

Audit of the Department of Public Works Solid Waste Division



Submitted by

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

Report No. 21-01

PREFACE

This performance audit of the Solid Waste Division (“SWD” or “Division”) of the Department of Public Works (“DPW”), County of Kaua‘i (“County”) was designed to examine the cause(s) of low morale in the Division and its effect on the performance of employees of the Division.

We would like to thank all who contributed data to this report, especially Acting Chief Engineer Troy Tanigawa, former Acting Chief Engineer Chief Lyle Tabata, Managing Director Michael Dahilig and past and present SWD personnel.

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Attachment 1 – Auditee Response

EXECUTIVE SUMMARY

In early 2019, the Kaua‘i County Council (“Council”) was informed by members of the public and employees of the Division “that the morale within all facets of the Solid Waste Division.....is at an all-time low, explaining that an audit may be necessary to determine the cause of the problem and its potential effects on employee performance.”

As a result of this information, the Council issued a Memorandum of Concurrence, dated April 25, 2019, which called for a performance audit to be conducted of the Division to identify the cause(s) of low morale and its effect on the performance of employees of the Division.

The audit scope consisted of :

- Surveying SWD employees.
- Reviewing whether there are proper policies and Standard Operating Procedures (“SOPs”) in place that address how requests for Flex-Time schedules are evaluated and approved. We note that the Division does not have its own written policies and SOPs, so we examined the policies of the DPW that are used by the Division.
- Reviewing the operational results of having employees on Flex-Time schedules. Identifying any problems that have occurred.
- Reviewing how requests for Outside Employment in the Division are evaluated and approved, including whether any consideration is given to the requesting employee’s current duties and responsibilities.

Our findings are summarized as follows.

Finding 1: The employee survey indicates the Division likely has an employee morale problem.

The employee survey results indicated that the Division likely has an employee morale problem that appears to be driven by employees’ negative perception of Division leadership. Twenty-nine employees responded to the survey out of a possible 67 respondents, a 43 percent response rate. A response rate this low usually indicates that employees have low expectations that anything will come of the survey and also a negative perception of management, which is confirmed by the ratings of those who did respond to the survey. Specific survey items and analyses are discussed in Chapter 1.

Objective multiple-choice questions consisted mostly of positive statements which respondents were asked to indicate that they either strongly agreed, agreed, were uncertain, disagreed, or strongly disagreed. Items to which respondents strongly agreed and agreed were counted as a positive response. The analysis of

objective items is presented as percent positive responses for each item, with that percentage indicating the percentage of overall respondents who responded strongly agree or agree to a particular item.

The most significantly negative items across the Division pertain to divisional leadership.¹ These items include:

	Percent Positive Responses
Division leadership regularly reinforces our direction and recognizes performance appropriately.	11%
Division leadership walks their talk; their actions are consistent with our mission, values, and direction.	14%
Communication from Division leadership is frank and honest.	17%
The decisions that impact our work group are made in a fair and timely manner.	17%
People in my department are treated fairly by management.	17%
Overall, I really trust Division Leadership.	18%
Division leadership effectively communicate our mission and direction.	21%
The Division leadership is visible, accessible, and easy to approach.	31%
I feel that Division leadership is concerned for the wellbeing of our employees.	31%
The Division leadership addresses significant problems effectively on a timely basis.	38%

Comments made on the open-ended questions pertaining to divisional leadership mention the need for qualified, engaged, and decisive leaders who are trained in communication skills. The need for fairness and accountability was also noted, as was the need for full staffing at the chief engineer and division head levels.

These ratings and comments indicate a serious deficit in divisional leadership which could be the root cause of many if not all of the other challenges in the Division. If employees do not feel that the leadership provides direction, is trustworthy, cares about them, listens to them, or acts in their favor, poor morale, staff retention, and quality work are all likely to suffer.

¹ From January 2017 to January 2020, leadership in the Division has been a revolving door, with seven individuals acting as Division head.

Summary of Most Improvable Organizational Factors

1. Clearly the most significant challenge is a negative perception of and lack of confidence and trust in Division leadership. This issue is a problem in all the units, with the possible exception of Recycling. Given that it is top leadership that sets the tone for organizational effectiveness and culture, negative ratings such as these may explain much of the other negative responses in other categories in the survey.
2. Survey results indicate that employees feel that the way work is done does not make sense, that if something does not make sense, they can't get it changed, that their opinions don't seem to count, and it is not safe to speak up if what they have to say is unpopular. Comments suggest that ineffective work practices impact the equipment that is used in the workplace, and that may have an impact on perceived safety. This issue appears to be a problem in all units with the possible exception of Recycling.
3. There is a negative perception of performance management in all units with the possible exception of Recycling. Comments indicate that poor performance management is resulting in problem employees becoming a distraction, and it is likely that the perception of a negative impact of flex schedules and employees who work more than one job is a result of poor performance management.
4. There is a consistent perception of poor communication across the Division, starting at the Division leadership level.
5. Supervisory effectiveness is consistently rated negatively across the Division. Supervisors are not perceived to be responsive, respectful, trustworthy, accurate, or encouraging. It is important to note that organizational behavior studies have consistently revealed that the number one reason that employees stay or leave their jobs is the quality of relationship they have with their direct supervisors.
6. Flex schedules and employees who work more jobs than their County job appears to be perceived as having a negative impact on work performance. This is likely to be a result of poor supervisory effectiveness and should be addressed through improved supervision.

Recommendations to address Finding 1:

1. Division and DPW leadership should present the results of the survey to employees, share what it believes the survey results mean, find out if the interpretation is accurate, and then discuss leadership's proposed solutions to determine if your proposed actions are potentially viable. Surveys such as these are part of a methodology called survey feedback. This means that the survey is not the end of the process. It is important to remember that survey results present a one-sided perspective on the situation. There is always more than one side to a story. It is important to get the leadership's view of the situation before taking any action.

The survey feedback process should begin with Division leadership. Given that the survey results are so intensely negative with respect to Division leadership, it will be important to ascertain whether the leadership understands and accepts their roles as senior leaders, and if they agree with the expectations and assumptions about leadership and supervision that are intrinsic to this survey model. Then, a determination will need to be made as to whether the Division leadership is first willing and second, able to make the changes necessary to improve organizational morale and performance. If Division leadership is not willing and able to work on these issues, nothing is likely to improve.

2. We recommend providing basic supervisory and management training that emphasizes:
 - Understanding the role of supervisor and manager,
 - Communicating effectively one on one and how to conduct effective meetings,
 - Participative work process improvement, problem solving, and decision making, and
 - Performance management and progressive discipline.

If properly conducted, such a training sequence will identify which supervisors and managers are willing to make the changes necessary to perform acceptably, work processes that need to be improved will be identified, and communication, performance management, and morale in general will improve in the Division. The reason for this recommendation is that the improvable factors identified by this survey all point to a failure of management and supervision, which could be partially attributed to lack of training.

Finding 2: The policies and SOPs regarding Flex-Time are inadequate and risk operational problems and costs.

We found that the DPW Flex-Time Policy used by the Division falls short of best practices, as shown in the table below. As a result, policy administration is inadequate, and causes operational problems, such as the absence of one or more top-level SWD supervisors from the workplace during portions of regular working hours.

Best Practice	Is the DPW Policy compliant?	Comments
Clear statement of policy purpose	Partially	Language in the Policy such as “employees will be granted approval” and that DPW “acknowledges that it is not necessary for all employees to work ‘normal’ hours” does not consider operational needs.
Preapproval process and eligibility	Partially	Request forms should include justification for requests including any impact to job performance and operational needs.
Prohibitions	No	Policy does not list prohibitions to protect the employer.
Statement of assessment factors	No	No guidance for approvals or disapprovals.
Consequences for violation clearly stated	No	Consequences for abuse, decrease in performance or inaccurate timesheets are not stated.

The fact that two of the higher-ranking Division leaders were allowed non-standard, flexible schedules calls into question (1) the adequacy of management and supervision in the Division, (2) whether the County’s Flex-Time policy ensures that public services are provided during County working hours and (3) whether an employee’s rank or personal connections affect whether Flex-Time requests are granted, as suspected by some in the employee survey.

The DPW Flex-Work policy does not require consideration of supervisory and operational coverage, and the paperwork approving the Flex-Time schedules does not evidence that coverage was considered before the Flex-Time schedules were approved.

Examination of the job descriptions of the two Division leaders who had Flex-Time showed that supervisory duties comprised 30 percent of their job duties.² Additionally, the job descriptions require these employees to perform duties that require public contact, community contact, and contractor interaction that could occur during normal County work hours. Since the DPW states that no one was temporarily assigned to provide coverage for the absent leaders, the lack of supervision and public accessibility during County work hours was not mitigated.

The DPW Flex-Time policy should have taken into consideration how these supervisory and public-facing duties could be adequately performed when the employees are not at work during County work hours.

The wording of the DPW Policy may also create legal risk for the County by implying that Flex-Time is an entitlement for all employees. For example, the Procedure section states that “employees will be granted approval to work other than normal work day hours when appropriate...”. The use of “will” could be interpreted to imply that once the stated conditions are met, the request must be approved, regardless of operational needs or concerns.

Recommendations to address Finding 2:

1. The Division and DPW should update the DPW Flex-Work Policy to address deficiencies related to the statement of policy purpose, preapproval process and eligibility, prohibitions, statement of assessment/approval factors, and consequences for violations.
2. The Division and DPW should enforce the Flex-Work Policy, including regularly monitoring any operational problems as a result of the flexible work schedule and terminating or revising schedules if needed.

² In a response to our inquiry, the SWD responded that the Solid Waste Program Engineer has no supervisory responsibilities, but the job description for that position lists general supervision (five percent), supervision over engineering and research (15 percent), and supervision of construction plan activities (10 percent).

Finding 3: The policies and SOPs related to Outside Employment (moonlighting) are inadequate and risk operational problems and costs.

We found that the DPW Outside Employment Policy used by the Division falls short of best practices, as shown in the table below. As with the Flex-Time Policy, the lack of clear processes is a potential cause of operational, supervisory, ethical and legal problems for the County. In addition, records provided for testing showed that policy compliance is inadequate.

Best Practice	Is the DPW's Policy compliant?	Comments
Consistently applied over work unit	Yes	Policy is implemented for all employees in the DPW, including the Division.
Prohibitions stated	Partially	Policy does not identify relevant prohibitions for Division employees or include language that employees cannot engage in outside employment that violates ethics laws and standards.
Preapproval process described	Partially	Policy does not require that the approving authority or employee assess the effect of outside employment on the employees' ability to perform duties.
Factors for disapproval described	Partially	Policy does not consider effects of possible changes of schedule or ability to supervise other employees.
Consequences for violation clearly stated	No	Policy does not state specific consequences related to violations.

