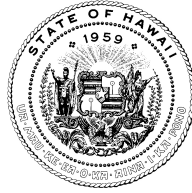


DAVID Y. IGE
GOVERNOR



TODD NACAPUY
CHIEF INFORMATION
OFFICER

OFFICE OF ENTERPRISE TECHNOLOGY SERVICES

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INFORMATION AND COMMUNICATION
SERVICES DIVISION

OFFICE OF INFORMATION MANAGEMENT
AND TECHNOLOGY

December 31, 2015

The Honorable Ronald D. Kouchi,
President, and
Members of the Senate
Twenty-Eighth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Joseph M. Souki,
Speaker, and Members of the House of
Representatives
Twenty-Eighth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Souki and Members of the Legislature:

The Information Privacy and Security Council, which is attached to the Department of Accounting and General Services and chaired by the State Chief Information Officer, respectfully submits the attached report and recommendations on procedures of notification following the breach of personal information, pursuant to S.C.R. 88, S.D. 1, of the 28th Legislature of the State of Hawai'i, 2015 Regular Session.

In addition, the Council submits its annual summary report (Exhibit A) to comply with the following provisions of Act 10, SLH 2008:

- The designation by each government agency of an agency employee to have policy and oversight responsibilities for the protection of personal information. As of this date, all entities have submitted the names of their designees except agencies noted as being non-compliant. We will continue to verify compliance until all agencies have named a designee.
- Certification in writing by entities that they comply with Part VII, Section II, of Act 10. As of this date, entities indicated in the attachment have submitted compliance notices to members of the Council.

In accordance with HRS §93-16, these reports may be viewed electronically at <http://ipsc.hawaii.gov>.

Sincerely,

TODD NACAPUY
Chief Information Officer
State of Hawai'i

(1) Attachment

Information Privacy and Security Council

Report on Procedures of Notification following the Breach of Personal Information

Background

Individual personal information is increasingly stored online or in electronic format. In addition to establishing the Information Privacy and Security Council (IPSC), Hawai'i Revised Statutes (HRS) Section 487N sets out procedures for State and county government agencies to report certain information after discovery of a security breach. The information required to be reported includes information relating to the nature of the breach, the number of individuals affected by the breach, a copy of the notice of security breach that was issued, the number of individuals to whom the notice was sent, whether the notice was delayed due to law enforcement considerations, and any procedures that have been implemented to prevent the breach from reoccurring

Despite statutory requirements for providing notice of breaches as well as ongoing efforts by the IPSC to make recommendations regarding the protection of personal information (or personally identifiable information) used by government agencies, S.C.R. 88, S.D. 1, noted that further improvements to the notification process are necessary. The resolution requested that IPSC, in cooperation with the State CIO Council, assess the means by which State and county agencies generally notify individuals following a breach of personal information, and research and provide a report to the Legislature with its findings.

The IPSC's report follows:

1. NOTIFICATION PROCEDURES CURRENTLY FOLLOWED WHEN CONTACTING AND NOTIFYING AN INDIVIDUAL ABOUT THE BREACH OF PERSONAL INFORMATION, PARTICULARLY WHEN THE PERSONAL INFORMATION IS STORED OR ACCESSIBLE ONLINE

The IPSC consulted with the Office of Consumer Protection (OCP) of the Department of Commerce and Consumer Affairs (DCCA) to discuss OCP practices regarding the receipt of data breach reports.

State law requires government agencies to submit a written report to the Legislature within 20 days after discovery of a security breach at the government agency that details information relating to the nature of the breach, the number of individuals affected by the breach, a copy of the notice of security breach that was issued, the number of individuals to whom the notice was sent, whether the notice was delayed due to law enforcement considerations, and any procedures that have been implemented to prevent the breach from reoccurring. In the event that a law enforcement agency informs the government agency that notification may impede a criminal investigation or jeopardize national security, the report to the Legislature may be delayed until twenty days after the law enforcement agency has determined that notice will no longer impede the investigation or jeopardize national security.

