffing than at present. KFD could consider such staffing evaluations to ensure the adequacy of its staffing as conditions change.

Recommendations:

1. KFD should regularly evaluate its minimum staffing levels, so that it can ensure that the staffing levels are appropriate given the increases or decreases in population, infrastructure and needs in the areas served by fire stations.
2. KFD should continue its work to update its Strategic Plan, last updated in 2015, because it evaluates staffing needs based on population and demographics and sets goals for level of service.
3. KFD should consider engaging outside experts, such as those performing similar evaluations for accreditation, for advice on appropriate staffing and the costs and benefits of implementing scheduling software.

⁶⁵ Paraphrased from pages 22-23 of the “Indianola Fire Department Staffing Study,” by ESCI, April 2018.

AUDITEE RESPONSE

A draft of the audit report was provided to KFD for its response. KFD, through its Fire Chief Steven R. Goble, expressed general agreement with the audit recommendations, and provided detailed descriptions of the actions KFD has taken and will take to address them. No significant amendments to the audit report were required as a result of KFD's response, but we made technical, non-substantive changes for purposes of accuracy, clarity, and style.

We recommend reading KFD's auditee response, which is attached to this audit report as Attachment 1. KFD's response indicates that it is on its way to addressing overtime and other causes of Excess Pension Costs. We thank KFD for its positive and proactive responses to the audit.

As noted in the Preface, KFD issued a revised response on December 4, 2020, which corrected a typographical error in its original response related to Finding 1, Recommendation 4. The revised response did not have an impact on the audit findings or recommendations.

**KAUA'I FIRE DEPARTMENT**

THE COUNTY OF KAUAI

DEREK S. K. KAWAKAMI, MAYOR

MICHAEL A. DAHILIG, MANAGING DIRECTOR

STEVEN R. GOBLE
FIRE CHIEFSOLOMON K. KANOHO
ASSISTANT FIRE CHIEF

December 4, 2020 (revised)

Mr. Tyler Kimura

Partner

Spire Hawaii, LLP

Re: Kauai Fire Department Audit Report

Dear Mr. Kimura:

Thank you for the draft audit report of the Kauai Fire Department. We appreciate the time, energy and attention of you and your staff during this process. Our team acknowledges the effort taken and the willingness to engage with us to get to the important details of this matter.

I have reviewed the draft and offer the following response:

Finding 1: Certain fire fighters heavily utilized available overtime opportunities before their retirement. KFD has modified its policies in response.

Recommendations

1. KFD should actively monitor the cost of RFR and be prepared to provide the County with analyses of RFR, including costs, effect on operational efficiency, and distribution of overtime among fire fighter personnel. The data can be used to assist with the collective bargaining process and facilitate staffing decisions made by KFD and the County. It is necessary that KFD fulfill its responsibility and should also provide HFFA with the communications required by the CBA.

RESPONSE: Agree with this recommendation. The Fire Department has begun actively tracking RFR costs. The data management needs some improvement and we will evaluate tools to enhance this process to allow us to better understand operational efficiencies and distribution of overtime from RFR.

2. KFD should continue to actively monitor the utilization of firefighting personnel on Sparky Trailer activities to ensure appropriate and cost effective staffing, such as primarily using 40-hour personnel.

RESPONSE: Agree with this recommendation. The Fire Department has implemented a broad set of controls for staffing the Sparky Trailer (Fire Safety



Education). The Department has taken this one step further and applied the controls to other community risk reduction (CRR) programs. These changes include:

- Limits on the number of ranked personnel that can participate in each program: one (1) Captain, FFIII and FFII or FFI per assignment. No stacking of ranked personnel.
 - Use of on duty Prevention Bureau and operations personnel for Sparky Trailer and Fall Prevention program.
 - Additional controls for tracking and assigning personnel for CRR programs to ensure fair distribution of working hours.
 - Direct oversight and program coordination by Prevention Bureau Captain.
3. KFD should continue to actively monitor its on-island and off-island training programs to ensure training is appropriate for specific needs and personnel as well as being cost effective. We also recommend that KFD take into consideration the necessity of senior personnel attending off-island training if it is known that their retirement is imminent.

RESPONSE: Agree with this recommendation. The KFD has modified its on-island and off-island training programs in the following ways:

- **Transitioned to On Duty Training where viable and impact to operations is acceptable:** Training and Recertification's done while personnel are on duty thereby reducing annual Training Overtime costs:
 - Implemented on duty training and recertification as part of new training plan for all fire personnel. Required annual firefighter certifications include the following: National Registry Emergency Medical Technician (NREMT), Emergency Medical Responder (EMR), Cardio-Pulmonary Resuscitation (CPR), Automatic External Defibrillator (AED); Driver Training; Dive Rescue, Fire Ground Survival (FGS), Blue Card Command, etc.
- **Extra Duty Restrictions for Training Cadre and Committee Members:** Limited the number of extra duty assignments in which personnel are able to participate to four (includes Training Cadre's, Operational Teams [Dive Rescue, Drone, Swift Water Rescue etc.] and Administrative Committee's [Apparatus, Grants, Equipment, Health & Safety, etc.]
 - In the past personnel were not limited with a small percentage of personnel participating in as many as 8 or more programs.
 - These programs are vital to Fire Operations but over participation resulted in increased OT due to meetings, program training and FF recertification's, as well as call backs for emergency operations, etc.
- **Off-Island Training:** Off island training remains an important part of our overall training program; however:
 - Training alignment with departmental goals is closely evaluated prior to approval.



- The KFD evaluates costs of sending our members out for training vs. bringing instructor to Kaua'i to deliver training.
 - KFD has implemented a train-the-trainer the approach to reduce off-island training by sending our instructors to be trained, who then instruct our teams on-island.
4. KFD should continue to implement procedures to shift 24-hour fire fighters to 40-hour schedules when attending or instructing training courses that are five days or more in length to limit the amount of overtime incurred.