In interviews, we were informed of concerns about the Outside Employment practices of the SWD. Among the concerns that were expressed were:

- Whether the Outside Employment contributed to employees being too tired to adequately perform County duties.
- For employees required to be on call, whether the Outside Employment affected their availability for emergencies.
- Whether the employees were leaving work earlier than allowed to go to their moonlighting jobs. In one case, an employee had two moonlighting jobs that began fifteen minutes after the end of the work day at the Division. This is a very short time, during which the employee would have to end work duties with the County, commute to the moonlighting jobs, and get ready to start work there.

We understand that questions were also raised about why one SWD employee was allowed to be a substitute bus driver for the County Transportation Agency, and whether others could do the same. We were also informed that the fact that a SWD employee was allowed to moonlight in another county job was a reason for this audit.

The results of the survey and interviews indicated that feelings about preferential treatment and supervisory coverage could be underlying the concerns about Outside Employment, and contribute to morale issues at the SWD and complaints from the public.

We tested Outside Employment requests and approvals against the DPW policy for Outside Employment to evaluate whether any non-compliance occurred. We were provided six Outside Employment requests from four employees to test. This number is significantly less than the 11 employees who noted that they had outside jobs in the employee survey. As 29 out of 67 employees responded to the survey, it is likely that there are more employees with outside jobs than Division records indicate. This situation indicates problems with policy compliance and/or recordkeeping.

We also intended to include an evaluation of whether the proper criteria for approval was applied in the approval policy. However, the applications provided minimal information, and we could not test anything more than whether approval was provided.

Recommendations to address Finding 3:

1. The Division and DPW should update the DPW Outside Employment Policy to address deficiencies related to the statement of policy purpose, preapproval process and eligibility, prohibitions, statement of assessment/approval factors, and consequences for violations.
2. The Division and DPW should enforce the Outside Employment Policy, including regularly monitoring any operational problems as a result of the moonlighting and terminating approval if needed.

CHAPTER 1

Introduction

In early 2019, the Council was informed by members of the public and employees of the Division “that the morale within all facets of the Solid Waste Division.....is at an all-time low, explaining that an audit may be necessary to determine the cause of the problem and its potential effects on employee performance.”

As a result of this information, the Council issued a Memorandum of Concurrence, dated April 25, 2019, which called for a performance audit to be conducted of the Division to identify the cause(s) of low morale and its effect on the performance of employees of the Division.

This performance audit examines the structure and management of the Division, primarily related to its ability to effectively and efficiently perform its duties. 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.

This audit was conducted pursuant to the authority of the Council, as provided in the County Charter. For a complete definition of performance audits see Government Auditing Standards section 1.21.³

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).

³ Government Auditing Standards, 2018 Revision.

Audit Scope and Objectives

The audit scope consisted of :

- Review of whether there are proper policies and SOPs in place that address how requests for Flex-Time schedules are evaluated and approved. We note that the Division does not have its own written policies and SOPs, so we examined the policies of the DPW that are used by the Division.
- Review of the operational results of having employees on Flex-Time schedules. Identify any problems that have occurred.
- Review how requests for Outside Employment in the Division are evaluated and approved, including whether any consideration is given to the requesting employee's current duties and responsibilities.

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 the Division's staffing, scheduling, and policies and practices. Through on-line interviews and written requests, we reviewed documents from the Division and the County including collective bargaining agreements, requests for Flex-Time and Outside Employment, time and pay records, DPW and Division policies and guidelines, state and federal wage and hour laws, and other documentation.

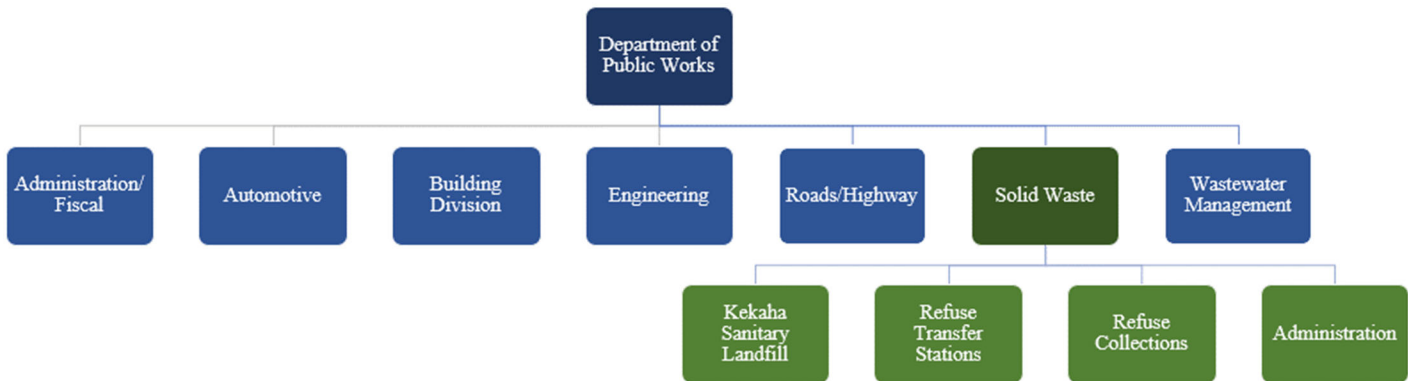
We then identified areas of risk. Based on this risk identification, we developed the following methodology:

1. Conducting a confidential, voluntary survey to all Division employees and analyzing and reporting on results of the survey.
2. Reviewing policies and SOPs regarding Flex-Time and Outside Employment and benchmarking them against best practice resources and HRS requirements, if any.
3. Reviewing requests for Flex-Time and Outside Employment provided for our examination by the Division, checking compliance with policies, SOPs and State law, and identifying and categorizing reasons for the requests.
4. Conducting interviews of a sample of present and former employees of the Division and other County agencies to obtain data on items 1-3 and reviewing relevant complaints and how they were handled.
5. Providing findings and recommendations as appropriate.

We also examined internal controls. Of the five components of internal control, control environment, control activities and monitoring are significant to the audit objectives. The overall tone at the top regarding (1) approvals of Flex-Time and Outside Employment requests, (2) evaluation of the Division's operations as a result of Flex-Time and Outside Employment policies, and (3) any problems as a result of Flex-Time and Outside Employment policies were deemed significant to the audit objectives. Monitoring the impact of Flex-Time and Outside Employment policies was also significant to the audit objectives to evaluate whether the policies are affecting the Division's operations. The approval of Flex-Time and Outside Employment and the approval of timesheets were key controls that were significant to our audit objectives. As such, we tested the sign-off, verification and approval process for both processes from 2016 through 2019 ("Period Under Scope"). We followed-up on any issues and noted any mitigating circumstances or controls. We also identified interviewees to interview about Flex-Time and Outside Employment practices to identify areas of risk and key controls to test. Once we established our understanding of the practices, we analyzed the records of the Division and identified employees who were allowed Flex-Time and Outside Employment to sample and test for compliance. In some instances, we referenced activity outside the Period Under Scope for comparison purposes, including subsequent Flex-Time and Outside Employment requests. The employee survey was conducted from October to November 2020. Fieldwork was significantly delayed by restrictions as a result of COVID-19.

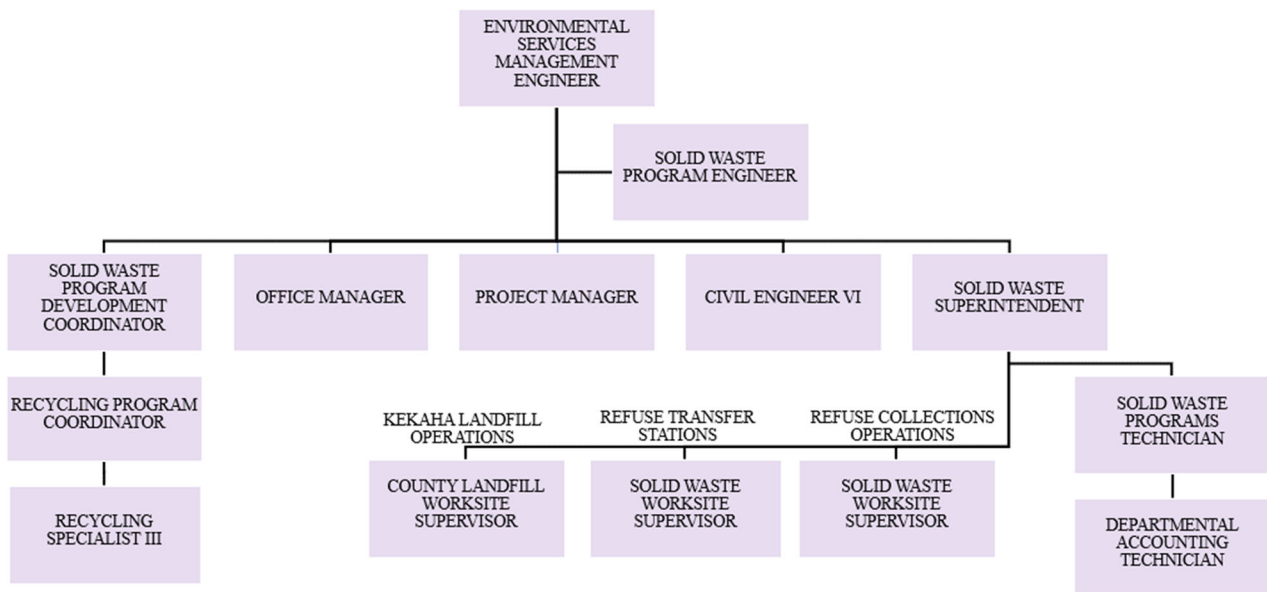
Division Background

Article XIII of the County Charter provides for the DPW, whose duties include collecting and disposing of garbage and refuse.⁴ The SWD performs these functions. The following organizational chart shows the location of the SWD in the DPW hierarchy.



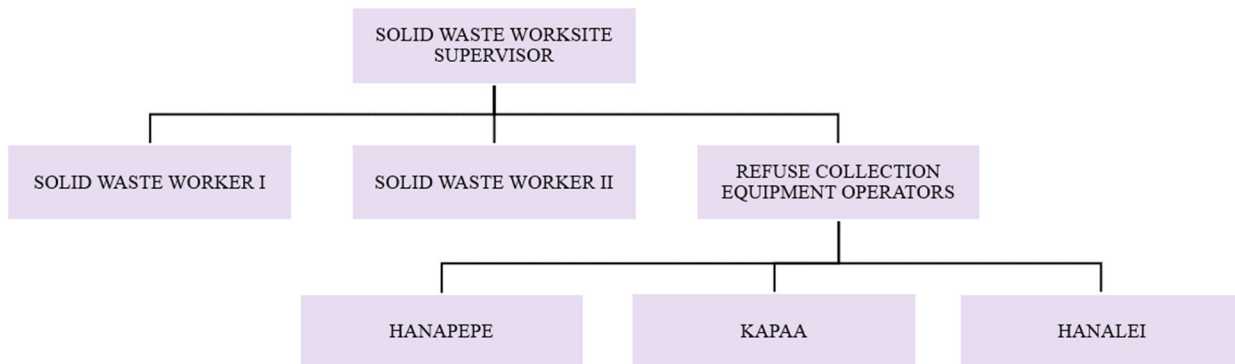
The Division has 75 authorized positions, 11 supervisory and 64 non-supervisory. There are eight vacancies as of December 2020. The organizational charts of the subsections of the Division are shown below.

