

DEPARTMENT OF THE CORPORATION COUNSEL
COUNTY OF MAUI
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MEMORANDUM

April 11, 2012

T O : Joseph Pontanilla, Chair
Budget and Finance Committee

F R O M: Scott K. Hanano, Deputy Corporation Counsel

SUBJECT: FISCAL YEAR 2013 BUDGET; REQUEST FOR LEGAL OPINION
RELATING TO PROPOSED TRANSFER OF THE GRANTS MANAGEMENT
PROGRAM FROM THE DEPARTMENT OF HOUSING AND HUMAN CONCERNS
TO THE DEPARTMENT OF FINANCE (CC-1) (BF-1)

This memorandum is in response to your letter dated April 5, 2012 requesting our Department to provide a legal opinion to the following questions:

1. Does the Charter allow for the functions of the Grants Management Program to be assigned to a County department other than the Department of Housing and Human Concerns? Please explain.

While traditionally a function of the Department of Housing and Human Concerns ("DHHC"), the duties performed by the Grants Management Division ("GMD") are not specifically assigned to the DHHC by the Revised Charter of the County of Maui (1983), as amended ("Charter"). In accordance with Section 7-5(10) of the Charter, the Mayor is authorized to assign the duties performed by the GMD, to a department other than the DHHC. Section 7-5(10) of the Charter states that the Mayor shall:

Assign powers, duties, and functions that are not already assigned or enumerated in Article 8, to and between departments.

Further, supporting the notion that the Mayor is authorized to transfer the GMD from the DHHC to the Department of Finance is the requirement of Section 8-4.3(16) of the Charter which states that the Director of Finance shall, "[p]erform such other duties and functions as shall be assigned by the mayor."

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Regarding the transfer of positions within the GMD, Section 7-5(4) of the Charter authorizes the Mayor to, "[m]ake temporary transfers of positions between departments or between subdivisions of departments." The transfers would become permanent upon appropriation by the Council of the County of Maui and revert in the event that an appropriation is not made.

2. Can the Director of Housing and Human concerns satisfy the Director's Charter-mandated duties if the administration of social services grants is moved to the Department of Finance? Please explain.


Section 8-10.3(1) of the Charter requires the Director of the DHHC ("Director") to:

Develop a comprehensive approach to the effective administration and coordination of programs and plans of action designed to meet human needs in the county.

The transfer of the administration of social services grants to the Department of Finance does not preclude the Director from satisfying her Charter-mandated duties. We express no legal opinion as to the practicality or efficacy of the approach developed.

Should you have any questions or concerns, please do not hesitate to contact me.

APPROVED FOR TRANSMITTAL:



PATRICK K. WONG
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xc: Alan M. Arakawa, Mayor
Sananda K. Baz, Budget Director
Patrick K. Wong, Corporation Counsel
Webpage