RESPONSE: Agree with this recommendation. The KFD carefully scrutinizes this option for training that extends over multiple days and has worked with the HFFA to implement this strategy on multiple occasions. We will continue to utilize schedule modification whenever appropriate. The unintended consequence of this is the full shift vacancies in the field that might be created due to the schedule change. While this may reduce the overall overtime paid out to the instructors or attendees, it has the potential to increase rank-for-rank overtime in the field.

5. KFD should closely monitor sick leave and vacation requests, and be aware of any trends where certain fire fighters may be regularly filling in for each other, particularly when close to retirement.

RESPONSE: Agree with this recommendation. The department has established leave request procedures to monitor sick leave and vacation request. This has challenges in a work group with collective bargaining in place.

6. KFD should ensure that all timesheets and requests for leave are properly reviewed, verified and approved by the appropriate supervisors.

RESPONSE: Agree with this recommendation. The department has established procedures in place for review of timesheets and leave requests in line with County of Kaua'i policies.

7. KFD should generate and maintain reports of overtime hours and expenses by rank and pay type in a consistent format that allows for comparison and analysis so that it can proactively monitor for potential budgetary impacts such as excess pension cost assessments.

RESPONSE: Agree with this recommendation. The department has begun tracking and reporting on rank-for-rank overtime. We will look to expand this with an appropriate system to effectively analyze and compare data to better monitor budgetary impacts.



Finding 2: KFD's Excess Pension Costs have been significant, but some of the controls that need to be instituted are outside KFD's hands.

1. KFD should confer with the County Personnel Director and the ERS on how to further manage RFR and overtime costs considering the CBA-mandated non-base pay afforded to fire fighters.

RESPONSE: Agree with this recommendation. Will work with HR and ERS to capture this predictable cost in the ERS calculation. Ultimately for employees hired from 2012 on, the average final compensation will be calculated on base pay only which resolves the issue going forward.

2. KFD should meet with the County Administration and Council to discuss requesting that the State's votes in collective bargaining take into consideration the impact of proposed union changes like RFR on the counties and the ERS. KFD and the County should also review whether changes to the State statutes and the HFFA CBA are necessary to mitigate pension spiking and whether the legislative packages of the County and the Hawai'i State Association of Counties ("HSAC") should include statutory changes to address legislative matters discussed in this audit, including the distribution of employer votes for Unit 11 collective bargaining so that the counties' votes have greater weight.

RESPONSE: Agree in spirit with the recommendation.

3. The County could consider discussing with the other public employers whether more input from the ERS on the pension cost implications of major changes affecting pay could be requested during the collective bargaining process in the future.

RESPONSE: Agree with this recommendation.

4. The ERS has current data on active employee pay, and performs validations on the employers' semi-monthly payroll reports, primarily to ensure that required fields are completed and that related fields have corresponding data. The County (and KFD) could consider requesting ERS assistance in identifying unusual or irregular increases in compensation, special compensation or other anomalies as part of the ERS validation process.

RESPONSE: Agree with this recommendation. We will engage with ERS to discuss this solution.

5. The County could consider teaming with the other public employers to request the ERS develop training to educate County leaders such as department heads and other supervision about the need to consider pension costs when employees are hired, positions are added, overtime is authorized or salaries are increased.



RESPONSE: Agree with this recommendation.

Finding 3: Fire station staffing is complex and depends on conditions that change. KFD should have a plan for regular assessment of its station staffing.

Recommendations:

1. KFD should regularly evaluate its minimum staffing levels, so that it can ensure that the staffing levels are appropriate given the increases or decreases in population, infrastructure and needs in the areas served by fire stations.

RESPONSE: Agree with this recommendation. The fire department has contracted with Emergency Services Consultants, Inc. for a department wide utilization study to establish baseline performance, deployment strategies, and resource requirements. Anticipate completion of this project by the end of the fiscal year.

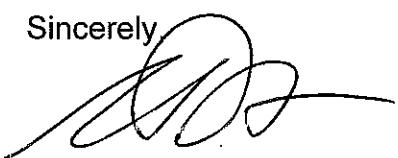
2. KFD should continue its work to update its Strategic Plan, last updated in 2015, because it evaluates staffing needs based on population and demographics and sets goals for level of service.

RESPONSE: Agree with this recommendation. The fire department has just completed an engagement with a vendor on its 2021-2024 Strategic Plan. A fundamental component of the plan is to develop standards of response coverage that will consist of a community risk assessment, establish response standards, and set criteria for performance evaluation of key components of service delivery.

3. KFD should consider engaging outside experts, such as those performing similar evaluations for accreditation, for advice on appropriate staffing and the costs and benefits of implementing scheduling software.

RESPONSE: Agree with this recommendation. As noted above the fire department has engaged with experts to establish service delivery standards and response requirements through its strategic planning initiative and utilization study. We will explore scheduling software solutions to assist with staffing, documentation, reporting, and analysis to better manage and control human resource costs.