Administration:

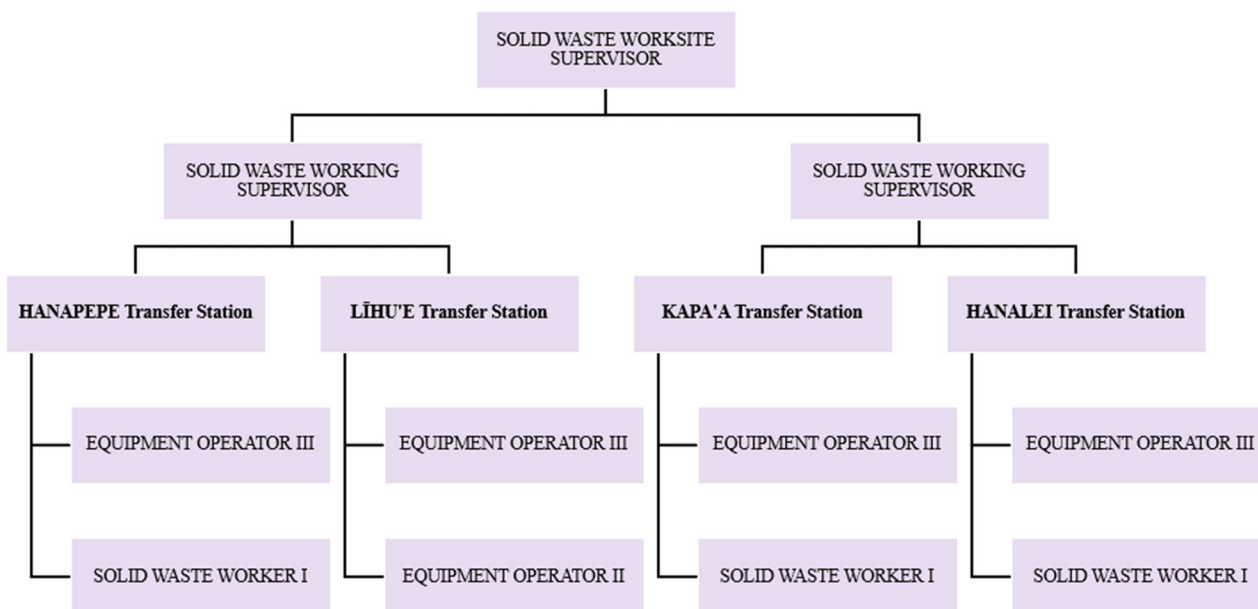


⁴ Kaua‘i County Charter section 13.03C.

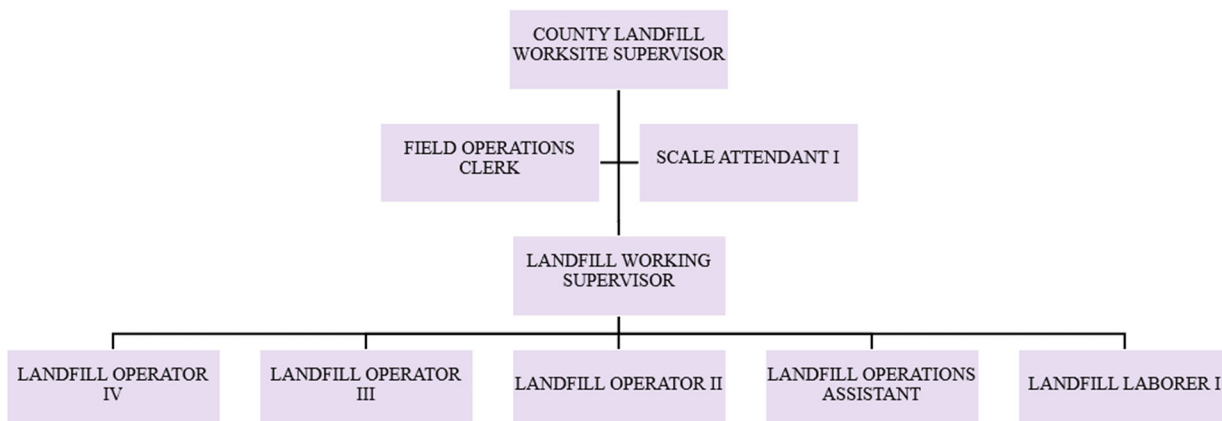
Refuse Collections:



Refuse Transfer Stations:



Landfill:



CHAPTER 2

Summary of Findings

- Finding 1. The employee surveys show that the Division likely has an employee morale problem.
- Finding 2. The policies and SOPs regarding Flex-Time schedules are inadequate.
- Finding 3. The policies and SOPs related to Outside Employment are inadequate.

Finding 1. The employee survey indicates the Division likely has an employee morale problem.

Survey Purpose and Content

Employee input surveys are an essential tool for improving and developing organizations. The surveys are used to gather data on the current state of an organization's culture, morale, work conditions and employee engagement. The survey used in this audit was adapted and interpreted by Dr. Kim Payton, an industrial psychologist and acknowledged expert in the State. Dr. Payton has done similar work for a variety of government entities, including the Honolulu Departments of Water Supply, Environmental Services, Design and Construction, and Planning and Permitting, as well as the State Departments of Education, Transportation, and the University of Hawai'i.

Organizational survey data is not meant to be an end unto itself. Instead, the data generated by the survey should be discussed with the employees that provided the feedback to determine what the feedback means and what should be done about it. One of the major objectives of survey feedback work is to open up communication in the organization about how it is doing and how it can improve.

The Kaua‘i Solid Waste Division Survey and Dr. Payton’s Analysis

In October and November of 2020, an employee input survey was administered to the Division staff. The survey consisted of 85 items including 82 objective multiple-choice items and three open-ended questions.

Overall Response Ratings and Morale

Twenty-nine employees responded to the survey out of a possible 67 respondents, a 43 percent response rate, which is much lower than desirable. A 70 to 80 percent response rate is considered good for large organizations.

A response rate this low usually indicates that employees have low expectations that anything will come of the survey. The most significant predictor of high response rates is the degree to which employees believe that their manager will act constructively on what is learned through the survey. The low response rate on this survey suggests a negative perception of management, which is confirmed by the ratings of those who did respond to the survey.

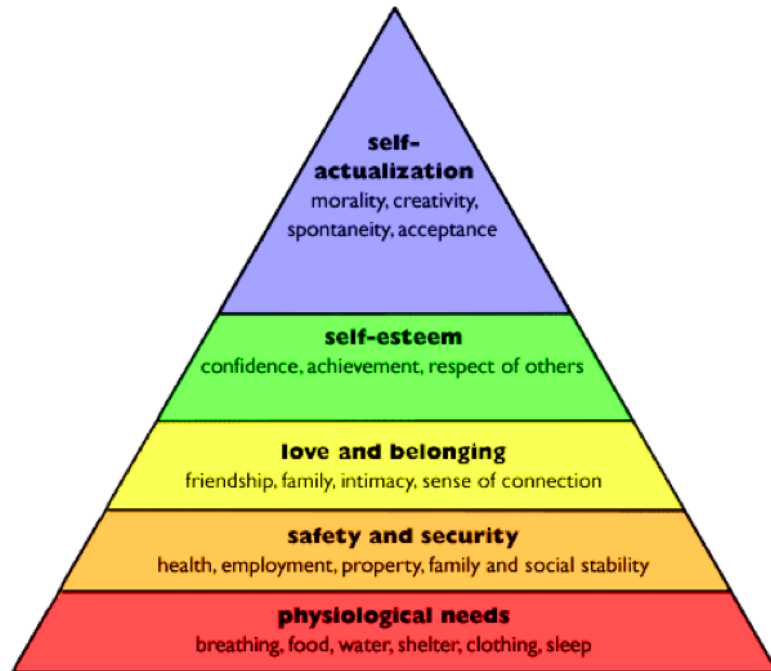
Survey Ratings on Objective Items

Objective multiple-choice questions consisted mostly of positive statements which respondents were asked to indicate that they either strongly agreed, agreed, were uncertain, disagreed, or strongly disagreed. Items to which respondents strongly agreed and agreed were counted as a positive response. The analysis of objective items is presented as percent positive responses for each item, with that percentage indicating the percentage of overall respondents who responded strongly agree or agree to a particular item.

The survey items are drawn from a variety of sources and cover a wide range of issues in three general areas: fundamental needs, employee engagement, and change capacity.

Fundamental Needs Items

Maslow's Hierarchy of Needs is an important model for understanding human dynamics. Maslow's theory states that human beings tend to be preoccupied with their most fundamental unmet need. The survey includes a set of items based on this model that assess the degree to which respondents perceive their fundamental needs being met. If the survey indicates these needs as being unmet to a significant degree, then it is likely that those factors must be addressed before working on any other issues.

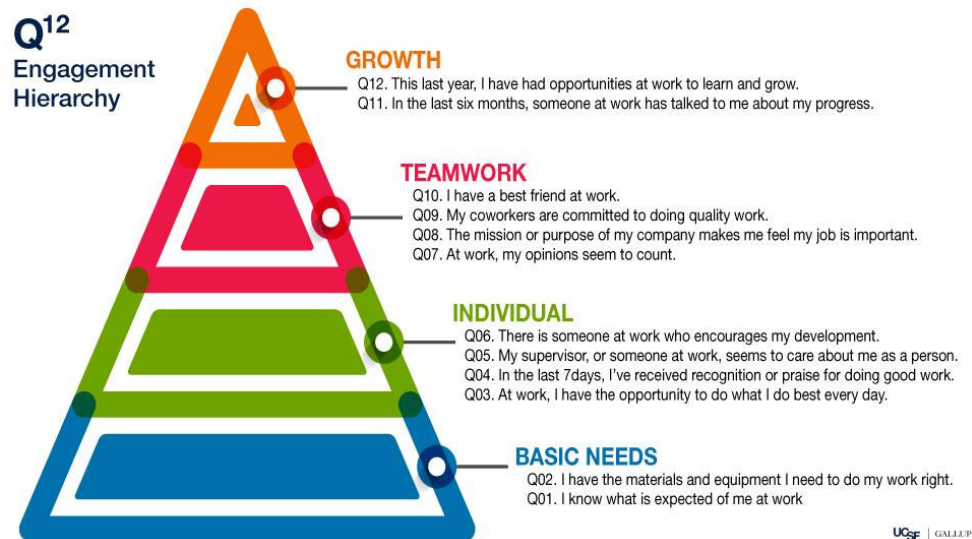


The survey resulted in positive ratings of 38 percent in Esteem, 47 percent in Belonging and 55 percent in Safety. In other words, only 38 percent of respondents responded with positive reactions that their Esteem needs were being met.