State law requires businesses to report data breaches of 1,000 or greater to OCP, based on the number of individuals required to be notified. This is a relatively high threshold amongst states. For example, while Hawai'i shares this threshold with Missouri and South Carolina, the threshold for California, Florida and Iowa is 500. Approximately 12 states have no threshold for reporting (meaning all breaches are reported).

According to OCP, the number of reported incidences in Hawai'i involving more than 1,000 individuals totaled six in 2014 and eight in 2015 (as of October 2015). Although not required, OCP provides this information to the Federal Trade Commission (FTC).

To address the concerns raised in S.C.R. 88, S.D. 1, the IPSC considered legislative proposals requiring OCP to post the information on a central website to make information about breaches available to potentially impacted individuals who may not be easily reached due to change of address or other reasons. OCP confirmed that individuals typically check with OCP or the entity involved. Counties, if contacted, tend to refer inquires to OCP.

However, as the information reported to OCP is publically available and the office already has the power to post said information, IPSC recommends against placing this requirement in statute, as it may have unintended consequences. Many entities, as a general practice, proactively inform every state based on the lowest threshold among them nationwide. If codified as a law, this may discourage businesses from reporting incidents that are under the threshold. In addition, requiring it in statute may inadvertently restrict the State from listing those under 1,000.

A legislative proposal requiring credit monitoring/protection was also discussed. While a breach involving a public or private entity does not require credit monitoring, OCP affirmed that it is a common practice by businesses as part of good customer relations. The cost of credit protection ranges from an estimated \$7 to \$25 per person annually. California requires private businesses to offer credit monitoring/protection, but this requirement does not apply to Hawai'i. The rationale is that requiring this of state agencies by law could present risk for unbudgeted liability to taxpayers. A sizable breach could result in millions of dollars to taxpayers. Of note is that OCP was not aware of any complaints received regarding lack of credit monitoring/breach protection offered by our state agencies.

It is also worth noting that draft Privacy Risk Management framework from the National Institute of Standards and Technology (NIST), which applies to federally funded projects or federal data partners that are subject to audit, is in a period of review. To better anticipate and address the impacts these technologies can have on privacy in federal information systems, NIST has drafted a document that lays out a framework for privacy risk management and is asking for public comment on the draft framework. NIST sought the perspectives and experiences of privacy experts across a variety of sectors in an open and transparent process that included workshops, public comment periods and various other outreach activities. Collected input is being used to refine the framework.

2. SOFTWARE OR OTHER ELECTRONIC PROGRAMS GENERALLY USED THAT FOSTER IMPROVEMENT OF PERSONAL INFORMATION PROTECTION

The IPSC has identified the following resources for information security, and has made this list available on its publicly accessible website at <http://ipsc.hawaii.gov>. IPSC will continue to maintain its Guidelines and Best Practices webpage as a resource to agencies.

(No endorsement is implied or intended by the State of Hawai‘i by the listing or omission of vendors and/or commercial products on this page.)

Multi-State Information Sharing and Analysis Center (MS-ISAC)

- The MS-ISAC Nationwide Cyber Security Review is a voluntary self-assessment survey designed to evaluate cyber security management. It is available to all states and agencies, local government and departments, and tribal and territorial governments: <https://msisac.cisecurity.org/resources/>

Free/Open Source Tools

Tools available for vulnerability scanning:

- Secunia PSI: http://secunia.com/vulnerability_scanning/personal/
- OpenVAS: <http://www.openvas.org/>
- Microsoft Baseline Security Analyzer: <http://www.microsoft.com/en-us/download/details.aspx?id=7558>
- Qualys FreeScan (online vulnerability scanner – requires signup): <https://www.qualys.com/forms/freescan/>

Website Safety Rating

Web-based tools to help identify if a site is safe or unsafe.