Sincerely

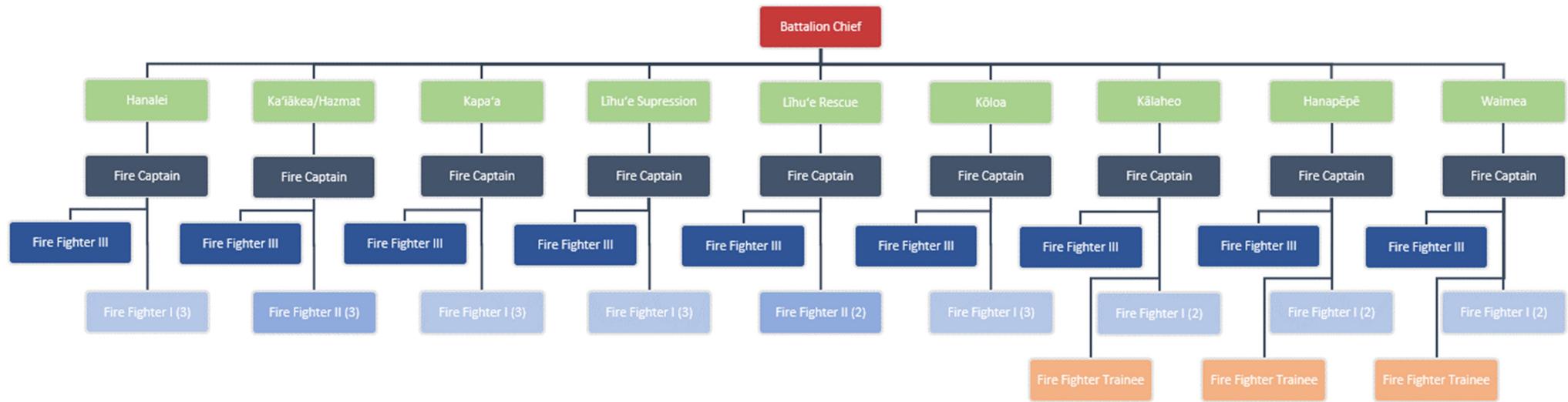


Steven R. Goble
Fire Chief

SFG/st



Appendix 1
Battalion Organization Chart Example



Appendix 2
Summary of Pay Differentials

Differential	Definition	Calculation
Overtime, regular	For work done in excess of 72 hours without 48 hrs. notice (capped at 24 hours, straight time thereafter). Leave with pay considered time worked. (CBA section: 21B, D)	40-hour employees: 1.5 x base pay at 40-hour rate. 24-hour employees: 1.5 x base pay at 53-hour rate.
Continuous duty overtime	For hours worked above 34 hours without an intervening 8-hour rest period. (21C)	2 x base pay at 53-hour rate for hours in excess of 36 hours.
Callout	For employees on off-duty status who are called back for an emergency. (22)	24-hour employees: 4 straight time hours. Non-24-hour employees: 2 straight time hours. All employees: overtime pay at applicable overtime rate for actual time worked plus travel to and from home.
Night shift differential	For 40-hour employees, hours worked between 6:00 pm and 6:00 am. (23)	In addition to base pay, \$0.60/hour for every full hour if more than 0.5 hours. If less than 0.5 hours, \$0.30.
Night alarm premium	For employees assigned to work more than 40 hours/week, for work between 8:00 pm and 6:00 am (24)	In addition to base pay, 25% of hourly rate per 31 min. to 1 hour; 13% of hourly rate for 30 min. or less.
Standby	For being required to be available outside the station. (25)	40-hour employees: 25% of daily pay rate. 24-hour employees: 25% x 53-hour rate x hours on standby.
Temporary change in station	For employee temporarily assigned to other than permanent fire station. (26B)	\$50 per 24-hour shift. \$50 for each cycle up to 3 24-hour shifts and \$50 for the next 3 consecutive shifts if locker is provided. If no locker provided, \$50 per 24-hour shift.
Bureau Opportunity Incentive	For 40-hour employees assigned to a bureau for 15+ consecutive days. (28)	\$350/month (excluded from calculation of base pay)

Appendix 2
Summary of Pay Differentials

Differential	Definition	Calculation
Holiday pay	For 40-hour employees required to work on holidays. (29B3)	1.5 x 40-hour rate x hours worked.
Holiday premium	For 24-hour employees. (29C2)	0.5 x 40-hours rate x hours worked
Vacation Call-back	For employees on vacation who are called back for an emergency. (33)	1.5 x regular pay rate, plus premium pay and differentials. Credited with vacation allowance that was unused.
Hazardous duty	Compensation for temporary hazardous duty. (44B) 15% of minimum step for ocean rescue, rappelling and hazmat; FFII (Rescue) doesn't get ocean rescue and rappelling; FF II (Hazmat) doesn't get hazmat; 25% for helicopter activity (all employees)	15% of the minimum step for ocean rescue, rappelling and hazmat (excludes FFII Rescue for ocean rescue and rappelling and FFII Hazmat for hazmat duty). 25% for helicopter activity (all employees).
Hazmat Assignment	For employees assigned to units that are designated for search and rescue responses which require specialized training. Applies to FCs and FF III's assigned to Rescue and/or Hazmat units. (44D)	8.126% of regular salary in addition to base pay and applicable differentials and premiums.

Source is HFFA 2011-2017 CBA.

Kauai Fire Department

Policies and Procedures

Policy Number 100-008

Date: September 1, 2018

Fire Chief Robert F. Westerman

Subject: STAFFING RANK-FOR-RANK RECALL

Page 1 of 4

SCOPE: This policy covers the ranked members of the Kauai Fire Department who are members of the Hawaii Fire Fighters Association.

PURPOSE: To provide guidelines governing the Rank-for-Rank program, hereafter referred to as the "program". This policy addresses the fair and equitable distribution of rank-for-rank recall.

REFERENCE: Hawaii Firefighters Association (HFFA) Collective Bargaining Agreement, Section 27-A. Rank-for-Rank Recall.

DEFINITIONS:

Ranked Personnel – means Firefighters in the rank of Fire Captain, Fire Fighter III, and Fire Fighter II.

Company – means a crew assigned to a fire apparatus.

Ranked Counterpart – means a person in the same classified (generic or specialized) ranked position.

Rank-for-Rank shift – means a 24 hour shift in which a ranked firefighter would have worked but is on authorized or unauthorized leave.

Offer – All; vacation (VAC), sick (SCK), compensatory time off (CTO), family leave, military leave, funeral leave, leave without pay (LWOP), absent without leave (AWOL), and unfilled vacant positions, days are offered and available to all ranked personnel.