These ratings indicate that significant employee needs are not being met, which most likely negatively impact work quality, employee retention, and morale.

Employee Engagement Items

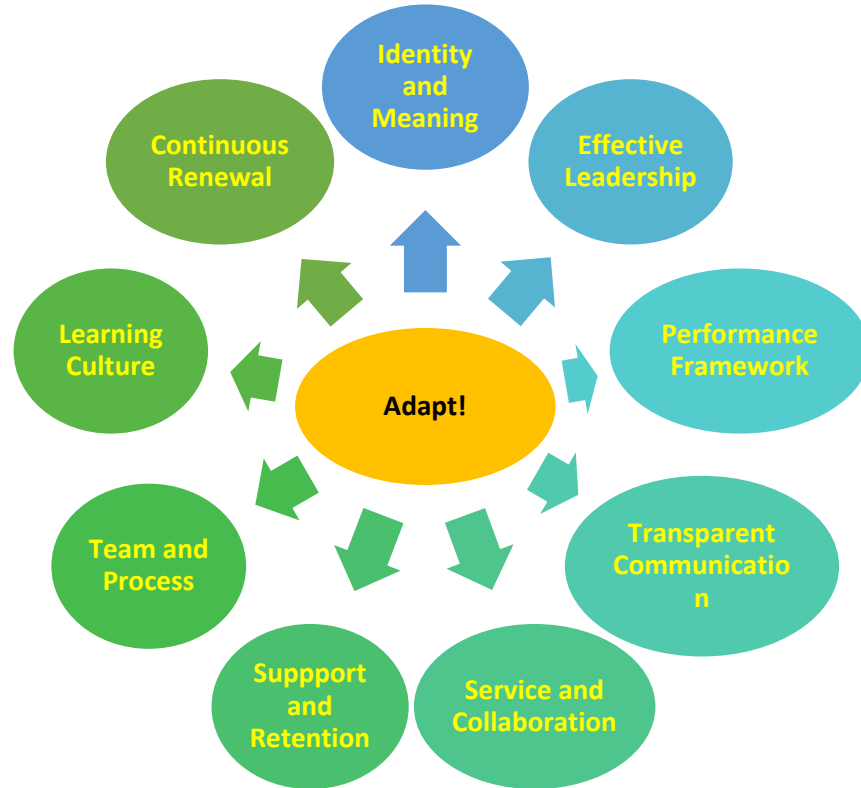
To identify the elements of employee engagement, Gallup conducted thousands of interviews in many industries and countries at all levels. They identified 12 survey questions called the Gallup Q12 that best predict employee and work group performance. Here the Q12 are associated with Maslow's model.



The average percent positive rating for Q12 items on the Kaua'i Solid Waste survey is 48.5 percent, which suggests that over half of the employees who did respond to the survey are not actively engaged in their work. The most effective way to immediately improve engagement scores is for management to inform employees of what they learned from the survey, discuss results, identify actions to improve work conditions, and follow through. Research indicates that employee engagement scores average 29 percent positive when they believe managers will not follow through and 63 percent when they believe managers will follow through.

Change Capacity

The Maslow and Gallup factors provide a healthy foundation for employees to do their best. In addition, a number of other factors are required to make it possible for an organization to thrive, to learn, to continuously improve, and change.



The overall percent of positive responses by all respondents to all items on this survey is 43 percent. This means that less than half of respondents expressed a positive opinion on survey items. In general, this result is indicative of a morale problem in the Division.

In response to the item “I would recommend this organization to a friend as a place to work,” only 31 percent of respondents rated this item positively.⁵

	Admin.	Landfill	Transfer Stations	Refuse Collection	Division
“I would recommend this organization to a friend as a place to work.”	0%	63%	33%	38%	31%

Only 34 percent of respondents rated the item “The morale in my unit is good” positively.

	Admin.	Landfill	Transfer Stations	Refuse Collection	Division
“The morale in my unit is good.”	20%	50%	17%	25%	34%

Forty-eight percent of respondents rated the item “I feel that I am a part of a respected organization providing important public services” positively.

	Admin.	Landfill	Transfer Stations	Refuse Collection	Division
“I feel that I am a part of a respected organization providing important public services.”	40%	50%	33%	63%	48%

In general, these results indicate a significant morale challenge in all units in the Division with the exception of Recycling.

⁵ Statistics for units with less than four employees (Recycling) are not reported here to preserve the anonymity of their responses, although the most positive overall responses were received from Recycling (82 percent positive overall).

Most Positive Items: Organizational Assets to Build On

The goal of survey feedback-based organization development is to ultimately achieve a 90 percent plus positive response rate for all items. Initially, the goal is to achieve a 70 percent plus response rate on all items. The items which were rated 70 percent or better include the following:

Items	% Positive - Division
I am confident that I can handle the pressure of my job and do a good job.	93
I know who I provide service to and what their needs are.	90
I know what is expected of me at work.	89
I feel good about helping and supporting the people I work with.	83
I feel that I can handle my work and have a reasonable quality of life.	79
I feel that I have a secure job here if I do a good job.	76
I would like to be working for this organization twelve months from now.	76
I have good friend(s) at work.	71
I am satisfied with the freedom I have to use my own approach to the job.	71

These responses suggest that a basic foundation is in place in the Division to build upon. Expectations are sufficiently clear, respondents feel that they are not subject to undue stress, they feel their job is secure, and they want to work together. These items are important as they form the foundation of Maslow's hierarchy of needs (security and belonging).

Perceived Safety in the Workplace

One exception to this pertains to safety which is the lowest item on Maslow's hierarchy. The item pertaining to safety: "I feel physically safe in this workplace" is rated as only 55 percent positive in the Division.

	Admin.	Landfill	Transfer Stations	Refuse Collection	Division
I feel physically safe in this workplace.	80%	63%	83%	50%	55%

A low rating on perceived safety must be taken seriously and investigated to determine the cause of this concern. Two comments on open ended questions that may pertain to the safety issue discuss workplace bullying and the need for weekly or monthly division meetings about workplace health and safety.

Most Improvable Items: Divisional Leadership

The most significantly negative items across the Division pertain to divisional leadership. These items include:

	Admin.	Landfill	Transfer Stations	Refuse Collection	Division
Division leadership regularly reinforces our direction and recognizes performance appropriately.	0%	14%	33%	0%	11%
Division leadership walks their talk; their actions are consistent with our mission, values, and direction.	20%	25%	33%	13%	14%
Communication from Division leadership is frank and honest.	0%	38%	17%	13%	17%
The decisions that impact our work group are made in a fair and timely manner.	0%	38%	17%	25%	17%
People in my department are treated fairly by management.	20%	25%	0%	13%	17%
Overall, I really trust Division Leadership.	40%	13%	17%	0%	18%
Division leadership effectively communicate our mission and direction.	20%	25%	0%	13%	21%
The Division leadership is visible, accessible, and easy to approach.	40%	63%	0%	13%	31%
I feel that Division leadership is concerned for the wellbeing of our employees.	40%	25%	33%	25%	31%
The Division leadership addresses significant problems effectively on a timely basis.	60%	50%	50%	25%	38%

Comments made on the open-ended questions pertaining to divisional leadership mention the need for qualified, engaged, and decisive leaders who are trained in communication skills. The need for fairness and accountability was also noted, as was the need for full staffing at the chief engineer and division head levels.

These ratings and comments indicate a serious deficit in divisional leadership which could be the root cause of many if not all of the other challenges in the Division.⁶ If employees do not feel that the leadership provides direction, is trustworthy, cares about them, listens to them, or acts in their favor, poor morale, staff retention, and quality work are all likely to suffer.

Most Improvable Items: Work Practice Effectiveness and Participatory Problem Solving and Decision Making

The second most improvable set of items all pertain to “the way we do work here and our ability to get it changed.” These items include:

	Admin.	Landfill	Transfer Stations	Refuse Collection	Division
If something doesn't make sense here, I can get it changed.	20%	25%	17%	25%	17%
When problems arise in the Division, we work together to find a solution.	0%	50%	50%	25%	24%
I am appropriately involved in decisions that will affect me and my work.	40%	38%	17%	25%	31%
The way we do work here makes sense. Our work methods are well thought out and efficient.	0%	86%	33%	25%	32%
At work, my opinions seem to count.	20%	50%	50%	38%	38%
I do not have to deal with excessive "red tape" in getting my job done.	0%	75%	17%	63%	43%
There is a willingness here to try out new ideas.	60%	50%	33%	25%	45%
It is permissible to speak my mind here, even if what I say is unpopular.	20%	75%	17%	38%	48%

⁶ From January 2017 to January 2020, leadership in the Division has been a revolving door, with seven individuals acting as Division head. The seven included the Deputy County Engineer, DPW Fiscal Management Officer, and the three Division employees previously discussed.

Comments made on the open-ended questions pertaining to needed improvements to how work is done include a better service and maintenance program, waterproofing of the Kapa‘a Transfer Station’s downstairs power supply unit, and commitment by leadership to make sure there is good operating equipment which is well-maintained.

These ratings and comments regarding work process and employees’ ability to make improvements to those work processes indicate a breakdown of collaboration between management and staff. The comments suggest that the issues of major concern pertain to equipment maintenance and the impact of non-functional equipment on operations. Ratings on objective questions, however, indicate that there are work process-related issues in every unit except Recycling.⁷

Most Improvable Items: Performance Management, Workload, and Training

The next most significant issue pertains to how performance is managed, perceptions of favoritism, equity of workload distribution, and training.

	Admin.	Landfill	Transfer Stations	Refuse Collection	Division
Performance problems in our organization are identified quickly and addressed fairly. We don’t let poor performance get in the way for very long.	40%	13%	0%	13%	17%
Favoritism is not a problem here.	40%	25%	0%	0%	21%
I feel that the distribution of work is fair among employees in my area.	40%	25%	50%	25%	28%
If I make a mistake here, I am encouraged to learn from it. I am not blamed.	0%	38%	50%	25%	31%
My fellow employees are committed to doing quality work.	20%	0%	67%	38%	31%
I get enough feedback on my job performance to know how I am doing.	40%	50%	17%	13%	34%
Employees with outside employment contribute the same quality of work and	20%	75%	33%	14%	36%

⁷ As noted earlier, statistics for units with less than four employees (Recycling) are not reported here to preserve the anonymity of their responses, although the most positive overall responses were received from Recycling (82 percent positive overall).

effort as employees without outside employment.					
The quality of work done by our Division is consistently good.	20%	50%	33%	25%	38%
This last year I have had opportunities at work to learn and grow.	20%	63%	50%	25%	38%
I receive the training and support I need to do my job properly.	20%	75%	50%	38%	38%
There are good opportunities here to learn new skills.	20%	50%	17%	38%	38%
The quality of the work that I receive from others in our organization that support us is consistently good.	40%	63%	0%	25%	41%
There is someone at work who encourages my development.	40%	50%	67%	38%	41%

There was one comment made on the open-ended questions that stated that some employees are seldom reprimanded because of their knowledge and duties or because supervisors are unable to deal with their difficult personalities.