- McAfee Site Advisor adds visible safety ratings to searches and sites visited: <http://www.siteadvisor.com/final/mac.html>
- Norton (Symantec) Safe Web allows the entering of a web address (URL) to receive a return rating based on safety and security issues: <https://safeweb.norton.com/>

Browser Plug-in Check

Web-based, simple to use, free tool to check browser for outdated plug-ins:

- The Qualys Browser Check will identify outdated plug-ins that may be vulnerable to attacks: https://browsercheck.qualys.com/?scan_type=js

Useful Firefox-Specific Plug-ins

- Better Privacy deletes super-cookies: <https://addons.mozilla.org/en-US/firefox/addon/betterprivacy/>
- NoScript prohibits potentially harmful scripts from being executed within a web page: <https://addons.mozilla.org/en-US/firefox/addon/noscript/>

3. RECOMMENDATIONS OF AMENDED OR NEW METHODS TO MORE SECURELY AND PROMPTLY PROVIDE NOTIFICATION.

The IPSC provides the following recommendations:

- Post breaches of which OCP is notified on a central, citizen-facing online breach information portal to be maintained by the office. The counties to be encouraged to post a link to this site. (OCP is already working toward establishing this portal, which is anticipated to launch prior to the start of the 2016 legislative session.
- Government agencies fully adopt federal guidelines provided under the NIST Privacy Risk Management framework, once finalized (anticipated in 2016).
- Further invest in modernizing the collection process for State and county agencies' submission of personal information system annual reports, pursuant to Act 10, Session Laws of Hawai'i 2008. Doing so will further encourage and facilitate agencies' compliance, namely with the designation by each government agency of an agency employee to have policy and oversight responsibilities for the protection of personal information, as well as certification in writing by entities that they comply with Part VII, Section II, of Act 10.
- Obtain "cyber insurance" for State of Hawai'i agencies, under an enterprise license agreement administered by DAGS Risk Management or the Office of Enterprise Technology Services.

(Legislative Amendments)

- Amend HRS §487N-2 to statutorily require that threshold for businesses to report breaches to OCP be lowered from 1,000 to 500 to align with other states:

(f) In the event a business provides notice to more than [~~one thousand~~] five hundred persons at one time pursuant to this section, the business shall notify in writing, without unreasonable delay, the State of Hawaii's office of consumer protection and all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined in 15 U.S.C. section 1681a(p), of the timing, distribution, and content of the notice.

- Amend HRS §478N-5 so the State Chief Information Officer (CIO) versus the Comptroller may exempt employees to support information privacy and security, an ability more appropriately assigned to the CIO now that the position has been established:

(e) The [~~comptroller~~] chief information officer may establish support positions [~~for the information and communication services division~~] exempted from chapters 76 and 89, including but not limited to, legal support, information technology security, human resources and personnel, records management, and administrative support.

Exhibit A

Information Privacy and Security Council, State of Hawaii
Annual Summary Report (2015)

	Department/Division/Board/Commission/Office	Br/Dept/ County	Agency Privacy Designee Status	Maintains PI System(s)		
				Submitted Confirmation to IPSC that Agency Does Maintain PI System(s)	Submitted Confirmation to IPSC that Agency Does Not Maintain PI Systems	Did Not Submit PI Report Confirmation to IPSC
Legislative Branch						
	The Senate	LEG	Compliant	Compliant		
	The House of Representatives	LEG	Compliant	Compliant		
	Apportionment Advisory Councils	LEG		Inactive		
Legislative Service Agencies						
	Office of the Auditor	AUD	Compliant	Compliant		
	Hawai'i State Ethics Commission	AUD	Compliant	Compliant		
	Legislative Reference Bureau	LEG	Compliant	Compliant		
	Ombudsman	LEG	Compliant	Compliant		
Executive Branch						
	Office of the Governor	Gov		Compliant		
	Office of the Lieutenant Governor	Lt. Gov	Compliant	Compliant		
	Department of Accounting and General Services	DAGS	Compliant	Compliant		
	Department of Agriculture	DOA	Compliant	Compliant		
	Department of the Attorney General	AG	Compliant	Compliant		
	Department of Budget and Finance	B&F	Compliant	Compliant		
	Department of Business, Economic Development and Tourism	DBEDT	Compliant	Compliant		
	Department of Commerce and Consumer Affairs	DCCA	Compliant	Compliant		
	Department of Defense	DOD	Compliant			Not Compliant
	Department of Education	DOE	Compliant	Compliant		
	Charter School Administrative Office	DOE*	Compliant	Compliant		
	Hawaii Teacher Standards Board	DOE	Compliant	Compliant		
	Department of Hawaiian Home Lands	DHHL	Compliant	Compliant		
	Department of Health	DOH	Compliant	Compliant		
	Department of Human Resources Development	DHRD	Compliant	Compliant		
	Department of Human Services	DHS	Compliant	Compliant		
	Department of Labor and Industrial Relations	DLIR	Compliant			Not Compliant
	Department of Land and Natural Resources	DLNR	Compliant	Compliant		
	Department of Public Safety	PSD	Compliant	Compliant		
	Department of Taxation	TAX	Compliant	Compliant		
	Department of Transportation	DOT	Compliant	Pending*		
	Oahu Metropolitan Planning Organization	OahuMPO	Compliant	Compliant		
	University of Hawaii	UH	Compliant	Compliant		
Judicial Branch						
	Office of Hawaiian Affairs	JUD	Compliant	Compliant		
Other						
	Hawaii Council for the Humanities**		Not Compliant			Not Compliant