POLICY:

1. Members are responsible for contacting the Battalion Chief as soon as they are aware of an opening to request the Rank-for-Rank.
2. Members are responsible for informing the Battalion Chiefs of the correct phone numbers to be used for Rank-for-Rank recall.
3. Members will confirm all Rank-for-Rank via email to all Battalion Chiefs. Email subject line should include "RFR confirmation (name of who is working) for (name or vacancy), date and hours." *Example: RFR confirmation (Smith) for (Jones) on 12 December 2014, 0700 to 1900.* The subject line information is all that is needed in the email.

Subject: STAFFING RANK-FOR-RANK RECALL

Page 2 of 4

4. Members will be called on a rotation basis for all other leaves as they become available.
5. The employer shall in good faith endeavor to assign such overtime work on a fair and equitable basis giving due consideration to operational requirements.
6. Ranked personnel will be offered twelve (12) shifts (288 hours) per fiscal year and can take six (6) shifts (144 hours) every six (6) months. No time is carried forward.
7. Rank for Rank will be offered in 12 or 24 hour shifts. Exceptions to this can be made at the discretion of the Battalion Chiefs.
8. Ranked personnel who work the 144 hours of Rank for Rank in the six-month allotment period shall ensure that 48 hours of the Rank for Rank hours worked are during the 0700-1900 work shift period.
9. Ranked personnel will be responsible for tracking rank for rank hours worked. If rank for rank hours worked exceeds 144 hours in the six month period, disciplinary measures may be taken and the exceeded hours will be charged against the next 6 month period.
10. Ranked personnel may be assigned to work from 0700 to 1900 on their day off following a 24-hour work shift or from 1900 to 0700 hours on their day off preceding a 24-hour work shift. Total Hours worked will not exceed 36 total consecutive hours unless approved by the Battalion Chief.
11. Ranked personnel who have confirmed to working one or more recall assignments shall be held accountable for the dates and time periods. In addition, they shall be fit for duty, report to work on time, and shall work the entire 12 or 24 hour shift, as appropriate.
12. If the ranked personnel are not able to report for their confirmed recall assignment, they shall notify the respective Battalion Chief or his designee as soon as possible. Failure to report to work without proper notification or tardiness without a legitimate excuse may result in disciplinary action.
13. Members will apply to all Battalion Chiefs as early as possible for a Rank-for-Rank opening. If no confirmation of availability to work R/R is received via email

Subject: STAFFING RANK-FOR-RANK RECALL

Page 3 of 4

by 5 calendar days prior to vacancy, the Battalion Chief may assign personnel at his discretion.

14. Upon the first day of a sick leave notification, the Battalion Chief may staff the vacancy as needed after 0730 if no R/R confirmation has been received.
15. Rank for Rank will be assigned in the following order sequence if the Ranked Firefighter is qualified: Preference is given to the full 24 hour work shift then the 12 hour work shift.
 - 1). Same station, same company, different battalion.
 - 2). Same station, different company, different battalion.
 - 3). 40 hour Fire Fighter.
 - 4). Different Station
 - 5). All other assignments on a rotating basis.
16. Ranked personnel can be assigned Rank-for-Rank recall at any station at the discretion of the Battalion Chief. Ranked personnel are offered Rank-for-Rank recall based on applicable qualifications of the position being filled.
17. Ranked personnel shall not work Rank-for-Rank recall if they are on sick leave or IA. The department will be enforcing the Sick Leave Call-In Procedure. All Captains shall be responsible for reviewing this portion of the Sick Leave Policy with members of their crew and for insuring full understanding and compliance with this procedure.
18. The program shall not preclude the Kauai Fire Department from assigning and/or transferring its employees in conformance with the HFFA Collective Bargaining Agreement.
19. Rank-for-Rank is assigned per person not position, therefore a promotion, demotion, transfers does not grant a person additional Rank-for-Rank availability.
20. Unused Rank for Rank days/hours will not be paid out and will expire at the end of each six month period.

Subject: STAFFING RANK-FOR-RANK RECALL

Page 4 of 4

21. Each jurisdiction shall, in good faith, meet with the Union at least annually to monitor the costs, the operational efficiency, and the equitable distribution of overtime among the various fire fighter ranks and to assess the viability of modifying, continuing or expanding this program to the expiration of the Unit 11 Agreement.
22. Failure to comply with the above may result in appropriate discipline.

**Kauai Fire Department
Policies and Procedures**

**Policy Number: 100-015
Date: December 1, 2009
Fire Chief Robert F. Westerman**

**Subject: STATEMENT OF POLICY REGARDING HOURS WORKED AND WORK
PERFORMED OUTSIDE NORMAL WORK HOURS**

Page 1 of 13

SCOPE: This policy covers all members of the Kauai Fire Department.

PURPOSE: To compile all existing directives, policies, and procedures regarding hours worked into a single statement of policy and to provide additional guidelines regarding work performed outside normal work hours.

REFERENCES:

1. KFD Form 103
2. KFD Form 106, Application for Volunteer/Charitable Service
3. [New] KFD Form 106A, Application for Volunteer Service to be Provided to the County of Kauai

DEFINITIONS:

1. For purposes of this policy, the term “firefighters” refers to all employees employed as a Fire Fighter Trainee, Firefighter I, Firefighter II, Firefighter III, Fire Prevention Inspector II or Captain.
2. For purposes of this policy, the term “employees” includes all firefighters and non-exempt civilian personnel.