These ratings and comments indicate a serious concern over performance management.

Most Improvable Items: Communication and Information Access

There is also a cluster of low scoring items that pertain to communication and information access.

	Admin.	Landfill	Transfer Stations	Refuse Collection	Division
Communication from Division leadership is frank and honest.	0%	38%	17%	13%	17%
Most meetings I attend are productive.	60%	38%	17%	0%	25%
I regularly receive the information I need to do my job well.	20%	38%	33%	38%	31%
Our organization does a good job of keeping us informed about things that are happening in the organization.	40%	50%	67%	29%	36%
My supervisor is an accurate, reliable source of information.	20%	75%	50%	63%	48%

The comments made on the open-ended questions pertaining to communication and information access include management shortcomings such as lack of communication, lack of management training, lack of people skills, chronic sick leave taking, short staffing, and lack of leadership characteristics.

These ratings and comments suggest that a systematic, effective approach to communicating with staff is lacking in the Division. From our experience, this is not an uncommon situation in government organizations where many supervisors and managers either do not see communicating and conducting effective meetings as one of their responsibilities or they have never been trained to communicate and conduct meetings. Quite often managers are not held accountable to communicate by their senior leadership. The lowest rated item is “Communication from Division leadership is frank and honest,” indicating that the communication problem begins at the top.

Most Improvable Items: Supervisory Effectiveness

The improvable factors cited above: divisional leadership effectiveness, participatory problem solving and decision making, and performance management all relate to supervisory effectiveness. These ratings and comments indicate a failure of supervisory effectiveness. In addition, other ratings and comments indicate the need to improve supervision in the Division.

	Admin.	Landfill	Transfer Stations	Refuse Collection	Division
My supervisor, or someone at work spends enough time with me discussing my career development.	20%	38%	0%	38%	31%
Overall, I really trust my supervisor.	40%	38%	17%	14%	32%
In the last seven days, I have received recognition or praise for doing good work.	40%	38%	17%	38%	38%
There is someone at work who encourages my development.	40%	50%	67%	38%	41%
My supervisor has good relations with people inside and outside of our unit.	40%	88%	50%	38%	45%
I am treated with respect by members of this organization.	20%	75%	0%	50%	45%
My supervisor is an accurate, reliable source of information.	20%	75%	50%	63%	48%
When I have a problem or complaint, my supervisor responds.	80%	71%	100%	50%	50%

The following comments were made in response to the question: “What would you suggest that your direct supervisor improve in the leadership they provide?”

- Fairness
 - Treat employees equally and fairly.
 - Work to rebuild trust.
 - Be fair and honest with ALL employees.
 - Be fair.
 - Just to be fair, firm, and consistent. Do what is right. Clamp down on people leaving early from work do not taking time off. Falsify time sheet.
 - Be fair with everyone.
 - Train everyone fairly.
- Communication
 - Communicate better.
 - Communication with job duties. Letting employees know when we have our union meetings so we can attend. Push for employee safety.
 - Check in with employees, finding out their recent questions/concerns
 - understand what we have to deal with on a daily basis. Better work communication.
 - Before making choices come out and do our job for a day and see if it makes sense to go in the direction they want to go or ask the employees.
- Address problem employees
 - Go after the bad apples that drag our Division down. Some people need to be disciplined even when it's hard.
- Stop being fake. Needs to use experience and knowledge, not an engineer so doesn't know. Stop acting like a know it all.
- Provide actual leadership-show interest, be present, communicate, follow through with ongoing issues, be fair, follow the rules, stop showing favoritism, stop sleeping during work hours, stop talking bad about other supervisors and employees. Retire.
- Have confidence in your employees and try not to micro-manage.
- Need more safety classes.
- Hire people that actually work.

These ratings and comments indicate a significant deficit in supervisory effectiveness. Dr. Payton's experience is that failure to effectively supervise is not unusual in government in Hawai'i. It is quite common for people to assume supervisory roles, not because they want the job or are qualified, but simply because it is the only way to earn more money and there was no one else competent who wanted the job. Supervisory training in county government in Hawai'i has been either inadequate or absent entirely. Grievances filed after supervisory disciplinary action discourage supervisors from performing basic

supervisory activities with problem employees and often lead to an abdication of the supervisory function.

Most Improvable Items: Flex-Time and Employees That Work More Than One Job

It also appears that flex work schedules and employees that work more jobs than their County job are perceived as a negative influence on work performance.

	Admin.	Landfill	Transfer Stations	Refuse Collection	Division
Flex work schedules are fair and do not impact the quality of work that the Division performs.	50%	50%	33%	60%	55%
Employees with outside employment contribute the same quality of work and effort as employees without outside employment.	20%	76%	33%	14%	36%

In response to the question “How many jobs do you work in addition to your County job,” 12 employees report having no outside jobs while 10 employees report having more than two moonlighting jobs in addition to their Division job.

These ratings indicate that flex work schedules and employees with outside jobs are perceived by many employees to negatively impact work performance. Given that ratings on management and supervisory effectiveness, process improvement and performance management are so low, it is possible that, if management and supervisory effectiveness were improved, flex schedules and employees with outside jobs could become a less significant problem. Also, if supervisors are the ones with multiple outside jobs and/or flex work schedules that do not match their employees’ schedules, management and supervisory effectiveness may continue to be problematic for the Division. Our recommendations for improvements in administering Flex-Time and Outside Employment policies are discussed in further detail below.

Summary of Most Improvable Organizational Factors

1. Clearly the most significant challenge is a negative perception of and lack of confidence and trust in Division leadership. This issue is a problem in all the units, with the possible exception of Recycling. Given that it is top leadership that sets the tone for organizational effectiveness and culture, negative ratings such as these may explain much of the other negative responses in other categories in the survey.

2. Survey results indicate that employees feel that the way work is done does not make sense, that if something does not make sense, they can't get it changed, that their opinions don't seem to count, and it is not safe to speak up if what they have to say is unpopular. Comments suggest that ineffective work practices impact the equipment that is used in the workplace, and that may have an impact on perceived safety. This issue appears to be a problem in all units with the possible exception of Recycling.⁸
3. There is a negative perception of performance management in all units with the possible exception of Recycling. Comments indicate that poor performance management is resulting in problem employees becoming a distraction, and it is likely that the perception of a negative impact of flex schedules and employees who work more than one job is a result of poor performance management.
4. There is a consistent perception of poor communication across the Division, starting at the Division leadership level.
5. Supervisory effectiveness is consistently rated negatively across the Division. Supervisors are not perceived to be responsive, respectful, trustworthy, accurate or encouraging. It is important to note that organizational behavior studies have consistently revealed that the number one reason that employees stay or leave their jobs is the quality of relationship they have with their direct supervisors.
6. Flex schedules and employees who work more jobs than their County job appears to be perceived as having a negative impact on work performance. This is likely to be a result of poor supervisory effectiveness and should be addressed through improved supervision.

Recommendations

1. Division and DPW leadership should present the results of the survey to employees, share what it believes the survey results mean, find out if the interpretation is accurate, and then discuss leadership's proposed solutions to determine if the proposed actions are potentially viable. Surveys such as these are part of a methodology called survey feedback. This means that the survey is not the end of the process. It is important to remember that survey results present a one-sided perspective on the situation. There are

⁸ As noted earlier, statistics for units with less than four employees (Recycling) are not reported here to preserve the anonymity of their responses, although the most positive overall responses were received from Recycling (82 percent positive overall).

always more than one side to a story. It is important to get the leadership's view of the situation before taking any action.

The survey feedback process should begin with Division leadership. Given that the survey results are so intensely negative with respect to Division leadership, it will be important to ascertain whether the leadership understands and accepts their roles as senior leaders, and if they agree with the expectations and assumptions about leadership and supervision that are intrinsic to this survey model. Then, a determination will need to be made as to whether the Division leadership is first willing and second, able to make the changes necessary to improve organizational morale and performance. If Division leadership is not willing and able to work on these issues, nothing is likely to improve.

2. We recommend providing basic supervisory and management training that emphasizes:
 - Understanding the role of supervisor and manager.
 - Communicating effectively one on one and how to conduct effective meetings.
 - Participative work process improvement, problem solving and decision making.
 - Performance management and progressive discipline.

If properly conducted, such a training sequence will identify which supervisors and managers are willing to make the changes necessary to perform acceptably, work processes that need to be improved will be identified, and communication, performance management and morale in general will improve in the Division. The reason for this recommendation is that the improvable factors identified by this survey all point to a failure of management and supervision, which could be partially attributed to lack of training.

Finding 2: The policies and SOPs regarding Flex-Time are inadequate and risk operational problems and costs.

The problem and why it is relevant

The resolution of the County Council that initiated this audit reflect concern that the policies and SOPs used by DPW and Division to guide the evaluation and approval of requests for Flex-Time are inadequate and may be the source of operational and morale problems. This concern was validated by the employee survey, as discussed in the previous finding. Without adequate policies and SOPs, requests for review for Flex-Time are inconsistent, and there is no assessment of the effect of the requested Flex-Time on the requesting employees' ability to perform duties, including supervision. As Dr. Payton observed, flex schedules appear to be perceived as having a negative impact on work performance, likely from poor supervisory effectiveness.

For the purposes of this audit, we used the following definition of Flex-Time.

Flex-Time or flexwork is defined as a variable in-office schedule, or a schedule that differs from an employer's normal working hours. Flex-time is a type of schedule flexibility, that may include:

- Compressed workweek.
- Shift work.
- Part-time schedules.
- Job-sharing.

We tested 15 Flex-Time requests and approvals against this policy to evaluate whether any non-compliance occurred. Since the DPW Policy has no meaningful criteria for considering requests, we could not test anything more than whether approval was provided. We noted one instance where Flex-Time was taken, but the request was not approved. A subsequent Flex-Time request for the same employee made approximately four months later was properly approved. We also noted one request form where the requested Flex-Time duration was not completed. This form was nonetheless approved.