SUPERSEDES: Kauai Fire Department Policy Number 100-007 (May 16, 2006); Fire Department County of Kauai Memo #2007-009 (May 21, 2007) (FLSA Interim Directives); Fire Department County of Kauai Memo #2007-010 (May 21, 2007) (Scheduled Work Time); Fire Department County of Kauai Memo #2007-011 (May 21, 2007) (Daily Review of Log Books/Tower Logs); Fire Department County of Kauai Memo #2007-012 (May 21, 2007) (Daily Inspection of Equipment, PPE and Loading/Unloading of Gear and Equipment); Fire Department County of Kauai Memo #2007-013 (May 21, 2007) (Cleaning, Decontaminating of Personal Protective Equipment); Fire Department County of Kauai Memo #2007-014 (May 21, 2007) (Repairing and/or Replacing of Damaged Equipment, Uniforms or Gear); Fire Department County of Kauai Memo #2007-015 (May 21, 2007) (Transporting of Equipment, Paperwork, Timesheets and Employees); Fire Department County of Kauai Memo #2007-016 (May 21, 2007) (Completion of Paperwork).

**Subject: STATEMENT OF POLICY REGARDING HOURS WORKED AND WORK
PERFORMED OUTSIDE NORMAL WORK HOURS**

Page 2 of 13

POLICY:

1. GENERAL POLICIES

- A. Before any work is performed outside of an employee's normal work shift, the employee must first request and obtain authorization. Except where otherwise noted, firefighters must request such authorization from the on-duty Battalion Chief. On-duty Captains shall continue to have authority to authorize firefighters to perform work outside their normal work hours (1) to respond to late alarms, (2) to perform maintenance related to late alarms, and (3) to engage in face-to-face information exchanges. Captains must request such authorization from the on-duty Battalion Chief. Non-exempt civilian personnel must request such authorization from their immediate supervisor. A failure to request and obtain such authorization shall result in disciplinary action.
- B. In the event that the circumstances prevent an employee from first obtaining prior authorization before engaging in work outside the employee's normal work hours, the employee shall request and obtain authorization as soon as possible. A failure to request and obtain authorization in a timely manner shall result in disciplinary action.
- C. Authorization for overtime should be noted on an employee's appropriate timesheet. Authorization for overtime related to approved training should be stated on **KFD Form 103**.
- D. All work performed by an employee outside his/her normal work hours, whether authorized or not, shall be reported by the employee on the day the work is performed to his/her immediate supervisor. Thus, all work performed by a firefighter outside of his/her normal work hours, whether authorized or not, shall be reported by the firefighter on the day the work is performed to the on-duty Captain, who shall then report the time to the on-duty Battalion Chief so that the time worked and the justification for the time worked can be properly recorded. All work performed by a Captain outside of his/her normal work hours, whether authorized or not, shall be reported by the Captain to the on-duty Battalion Chief so that the time worked and the justification for the time worked can be properly recorded. All work performed by a civilian employee outside of his/her normal work hours, whether authorized or not, shall be reported by the employee on the day the work is performed to his/her immediate supervisor so that the time worked and the justification for the time worked can be properly recorded.

**Subject: STATEMENT OF POLICY REGARDING HOURS WORKED AND WORK
PERFORMED OUTSIDE NORMAL WORK HOURS**

Page 3 of 13

- E. Each employee shall be responsible for recording the dates worked and the actual hours worked on his/her timesheet. Each employee shall record all hours worked on his/her timesheet, even if the employee neglected to request and obtain authorization to perform work outside his/her normal work hours. Supervisors shall be responsible for checking and coding timesheets. Thus, Captains shall be responsible for checking and coding timesheets for firefighters and any other personnel under their direct supervision; Battalion Chiefs shall be responsible for checking and coding timesheets for Captains and any other personnel under their direct supervision; and civilian supervisors shall be responsible for checking and coding timesheets for personnel under their direct supervision.
- F. Once the timesheet is prepared, the employee shall review the timesheet for accuracy before signing the timesheet. If the timesheet is not accurate, the employee shall inform his/her immediate supervisor of any errors or omissions so that they can be corrected before the employee signs the timesheet. If the employee becomes aware of an error or omission on his/her timesheet after the employee has signed the timesheet, the employee shall inform his/her immediate supervisor of the error or omission. The supervisor shall then notify the Battalion Chief via email of the reported error or omission. The Battalion Chief will then email the supervisor and copy the Department Payroll Personnel regarding whether the requested correction was approved or not. The supervisor then shall inform the employee of the action by the Battalion Chief. If an employee is not satisfied with the response, the employee may take the matter up with the Deputy Fire Chief and finally to the Fire Chief.
- G. If an employee is not able to personally review and sign his/her timesheet before it is submitted, the supervisor shall print "UNAVAILABLE" in the signature block for the employee and shall either make a photocopy of the timesheet or request that Department Payroll Personnel make a photocopy and send a photocopy back. When the employee returns to work, the employee shall review the photocopy of the timesheet, and if the timesheet is accurate, the employee shall sign his/her name and print the date on the photocopy, and give the photocopy to his/her supervisor who shall then submit the timesheet to the Battalion Chief for review and approval, then submission to the Department Payroll Personnel. If the employee believes the timesheet is not accurate, the employee shall follow the same reporting and review procedure as set forth in F., above.
- H. If work is verified as actually having been performed, the employee will be paid for the time worked, unless otherwise directed by the Deputy Fire Chief and/or

**Subject: STATEMENT OF POLICY REGARDING HOURS WORKED AND WORK
PERFORMED OUTSIDE NORMAL WORK HOURS**

Page 4 of 13

the Fire Chief. However, if an employee fails to obtain authorization to perform work outside of the employee's normal work hours or fails to follow these required reporting procedures, the employee shall be disciplined for violation of this Policy.

- I. If the employee's immediate supervisor has reason to believe that the work was not performed and/or that the hours reported are not accurate, the supervisor shall advise the Battalion Chief. The Battalion Chief or his/her designee shall investigate the matter and report his/her findings and conclusions to the Deputy Fire Chief. The Deputy Fire Chief shall determine whether or not the work was performed, whether or not the hours reported were accurate, and whether or not the time spent performing the activity in question is compensable.
- J. These general policies shall apply to all work circumstances covered by this Policy.

**Subject: STATEMENT OF POLICY REGARDING HOURS WORKED AND WORK
PERFORMED OUTSIDE NORMAL WORK HOURS**

Page 5 of 13

2. POLICIES REGARDING SPECIFIC WORK CIRCUMSTANCES

A. No work to be performed prior to the start of the shift without prior authorization

Employees shall be properly attired at the start of their respective shifts. Employees may dress for work at their work location or prior to arriving at their work location.

Prior to the start of their shifts, employees shall not perform **any** work unless they have first requested and obtained authorization in accordance with section 1.

B. No work to be performed after the end of the shift without prior authorization

After the end of their shifts, employees shall not perform any work unless (1) they are requested to remain beyond their normal work hours by their immediate supervisor, or (2) they have first requested and obtained authorization in accordance with section 1.

Employees who are held over due to late alarms, personnel shortages, or other reasons shall be paid for the actual amount of time they were held over, or the amount of time specified in the applicable collective bargaining agreement (if any), whichever is higher.

C. Working through meal periods (not applicable to firefighters in operations, ocean safety personnel, or other employees who receive paid meal periods)

Employees who receive unpaid meal periods shall not perform any work, including but not limited to performing any paperwork or computer work, during their meal period unless they first request and obtain authorization in accordance with section 1.

Pursuant to FLSA policy, if an employee is not provided at least 30 consecutive minutes for an unpaid meal during which the employee is free from work-related interruptions, the employee (1) shall be rescheduled to take an uninterrupted 30 minute meal break or (2) shall be paid for the missed or interrupted meal. An employee is required to first request and obtain authorization in accordance with section 1 before he/she cuts an unpaid meal period short.

**Subject: STATEMENT OF POLICY REGARDING HOURS WORKED AND WORK
PERFORMED OUTSIDE NORMAL WORK HOURS**

Page 6 of 13

D. Completing paperwork or other similar duties before or after shift

Employees who are unable to complete their paperwork and other similar duties during their normal work hours must request and obtain authorization in accordance with section 1 before performing paperwork and/or any other similar duties outside their normal work hours. "Other similar duties" include, but are not limited to, writing and reviewing reports, checking e-mail, and working on the computer.

E. Inspection and maintenance of equipment, personal protective gear, and vehicles

All inspection and maintenance of equipment, personal protective gear, and vehicles must be done during an employee's normal work hours.

If an employee believes the inspection and/or maintenance cannot be completed or performed during normal work hours, the employee must first request and obtain authorization in accordance with section 1 before spending off-duty hours on such activities.

F. Daily Review of Log Books (applies to firefighters in operations only)

Any work-related information that needs to be shared between shifts will be communicated through the station log book. Therefore, before the end of their shift, all outgoing firefighters must log all pertinent information into the station log book before the end of the shift.

After the shift has begun, incoming firefighters must review the station log book for any information logged by outgoing firefighters.

Firefighters shall only review the station logs after the start of their shift or before the end of their shift unless ordered by the Battalion Chief or approved by the Battalion Chief in accordance with the requirements of section 1. There shall not be any pre/post shift briefings between firefighters from different shifts unless such briefings are ordered or approved.

G. Daily Review of Tower Logs (applies to ocean safety personnel only)

There shall not be any pre/post shift review of tower logs by ocean safety personnel. The review of the tower logs and incident reports from the prior day shall only take place after the start of the shift but before the end of the shift unless ocean safety personnel have received approval in accordance with the

**Subject: STATEMENT OF POLICY REGARDING HOURS WORKED AND WORK
PERFORMED OUTSIDE NORMAL WORK HOURS**

Page 7 of 13

requirements of section 1.

H. Participating in or preparing for Department-required training

Employees who are required to participate in or required to prepare for a training course, including any study related to Department-required training, shall do so during their normal work hours. Employees shall provide advance notice to their immediate supervisor if they anticipate that they will need time to participate in or prepare for a training course. No employee shall participate in or prepare for a training course outside the employee's normal work shift without first requesting and obtaining authorization in accordance with section 1.

In those instances where providing advance notice is not possible, employees who must participate in or prepare for a training course outside their normal work hours are required to notify their immediate supervisor of the off-duty work that same day or as soon as possible thereafter.

I. Attending Department-required medical exams (applies to firefighters only)

All Department-required medical examinations, tuberculosis tests, hepatitis shots, and titer tests, shall be scheduled to take place on duty during normal work hours. Captains or their designees are responsible for the scheduling of Department-required medical examinations. Firefighters shall not schedule their own Department-required medical examinations.

Department-required examinations, tuberculosis tests, hepatitis shots, and titer tests, shall be regarded as compensable work time and employees must comply with the requirements of section 1.

This section does not apply to medical examinations, physical therapy, and other treatment for industrial injuries. Medical examinations, physical therapy, and other treatment for industrial injuries should be scheduled by firefighters themselves during off-duty hours. Time spent attending medical examinations, physical therapy, and other treatment for industrial injuries is not compensable work time.

**Subject: STATEMENT OF POLICY REGARDING HOURS WORKED AND WORK
PERFORMED OUTSIDE NORMAL WORK HOURS**

Page 8 of 13

**J. Cleaning of Personal Protective Equipment (PPEs) (applies to firefighters
in operations only)**

Firefighters shall clean their PPE, decontaminate their PPE, and/or take their PPE to be cleaned or decontaminated while on duty during normal work hours. While PPE are being cleaned and/or decontaminated, firefighters shall use their second set of PPE.

All time spent cleaning PPEs shall be regarded as compensable work time and employees must comply with the requirements of section 1.