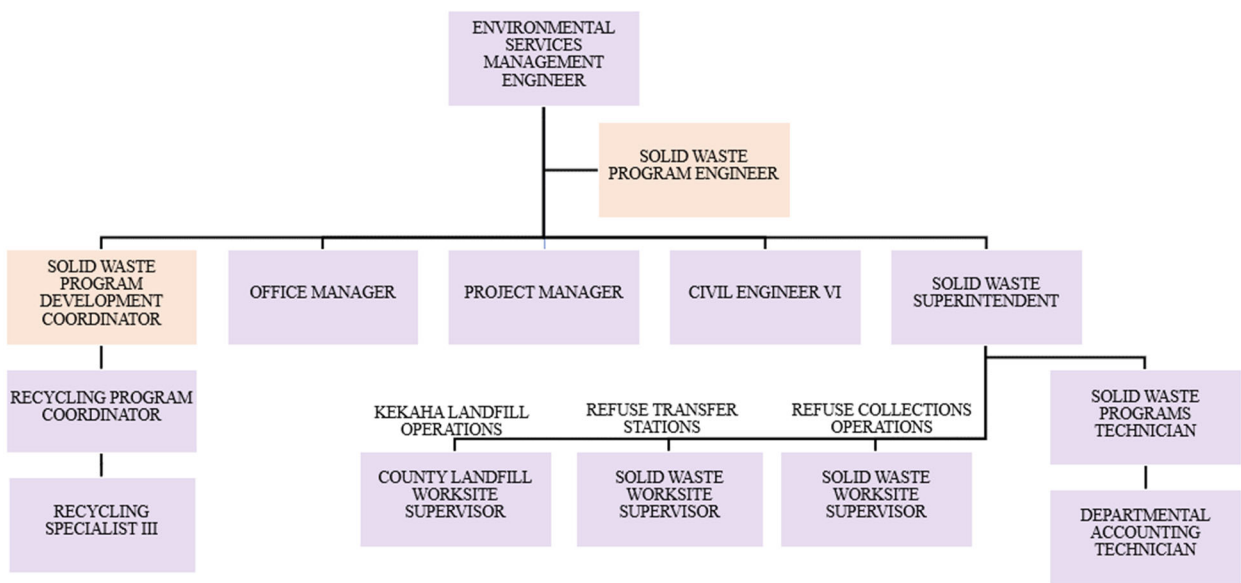
When we examined Flex-Time schedules for Division employees during the Period Under Test, we found that two supervisor-level Division employees could be considered Flex-Time workers. One of the employees was granted Flex-Time to reduce commute time. The second employee was allowed to live in a different time zone in Seattle, Washington and thus was not even physically present in the County. The records we were provided by the County did not show when this employee was required to be at work, and whether his work day was based on Pacific or Hawai'i Standard Time. Additionally, records provided by the County indicate that this employee began an 89-day contract as the Solid Waste Program

Engineer in June 2019.⁹ The job description for this position includes supervision, calling into question how he could manage supervisory duties from another state.

The fact that two of the higher-ranking Division leaders were allowed non-standard, flexible schedules calls into question (1) the adequacy of management and supervision in the Division, (2) whether the County’s Flex-Time policy ensures that public services are provided during County working hours, and (3) whether an employee’s rank or personal connections affect whether Flex-Time requests are granted, as suspected by some in the employee survey.

What is clear from the data is that Division supervisors were allowed to be unavailable or absent during the regular County work day. In each of the two cases, it appears the Division leaders were allowed Flex-Time schedules that did not match the schedules of the employees they supervised or normal County operating hours, which are from 7:45 a.m. to 4:30 p.m. at the Līhu‘e Civic Center.

The two Division personnel who were allowed Flex-Time held the positions of Solid Waste Program Development Coordinator and Solid Waste Program Engineer during the periods of their Flex-Time.



The DPW Flex-Time policy does not require consideration of supervisory and operational coverage, and the paperwork approving the Flex-Time schedules does not contain evidence that coverage was considered before the Flex-Time schedules were approved.

⁹ We are informed by the Division that this employee is on an 89-day contract until February 28, 2021.

Examination of the job descriptions of the two Division leaders who had Flex-Time showed that supervisory duties comprised 30 percent of their job duties.¹⁰ Additionally, the job descriptions require these employees to perform duties that require public contact, community contact and contractor interaction that could occur during normal County work hours. Since the DPW states that no one was temporarily assigned to provide coverage for the absent leaders, the lack of supervision and public accessibility during County work hours was not mitigated.

The DPW Flex-Time policy should have taken into consideration how these supervisory and public-facing duties could be adequately performed when the employees are not at work during County work hours.

How or why the condition happened

Many of the operational problems and morale problems identified in the survey results could be addressed by fixing deficiencies in the policies and SOPs that guide the evaluation and approval of requests for Flex-Time. Without adequate policies or SOPs, there are no processes to ensure that the Flex-Time arrangement will not affect County operations.

The Division uses the DPW's Flex-Time policy. This policy is sparse, and does not contain the necessary guidance and standards to protect County operations. The paragraphs that follow describe best practice Flex-Time provisions and point out how the DPW policy could be improved.

The DPW Flex-Time Policy 00019 was approved in 2015. The complete text of the policy states:

“POLICY STATEMENT

It is the policy of the County of Kaua'i Department of Public Works that employees whose normal work day is from 7:45 a.m. to 4:30 p.m. will be granted approval to work other than normal work day hours when appropriate.

PURPOSE

The purpose of this policy is to provide guidelines and a procedure for the approval of employees to work other than the normal work day hours of 7:45 a.m. to 4:30 p.m.

APPLICABILITY

This policy applies to all employees of the County of Kaua'i Department of Public Works whose regular workplace is at the Lihue Civic Center and whose normal work day is from 7:45 a.m. to 4:30 p.m.

¹⁰ In a response to our inquiry, the SWD responded that the Solid Waste Program Engineer has no supervisory responsibilities, but the job description for that position lists general supervision (five percent), supervision over engineering and research (15 percent), and supervision of construction plan activities (10 percent).

GENERAL

The County of Kaua‘i Employee Handbook states in part under the OFFICE HOURS section:

Your daily work and lunch hour schedule is set by your department and may vary to meet most operational needs. The normal work day is from 7:45 a.m. to 4:30 p.m. with a lunch period of 45 minutes with a morning and afternoon rest period.

The County of Kaua‘i Customer Service Mission Statement states:

The County of Kaua‘i ‘Ohana is committed to excellence by: providing efficient and excellent service, offering effective and innovative solutions, exceeding our customers’ expectations, remembering always that “Aloha begins with me.”

This Policy provides guidelines to allow for individual employees’ office hours to vary from the “normal” work day hours without compromising excellent customer service.

PROCEDURE

The Department of Public Works acknowledges that it is not necessary for all employees to work “normal” hours in order to complete their duties and continue to provide excellent service. Therefore (sic) the respective Division Head shall have the authority to recommend approval for Flex Work Schedules for employees that work in their Division. Requests for Flex Work Schedules shall be made on the appropriate form (attached) and shall be considered on a case by case basis.”

Flex-Time policy best practices and how the DPW Policy measures up

Best practice Flex-Time policies are more robust than the DPW policy, and contain:

- A statement of the purpose of the policy.
- A description of the preapproval process.
- A description of prohibitions.
- A description of factors considered in assessing whether applications are approved or denied and consequences for policy violations.

Comparisons of the DPW Policy against these best practice components are stated below.

Statement of policy purposes

In an article for the Society of Human Resource Management (“SHRM”),¹¹ “How to Create and Manage an Effective Flexwork Policy,” Alexandra Levit recommends:

“An organization’s flexwork arrangement will depend on the nature of the business, but in all cases, HR needs to develop a clear and comprehensive policy that details exactly how managers can implement it and how employees can use it. The policy should also include eligibility guidelines, such as a description of who is eligible for flexwork and under what circumstances.....The policy should include expectations for how work will get done outside the office, incorporating work hours, communications and home-office needs. It should also spell out how flex workers should use company devices and networks so that HR protects the organization's proprietary data and intellectual property.”¹²

Additionally, other considerations could be addressed in the DPW policy, such as:

- Required presence during certain core hours (City of Vancouver, Washington).¹³
- Legal risk: SHRM states that applicable laws should play a major role in the decision of whether to implement flexible work arrangements, and that legal issues must be considered before Flex-Time is approved. For example, SHRM notes that in many organizations, monitoring actual hours worked is the stickiest issue associated with flexwork and telecommuting, and that the risk from violating the Fair Labor Standards Act (“FLSA”) and its state law equivalents is greater because it is more difficult to prove whether employees worked overtime.¹⁴ In addition to potential overtime law violations, SHRM cautions that employers should take steps to ensure that all Flex-Time arrangements are offered and implemented without discrimination.¹⁵

¹¹ SHRM is a nationally recognized organization of human resource professionals.

¹² <https://www.shrm.org/resourcesandtools/hr-topics/benefits/pages/how-to-create-and-manage-an-effective-flexwork-policy.aspx>

¹³ City of Vancouver Washington, Employment Policy Manual, <http://mrsc.org/getmedia/40813f5c-d4bb-4bc6-bed0-31d185d15658/V35Employment.pdf.aspx>

¹⁴ <https://www.shrm.org/resourcesandtools/hr-topics/benefits/pages/how-to-create-and-manage-an-effective-flexwork-policy.aspx>

¹⁵ <https://www.shrm.org/resourcesandtools/hr-topics/benefits/pages/how-to-create-and-manage-an-effective-flexwork-policy.aspx>

The wording of the DPW Policy may create legal risk for the County by implying that Flex-Time is an entitlement for all employees. For example, the Procedure section states that “employees will be granted approval to work other than normal work day hours when appropriate...”. The use of “will” could be interpreted to imply that once the stated conditions are met, the request must be approved, regardless of operational needs or concerns.

Additionally, the Procedure section of the DPW Policy states that “[T]he Department of Public Works acknowledges that it is not necessary for all employees to work “normal” hours in order to complete their duties and continue to provide excellent service.” The language in the DPW Policy could be interpreted to imply that the County considers employee requests for Flex-Time to take priority over the County’s needs to provide public services during regular working hours. In contrast, best practice Flex-Time policies consider operational needs, periodic assessments of the flex-time arrangements and termination of Flex-Time that is detrimental or not beneficial to the employer.

Preapproval process and eligibility guidelines

As to the preapproval process, the DPW form attached to the policy requests only the reasons for the request. The DPW should consider asking employees to justify their requests, including describing specifically how their job performance and ability to provide “excellent customer service” can continue under the new schedule.

SHRM suggests the following process:

“The employee submits a written request to the manager detailing the specific schedule desired. It should be submitted well in advance of the desired start date for the new schedule. The employee should be prepared to discuss the details of the request and participate in resolving any issues.”¹⁶

The City of Vancouver, WA’s policy further supports employees by advising them of the appeal process available to them if their requests are denied:

“Any type of alternative work arrangement, including changes in work schedule, must be preapproved. Requests for changes should be forwarded to the immediate supervisor or Department Director...(If the employee’s request is denied) an employee may request that a Human Resources representative meet with the supervisor or Department Director to discuss the request and options available. The decision of the Department Director or supervisor is final.”¹⁷

¹⁶ <https://www.shrm.org/resourcesandtools/hr-topics/benefits/pages/how-to-create-and-manage-an-effective-flexwork-policy.aspx>

¹⁷ City of Vancouver Washington, Employment Policy Manual.