K. Transporting employees, equipment and supplies

Employees, equipment, and supplies shall only be transported by authorized personnel during their normal work hours.

If an employee believes that transporting employees, equipment or supplies outside normal work hours is necessary, the employee is required to first request and obtain authorization in accordance with section 1 before engaging in any transportation of employees, equipment or supplies outside the employee's normal work hours.

This policy also applies to the transportation of equipment in need of repair or replacement. Employees are not authorized to transport equipment in need of repair or replacement or to pick up or drop off supplies outside of their normal work hours (including during their commute), unless they first request and obtain authorization in accordance with section 1.

Nothing in this section shall preclude employees from carpooling to or from work for their personal benefit and convenience. Carpooling is not compensable work time.

**L. Working at a station that is not an employee's regularly-assigned station
(applies to firefighters in operations only)**

If a firefighter is provided with advance notice to report to work at a station different (pre-assigned) from his/her regularly-assigned station, the firefighter shall take his/her PPE and bedding home immediately after his/her last scheduled shift at the regularly-assigned station so that the firefighter can report directly to the temporarily-assigned station. The travel from the regularly assigned station to home, is a commute and is not compensable. Similarly, the

**Subject: STATEMENT OF POLICY REGARDING HOURS WORKED AND WORK
PERFORMED OUTSIDE NORMAL WORK HOURS**

Page 9 of 13

travel from home to the temporarily assigned station is a commute and is not compensable.

Once the firefighter's assignment to the temporarily-assigned station is completed, the firefighter shall take his/her PPE and bedding directly from the temporarily-assigned station back to the regularly-assigned station after the end of the shift. The firefighter will be paid for the time driving from the temporarily-assigned station to his/her regularly-assigned station as that is a continuation of the work day. Once the employee drops off the PPE and bedding; the employee is off-duty and the time driving from his/her regularly-assigned station to his/her home is a commute and is not compensable.

Employees must comply with the requirements of section 1 for all activities that are identified as compensable work time under this policy.

At all times, when taking PPEs from one station to another, firefighters should use due care and common sense to avoid the possible contamination of personal vehicles and home areas.

M. Voluntary community service activities

Employees are prohibited from (a) providing off-duty volunteer services as a representative of the Department or (b) or performing any services on a volunteer basis to any department, division, or political subdivision of the County of Kauai where the volunteer services are the same or similar to the services that they are otherwise employed to perform for the Department. For this reason, employees shall notify the Fire Chief via **KFD Form 106A**, Application for Volunteer Service to be Provided to the County of Kauai, whenever they intend to provide volunteer services to the Department, to another County agency, or at a County-sponsored event.

If the Department seeks to have an employee participate in an off-duty activity **as a** representative of the Department, the Department shall authorize, in writing, the off-duty participation. The time spent in the activity must be reported to the on-duty Captain and recorded on the employee's timesheet. Such time shall be regarded as compensable work time and subject to the requirements of section 1 above.

However, all employees are free to volunteer and participate in civic and/or charitable activities that are for the benefit of outside organizations or individuals. For example, employees may speak at "career days" at their children's schools, attend neighborhood board meetings as members of the

**Subject: STATEMENT OF POLICY REGARDING HOURS WORKED AND WORK
PERFORMED OUTSIDE NORMAL WORK HOURS**

Page 10 of 13

community in which they live, or participate in church fundraisers. Employees shall use **KFD Form 106** to notify the Fire Chief whenever they intend to provide volunteer services to outside charitable or civic organizations or to individuals where the duties that they are performing are similar to the duties they perform in their County job.

Also, employees may provide volunteer services to the County of Kauai but only if the volunteer services are not the same or similar type of services which the employee is employed to perform for the County and only if the services are offered freely and without pressure or coercion, and without an expectation of compensation or other benefit. For example, a firefighter could volunteer to do data entry work at a County of Kauai Agency on Elderly Affairs event, provided that his/her services were offered freely and without pressure or direct or implied coercion. On the other hand, a firefighter could not volunteer to provide rescue services at a County event because such services would be of the same type as the services firefighters are employed by the County to perform. The examples listed in this section are for purposes of illustration only and are not exhaustive.

N. Early relief (applies to firefighters on operations only)

A firefighter may agree to relieve a firefighter on a previous shift prior to the scheduled starting time. This early relief must be a voluntary agreement between the two firefighters, but both firefighters must request and receive authorization from their respective Captains before the early relief may take place.

All early relief must be recorded in the station log book and must include the name of the Captains who gave approval and the firefighters who are involved in the early relief, as well as the appropriate date, start time and end time.

Where early relief takes place, the firefighter being relieved early (the outgoing firefighter) will be credited as if the outgoing firefighter worked his/her normal work schedule for all purposes including compensation and calculation of benefits. The relieving firefighter (the incoming firefighter) will not be paid or credited for the period of time during which the incoming firefighter provided early relief to the outgoing firefighter. The incoming firefighter shall only be paid for his/her own normal work hours and any other non-early relief work hours.

Firefighters who elect to participate in early relief are responsible for ensuring that early relief is reciprocated so that over a period of time both firefighters

**Subject: STATEMENT OF POLICY REGARDING HOURS WORKED AND WORK
PERFORMED OUTSIDE NORMAL WORK HOURS**

Page 11 of 13

work the same amount of time ordinarily provided by their normal work schedules and one firefighter does not work more or less time than provided by his/her normal work schedule as a result of the early relief.

O. Substitution (applies to firefighters in operations only)

Firefighters may agree to substitute for each other's scheduled work hours. Substitution or "trading time" may only take place between firefighters performing work in the same capacity. This work substitution must be a voluntary agreement between the two substituting firefighters, but both the firefighter who is being substituted and the substituting firefighter must request and receive authorization from their respective Captains before substitution may take place.

Substitution shall be for a minimum of one hour and shall not exceed a continuous 24-hour shift. The substituted firefighter is responsible for the "substitution" actually taking place and will be charged with the appropriate leave if the substituting firefighter does not report for duty as agreed.

All substitutions must be recorded in the station log book and must include the name of the Captains who gave approval and the firefighters who are involved in the substitution, as well as the appropriate date, start time and end time.

Where substitution takes place, the substituted firefighter will be credited as if that firefighter worked the normal work schedule for all purposes including compensation and calculation of benefits. The substituting firefighter will not be paid or credited for the time the substituting firefighter worked the substituted firefighter's normal work schedule.

However, once the substituted firefighter's normal work schedule ends, if the substituting firefighter continues to work additional hours, it is the substituting firefighter who shall be paid and credited with such additional hours of work for all purposes.

Firefighters who elect to participate in substitution shall be solely responsible for reciprocating or returning the substitution to each other. Participation in substitution or trading time is *voluntary* and the Department shall not be responsible for reimbursing or paying any money to a firefighter who did not receive a "returned substitution."

3. Employees with questions or requests for clarification regarding the contents of this Statement of Policy may submit a request in writing to their Battalion Chief.

**Subject: STATEMENT OF POLICY REGARDING HOURS WORKED AND WORK
PERFORMED OUTSIDE NORMAL WORK HOURS**

Page 12 of 13

4. All supervisors shall familiarize their personnel with the contents of this policy by distributing a copy of this policy to each employee and obtaining each employee's signature on the attached acknowledgment form.

**Subject: STATEMENT OF POLICY REGARDING HOURS WORKED AND WORK
PERFORMED OUTSIDE NORMAL WORK HOURS**

Page 13 of 13

**ACKNOWLEDGMENT OF RECEIPT OF THE KAUAI FIRE DEPARTMENT'S
STATEMENT OF POLICY REGARDING HOURS WORKED AND
WORK PERFORMED OUTSIDE NORMAL WORK HOURS**

I have received a copy of the Kauai Fire Department's Statement of Policy Regarding Hours Worked and Work Performed Outside Normal Work Hours. I understand that I have a responsibility to read the policy and to abide by it. If I have any questions about the policy, I will seek clarification through my Battalion Chief.

Print name: _____

Signature: _____

Date: _____

Appendix 5
Glossary of Pension Terms

Term	Definition
Average base pay	Total base pay included in an employee's average final compensation, divided by the number of years used to determine average final compensation.
Average final compensation	Average annual compensation which becomes part of the formula for the computation of a retirement allowance. For employees who become members after December 31, 1970, but before July 1, 2012: (A) During the member's three highest paid years of credited service, excluding vacation pay; or (B) If the member has fewer than three years of credited service, during the member's actual years of credited service;
Average final compensation non-base pay ratio	Average non-base pay divided by the average base pay.
Average non-base pay	Total non-base pay included in a member's average final compensation divided by the number of years used to determine the member's average final compensation.
Base pay	Normal periodic payments of money for service, the right to which accrues on a regular basis in proportion to the service performed; recurring differentials; and elective salary reduction contributions under sections 125, 403(b), and 457(b) of the Internal Revenue Code of 1986, as amended.
Comparison period	Those years in the ten years of credited service prior to termination of service that are not included in the period for determining a member's average final compensation or, if the member has less than ten years of credited service prior to termination of service, the years of the member's credited service that are not included in the determination of the member's average final compensation.
Comparison period average base pay	Total base pay for the comparison period divided by the number of years in the comparison period.
Comparison average non-base pay	Total non-base pay for the comparison period divided by the number of years in the comparison period.
Comparison period non-base pay ratio	Comparison period average non-base pay divided by the comparison period average base pay.
Retirement allowance	Benefit payable for life as originally computed and paid a member at the point of the member's retirement in accordance with the retirement allowance option selected by the member, exclusive of any bonus or bonuses.

Source is HRS §88-21 Definitions, and §88-81 Average final compensation, Part II. Retirement for Public Officers and Employees.

Appendix 6
Illustration of Excess Pension Cost Assessment⁽¹⁾

Average Final Compensation (AFC)

Test 1

AFC Year	Base Pay	Non-Base Pay	Total Pay
1	115,000	55,000	170,000
2	105,000	45,000	150,000
3	95,000	40,000	135,000
Total	315,000	140,000	455,000
Average	105,000 A	46,667 B	151,667

Test 1: AFC Non-Base Ratio (B/A) 44% D

If AFC Non-Base Pay Ratio > 10%, move to Test 2.

Comparison Period Non-Base Pay Ratio

Test 2

Comparison Year	Base Pay	Non-Base Pay	Total Pay
1	86,000	23,000	109,000
2	85,000	25,000	110,000
3	84,000	19,000	103,000
4	83,000	20,000	103,000
5	82,000	14,000	96,000
6	81,000	22,000	103,000
7	80,000	21,000	101,000
Total	581,000	144,000	725,000
Average	83,000 E	20,571 F	103,571 G

Comparison Period Non-Base Ratio (F/E) 25% H

Test 2: D/H= 179%

If Test 2 > 120%, results in Excess Pension Cost

Excess Pension Cost Calculation

Average AFC Base Pay (A)	\$ 105,000
Comp. Period Non-Base Pay Multiplier (1 + H)	125%
Limited AFC	\$ 131,024 I

AFC	C \$ 151,667	J	K	L	M=J*K*L
		Amount	Years of Service	Benefit Multiple	Pension
Limited AFC	I 131,024		30	0.025	\$ 113,750
			30	0.025	98,268
					15,482
					13.8249
					Excess Pension Cost - Invoiced to County \$ 214,036

Note: (1) Based on information in Report of the Committee of the Whole, 2019-14, June 19, 2019. Pay amounts have been changed.