As to employee eligibility for Flex-Time, the following are examples of more robust language regarding eligibility:

City of Vancouver, WA:

“Eligibility for an alternative work arrangement will depend on a variety of factors, including but not limited to the nature of the job and the job responsibilities... The City may require the employee to return to a traditional work schedule.”¹⁸

SHRM’s Levit paper:

“The type of role, attendance record, tenure with the organization and job performance are all factors that might impact individual eligibility.”¹⁹

Susan G. Komen Foundation (as described in Levit paper):

“You have to request and be approved for the schedule, and your manager has to fill out an impact statement. This process encourages everyone to think about whether the arrangement will work for the group and the organization.”²⁰

Colorado:

“Any employee is eligible; however, not every job lends itself to flextime. It will depend on the nature of the job and the business needs of the work unit. Flextime is voluntary. Only the employee with an identified, documented performance problem should not be offered this option. Also, the manager may exclude an employee whose presence is critical during standard work hours, e.g., assembly line operations or small offices where no alternate coverage is available.”²¹

The DPW’s eligibility guidelines only partially incorporate the best practice requirements. While the DPW Policy identifies the employees eligible for Flex-Time as employees at the Līhu‘e Civic Center whose normal workday is 7:45-4:30, DPW might consider adding the following best practice provisions:

- That only employees with good job performance are eligible.
- That Flex-Time will not be approved for employees whose duties require them to physically be at work from 7:45 a.m. to 4:30 p.m.
- That all employees must be physically present at the workplace during core hours of operation to ensure proper staffing.

¹⁸ City of Vancouver Washington, Employment Policy Manual,

¹⁹ <https://www.shrm.org/resourcesandtools/hr-topics/benefits/pages/how-to-create-and-manage-an-effective-flexwork-policy.aspx>

²⁰ <https://www.shrm.org/resourcesandtools/hr-topics/benefits/pages/how-to-create-and-manage-an-effective-flexwork-policy.aspx>

²¹ State of Colorado, “Sample Flextime Policy,” September 05, 2002, https://www.colorado.gov/pacific/sites/default/files/Flex%20Time_0.pdf

Description of prohibitions

SHRM recommends²² that a Flex-Time arrangement needs to be carefully planned based on a definition of the objectives and the benefits or impact to the work unit, manager, employee, co-workers, and customers. The City of Vancouver, Washington has a policy statement that reiterates that flexwork does not allow the employee to change his/her duties.²³

The DPW Policy does not meet the best practice requirements because it does not have prohibitions to protect the employer. The County could consider adding provisions such as:

- That flex workers should not use company devices and networks (to protect proprietary data and intellectual property).
- That Flex-Time should not change an employee's duties.

Description of factors considered in the approval process

A Flex-Time policy should address how the benefit to the employee is weighed against the benefits and detriments to the employer.

SHRM suggest the following as considerations for evaluating flex-time applications:

“Examine the work culture, nature of business, and operational needs for the work unit to determine if flextime is feasible, e.g., level of trust, level of management support, nature of services and jobs, amount of “face time” required as opposed to results, other flexible practices already in place. How will processes be used to document hours worked and results achieved? What about accessibility in case of a business emergency or when the employee needs to be physically present? Consider the appropriateness of flextime for the jobholder, e.g., performance record, level of independence, demonstrated self-discipline and motivation, desire or ability to work longer days. Develop selection criteria. The manager determines what factors to consider when making decisions on requests but primary is always operational needs in relation to job assignments and then the jobholders. These factors should be worked out ahead of time and be part of the written plan. Establish criteria for approving requests. Some ideas include possible benefits to the organization, potential drawbacks, requests by others in the work unit, duties of the job and if they can be effectively performed with the new schedule, the level of staffing and supervision needed at various times, the level of service that would be provided to customers, the schedules of other employees outside the work

²² <https://www.shrm.org/resourcesandtools/hr-topics/benefits/pages/how-to-create-and-manage-an-effective-flexwork-policy.aspx>

²³ City of Vancouver, Washington, Employment Policy Manual

unit with whom the job must coordinate, etc. Establish a way to break ties for requests. Some ideas include performance, seniority, draw lots, or rotation.”²⁴

The DPW policy does not provide adequate guidance for approvals or disapprovals. A checklist attached to the request form lists questions for the Division head or reviewer regarding normal working hours and customer service, backup coverage, multiple employees requesting the same flex time, and whether the employee demonstrates the ability to work productively without supervision. However, there are no standards or examples to guide requestors or reviewers. Robust guidance would provide employees notice of the factors for disapproval as well as ensure consistency in the request review process.

Consequences for policy violations

Enforcement is essential to effective policy implementation. Human resources experts recommend that a Flex-Time policy should establish sanctions for abuse (which could include inaccurate time sheets or a decrease in productivity) and make clear that Flex-Time can be discontinued at any time, even if there is no abuse.²⁵

The DPW policy is deficient because although it includes language that the division head may withdraw a flex schedule at any time, no consequences for abuse, decrease in performance, or inaccurate timesheets are stated.

The following table summarizes how DPW’s Policy measures up against best practices.

Best Practice	Is the DPW Policy compliant?
Clear statement of policy purpose	Partially
Preapproval process and eligibility	Partially
Prohibitions	No
Statement of assessment factors	No
Consequences for violation clearly stated	No

²⁴<https://www.shrm.org/resourcesandtools/hr-topics/benefits/pages/how-to-create-and-manage-an-effective-flexwork-policy.aspx>

²⁵ <https://www.shrm.org/resourcesandtools/hr-topics/benefits/pages/how-to-create-and-manage-an-effective-flexwork-policy.aspx>

Recommendations:

1. The Division and DPW should update the DPW Flex-Work Policy to address deficiencies related to the statement of policy purpose, preapproval process and eligibility, prohibitions, statement of assessment/approval factors, and consequences for violations.
2. The Division and DPW should enforce the Flex-Work Policy, including regularly monitoring any operational problems as a result of the flexible work schedule and terminating or revising schedules if needed.

Finding 3: The policies and SOPs related to Outside Employment (moonlighting) are inadequate and risk operational problems and costs.

The problem and why it is relevant

Through employee inquiries and complaints from the community, the Division's Outside Employment policies have come into question. Employees ask why some have access to Outside Employment while others do not have similar opportunities. Since Outside Employment is often a reason for Flex-Time requests, the Council has also expressed concern over the approval process for requests for Flex-Time and Outside Employment, as well as the effect of the approvals on the Division's operations.

For the purposes of this audit, Outside Employment is defined as follows.

Outside Employment, or moonlighting, is defined as when employees hold additional jobs outside their regular employment.

In interviews, we were informed of concerns about the Outside Employment practices of the SWD. Among the concerns that were expressed were:

- Whether the Outside Employment contributed to employees being too tired to adequately perform County duties.
- For employees required to be on call, whether the Outside Employment affected their availability for emergencies.
- Whether the employees were leaving work earlier than allowed to go to their moonlighting jobs. In one case, an employee had two moonlighting jobs that began fifteen minutes after the end of the work day at the Division. This is a very short time, during which the employee would have to end work duties with the County, commute to the moonlighting jobs, and get ready to start work there.

We understand that questions were also raised about why one SWD employee was allowed to be a substitute bus driver for the County Transportation Agency, and whether others could do the same. We were also informed that the fact that a SWD employee was allowed to moonlight in another county job was a reason for this audit. Allowing employees to work more than one job for a single employer is not allowed by the federal government and most businesses because of FLSA risk. The risk is that the FLSA requires overtime pay for covered employees who work more than 40 hours a week, and all hours worked for an employer are included in the calculation, regardless whether the employee works in different positions in the organization.

The results of the survey and interviews indicated that feelings about preferential treatment and supervisory coverage could be underlying the concerns about Outside Employment, and contribute to morale issues at the SWD and complaints from the public.

We tested Outside Employment requests and approvals against the DPW policy for Outside Employment to evaluate whether any non-compliance occurred. We were provided six Outside Employment requests from four employees to test. This number is significantly less than the 11 employees who noted that they had outside jobs in the employee survey. As 29 out of 67 employees responded to the survey, it is likely that there are more employees with outside jobs than Division records indicate. This situation indicates problems with policy compliance and/or recordkeeping.

We also intended to include an evaluation of whether the proper criteria for approval was applied in the approval policy. However, the applications provided minimal information, and we could not test anything more than whether approval was provided.

How or why the condition happened

The DPW Policy for Outside Employment is inadequate and not effectively administered or monitored. As a result, the County's interests are not protected. Also, the standards for approval are vague, and do not provide employees and the public an understanding of how approvals are granted, leading to suspicions of favoritism and preferential treatment.

The DPW policy relating to outside employment is AD020, effective 2016, states in full:

“POLICY STATEMENT

It is the policy of the County of Kaua‘i Department of Public Works that: Employees shall conduct themselves so as to be above reproach.

Employees shall not place themselves in a position which a reasonable person may consider or construe to be a conflict of interest with their employment with the County of Kaua‘i.

Outside employment of Public Works employees is a violation of the Kaua‘i County Code Section 3-1. 7 when the employee’s County employment is directly or indirectly related to the approval, processing, inspection or other regulation of the employee’s outside employment work, except as exempted below.

PURPOSE

The purpose of this policy is to clarify that outside employment of Public Works employees may be in violation of the Kaua‘i County Code Section 3-1. 7 and therefore an OUTSIDE EMPLOYMENT REQUEST must be submitted.

APPLICABILITY

This policy applies to all employees of the County of Kaua‘i Department of Public Works.

An exemption from this policy for work such as volunteer work for a non-profit organization, or for work on an employee’s personal residence may be granted upon specific written approval by the County Engineer. In these instances, the employee shall not be directly involved with the approval, processing, inspection or other regulation of the work.

GENERAL

This Policy serves as a clarification of the Mayor’s Administrative Directive — Outside Employment Circular No. 09 -09 August 7, 2009.

PROCEDURE

Prior to engaging or continuing in any outside employment Public Works employees shall submit to the County Engineer for approval a completed OUTSIDE EMPLOYMENT REQUEST (attached and available on the County’s SharePoint portal (Personnel, Policies)).

An OUTSIDE EMPLOYMENT REQUEST shall be submitted for each and every individual project upon which the employee will be working.

Failure by any employee to comply with the provisions of this policy may result in disciplinary action in accordance with the respective collective bargaining unit agreement.”

Outside Employment policy best practices

Before comparing the DPW Policy to best practices, it is important to understand why Outside Employment policies are important. Outside Employment policies should be of concern for operational and ethical reasons. Operational reasons include:

- Concerns that the additional hours of work could affect employee health or lead to tardiness or higher absenteeism.
- Whether the outside work will prevent the employee from being available for overtime work.
- Whether the outside employment will require a change in the employee's work schedule.
- If outside employment causes schedule changes for employees with supervisory responsibilities, whether the employee's new schedule will match those of the employees he/she supervises.

Ethical reasons include:

- Whether the outside employment will require the use of government equipment, techniques or knowledge proprietary to the government.
- Whether the employee's duties include oversight or regulation of the outside employer.
- Whether the outside employment will create an actual or perceived conflict of interest for the employee.

To address the operational and ethical concerns, best practice outside employment policies have the following components.

- Consistent application in the work unit.
- Description of prohibitions or ethical constraints.
- Description of the preapproval process.
- Description of factors that may result in disapproval of requests.
- Consequences for inappropriate outside employment.

A comparison of the DPW policy to the components of best practice outside employment policies follows.

Consistent application in the work unit

The best practice requirement is that outside employment policies and standards should be implemented for all employees in the appropriate work unit, which could be defined as an entire organization (such as a county) or an operational units (such as a department or sub-unit of a department). The DPW policy meets this requirement as it applies to all DPW and Division employees.

Description of prohibitions or ethical constraints

An important component of an outside employment policy, especially in government, is a restatement of the applicable provisions of the ethics laws and standards, to remind employees that they cannot engage in outside employment that violates ethics laws and standards. As an example, the City of Anacortes, Washington prohibits employees from performing any services for customers on non-working time that are normally performed by city personnel, prohibits the unauthorized use of any city resources, including its communication systems, and prohibits the unauthorized use or application of any confidential information.

The DPW Policy only partially meets best practice requirements. It has prohibitions covering employees involved in the permitting process, but the policy does not state what prohibitions would apply to other employees, such as SWD employees. Further, while it identifies prohibitions related to conflicts of interest and Code section 3-1.7, it does not:

- State that employees cannot engage in outside employment that violates ethics laws and standards.
- List common examples of conflicts of interest.

Description of the preapproval process

It is common for best practice policies from public employers to require a preapproval process in which the employer assesses the effect of the outside employment on employees' ability to perform work duties.

The policy partially meets the best practice requirements. While it identifies the need for approval of outside employment requests by the County Engineer, it does not include the requirement that the approving authority or employee assess the effect of outside employment on the employee's ability to perform duties.

Description of factors that may result in disapproval of requests

Some of the factors best practice policies state as reasons for disapproval include:

- If the outside employment requires a change of schedule for the employee.
- If the outside employment might affect the employee's health, and potentially raise the risk of absenteeism or sick leave.
- If the outside employment requires a change in the employee's work schedule.
- When the employee is a supervisor, if the change in schedule matches that of the employees he/she must supervise.
- If the outside employment leads to a conflict of interest or perception of a conflict of interest.

The DPW Policy partially meets the best practice requirements. While it identifies necessary conduct of the employee, states that there must not be a conflict of interest, and must not violate Code section 3-1.7, it does not have the following best practice components:

- Consideration of the effects of a possible change of schedule due to outside employment.
- Consideration of whether the outside employment affects the employee's health.
- For supervisors, consideration of whether the outside employment will cause a change in schedule that will not allow them to supervise.

Consequences for inappropriate outside employment

The policy partially meets the best practice requirements. While it states that disciplinary action will be taken for violation, the policy does not state specific consequences related to violations.

SHRM, a national organization of human resource professionals, recommends including sanctions for inappropriate outside employment in policies, and suggests the following policy language:

“If outside work activity causes or contributes to job-related problems at [Company Name], the employee will be asked to discontinue the outside employment, and the employee may be subject to the normal disciplinary procedures for dealing with the resulting job-related problem(s). If an employee's outside employment presents a conflict of interest with [Company Name], as defined in the Conflict of Interest Policy, or if such outside employment has any potential for negative impact on [Company Name], the employee will be asked to terminate the outside employment.”²⁶

Other best practice policies include provisions that outside employment will not be considered an excuse for poor job performance, absenteeism, tardiness, leaving early, refusal to travel, or refusal to work overtime or different hours.

On this issue, the Courts have acknowledged the right of public employers to impose reasonable restrictions on government employees' outside employment, including partial and total bans. In Mackey v. Graham, 99 Wn.2d 572, 663 P.2d 490 (1983), the Washington State Supreme Court upheld the State Auditor's partial ban on outside employment by auditors, including the outside practice of auditing, accounting, tax work or consulting. In Gosney v. Sonora Indep. Sch. Dist., 603 F.2d 522 (5th Cir. 1979), the court ruled that a total ban on any outside employment by school board personnel was enforceable, because the regulations

²⁶ https://www.shrm.org/resourcesandtools/tools-and-samples/policies/pages/outside_employment_moonlighting_policy.aspx

were reasonably related to the legitimate state interest of ensuring that employees devote their professional efforts to student education. Contractual commitments or self-employment can also be subject to the same preapproval requirements as outside employment, if they affect work.

The following chart summarizes how the DPW Policy used by SWD measures up against these best practices.

Best Practice	Is the DPW's Policy compliant?
Consistently applied over work unit	Yes
Prohibitions stated	Partially
Preapproval process described	Partially
Factors for disapproval described	Partially
Consequences for violation clearly stated	No

Recommendations:

1. The Division and DPW should update the DPW Outside Employment Policy to address deficiencies related to the statement of policy purpose, preapproval process and eligibility, prohibitions, statement of assessment/approval factors, and consequences for violations.
2. The Division and DPW should enforce the Outside Employment Policy, including regularly monitoring any operational problems as a result of the moonlighting and terminating approval if needed.

AUDITEE RESPONSE

A draft of the audit report was provided to the auditee for its response. The Acting County Engineer, on behalf of the DPW, expressed general agreement with the audit recommendations and attached descriptions of the corrective actions to be implemented for the three audit findings. The auditee response is attached to this report as Attachment 1.

In response to the finding that the employee survey indicates an employee morale problem, the DPW states it will discuss the survey results and proposed solutions with employees and monitor supervisory responses to employee issues. The two remaining findings concern the Flex-Time and Outside Employment policies. DPW states that it will update both policies, document that participating staff and supervision understand the policies, and monitor irregularities or issues from the policies. The DPW Administration will also provide general oversight, which should provide consistency in interpreting and enforcing the policies. The DPW's auditee response is a positive and constructive approach to the audit findings.

No significant amendments to the audit report were required because of the auditee response, but we made technical, non-substantive changes for accuracy, clarity, and style.

DEPARTMENT OF PUBLIC WORKS

TROY K. TANIGAWA, P.E., ACTING COUNTY ENGINEER

BOYD GAYAGAS, DEPUTY COUNTY ENGINEER



DEREK S.K. KAWAKAMI, MAYOR
MICHAEL A. DAHLIG, MANAGING DIRECTOR

September 1, 2021

Mr. Tyler Kimura
Spire Hawai'i LLP
700 Bishop Street, Suite 2001
Honolulu HI 96813

Dear Mr. Kimura:

On behalf of the Department of Public Works, I am in general agreement with the audit recommendations and have attached copies of the corrective actions to be implemented for each of the three audit findings.

Please contact me at (808) 241-4993 or at ttanigawa@kauai.gov if you have any questions.

Sincerely,

Troy

Tanigawa

Troy K. Tanigawa

Acting County Engineer

Digitally signed by Troy
Tanigawa
Date: 2021.09.01 14:31:37
-10'00'

Cc: HR Director
Managing Director

**Report
No.**

Auditor's Findings

21-01 The employee survey indicates the Division likely has an employee morale problem.

**Auditor's
Recommendation:**

1. Present the results of the survey to employees, share what it believes the survey results mean, find out if the interpretation is accurate, and then discuss leadership's proposed solutions.
2. Provide basic supervisory and management training.

**Corrective
Action:**

1. Present Department's interpretation of survey results to Division of Solid Waste Management (DSWM) employees, obtain employee comments/input, and discuss leadership's proposed solutions. New solutions will be integrated with measures that leadership has recently established for reliable awareness and timely resolution of operational issues. The DPW will determine the necessity of issuing a follow up survey to employees to determine if satisfactory outcomes have been achieved.
2. DPW Admin will work with the DSWM staff to devise a system that documents follow up done by DSWM supervisors when employee issues arise. The intent is to ensure supervisors are satisfactorily implementing tools obtained/learned via supervisory and management training provided via the HR Department's training program for new employees and refresher training.

End Date:

Implement Corrective Actions by November 30, 2021

Responding

Person(s): Troy Tanigawa, Acting County Engineer

**Report
No.**

Auditor's Findings

21-02 The policies and SOPs regarding Flex - Time are inadequate and risk operational problems and costs.

Auditor's

Recommendation:

1. Update the DPW Flex-Work Policy to address deficiencies related to the statement of policy purpose, preapproval process and eligibility, prohibitions, statement of assessment/approval factors, and consequences for violations.
2. Enforce the Flex-Work Policy, including regularly monitoring any operational problems as a result of the flexible work schedule and terminating or revising schedules if needed.

Corrective

Action:

1. DPW will work with County HR Department to incorporate "Best Practices" in DPW's Flex-Work Policy as outlined on page 7, Audit Finding 2 narrative. Union consultations will be conducted as appropriate given this policy impacts Bargaining Unit employees.
2. Division Heads and staff requesting flex work schedules will be required to read and confirm he/she understands the approved flex work policy. Division Heads of operations where flex work time is allowed, will be required to monitor operations for irregularities or problems connected to flex work schedules and report on such issues to DPW Administration. DPW Administration will provide general oversight assurance of activity among the various Divisions responsible for upholding provisions of the flex-work policy including the enforcement requirements.

End Date:

Implement Updated flex-work policy: 240 days, February 28, 2022

Responding

Person(s): Troy Tanigawa, Acting County Engineer

**Report
No.**

Auditor's Findings

21-03 The policies and SOPs related to Outside Employment(moonlighting) are inadequate and risk operational problems and costs.

Auditor's

Recommendation:

1. Update the DPW Outside Employment Policy to address deficiencies related to the statement of policy purpose, preapproval process and eligibility, prohibitions, statement of assessment/approval factors, and consequences for violations.
2. Enforce the Outside Employment Policy, including regularly monitoring any operational problems as a result of the moonlighting and terminating approval if needed.

Corrective

Action:

1. Outside Employment Policy will be updated to address deficiencies related to the statement of policy purpose, preapproval process and eligibility, prohibitions, statement of assessment/approval factors, and consequences for violations. Consideration will also be put towards the following:
 - a. Requirement to update changes in outside employment status, and
 - b. Annual approval/approval-renewal of outside employment, and
 - c. Reference to County Code, Ethics provisions.
2. Division Heads and staff desiring approval of second jobs will be required to:
 - a. Read and confirm he/she understands the approved outside employment policy, and
 - b. Monitor for irregularities or issues connected to prohibitions, or other factors negatively impacting operations, and report accordingly to the Division Head or DPW Administration as appropriate. DPW Administration will provide general oversight assurance of activity among the various Division Heads responsible for upholding provisions of the Outside Employment Policy including enforcement requirements.

End Date:

Implement Updated flex-work policy: 240 days, February 28, 2022

Responding

Person(s): Troy Tanigawa, Acting County Engineer