Source: Guide to Government in Hawaii, 13th Ed. Honolulu: Legislative Reference Bureau, 2007.

*Available upon request

**Source: Board and Commissions Directory. Honolulu: Office of the Governor, 2008.

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Department of the Prosecuting Attorney	CC HON	Compliant	Compliant		
Legislative					
City Council	CC HON	Compliant	Compliant		
City Clerk	CC HON	Compliant	Compliant		
Office of Council Services	CC HON	Compliant	Compliant		
Office of the City Auditor	CC HON	Compliant	Compliant		
Executive					
Mayor	CC HON	Compliant	Compliant		
Board of Water Supply	CC HON	Compliant	Compliant		
Department of the Corporation Counsel	CC HON	Compliant	Compliant		
Department of Budget and Fiscal Services	CC HON	Compliant	Compliant		
Liquor Commission	CC HON	Compliant	Compliant		
Department of Community Services	CC HON	Compliant	Compliant		
Department of Customer Services	CC HON	Compliant	Compliant		
Department of Design and Construction	CC HON	Compliant	Compliant		
Department of Emergency Management	CC HON	Compliant	Compliant		
Honolulu Emergency Services Department	CC HON	Compliant	Compliant		
Department of Enterprise Services	CC HON	Compliant	Compliant		
Department of Environmental Services	CC HON	Compliant	Compliant		
Ethics Commission	CC HON	Compliant	Compliant		
Department of Facility Maintenance	CC HON	Compliant	Compliant		
Honolulu Fire Department	CC HON	Compliant	Compliant		
Department of Human Resources	CC HON	Compliant	Compliant		
Department of Information Technology	CC HON	Compliant	Compliant		
Department of the Medical Examiner	CC HON	Compliant	Compliant		
Department of Parks and Recreation	CC HON	Compliant	Compliant		
Department of Planning and Permitting	CC HON	Compliant	Compliant		
Honolulu Police Department	CC HON	Compliant	Compliant		
Department of Transportation Services	CC HON	Compliant	Compliant		
Royal Hawaiian Band	CC HON	Compliant	Compliant		
Mayor's Office of Culture and the Arts (MOCA)	CC HON	Compliant	Compliant		
Managing Director's Office	CC HON	Compliant	Compliant		
Neighborhood Commission Office	CC HON	Compliant	Compliant		
Honolulu Authority for Rapid Transit	CC HON	Compliant	Compliant		

Information Privacy and Security Council, State of Hawaii
Annual Summary Report (2015)

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County of Hawai'i Charter Commission	Hawaii	Compliant			Not Compliant
Prosecuting Attorney	Hawaii	Compliant			Not Compliant
Legislative					
Hawaii County Council	Hawaii	Compliant			Not Compliant
Office of the County Clerk	Hawaii	Compliant			Not Compliant
County of Hawaii Charter Commission	Hawaii	Compliant			Not Compliant
2011 County of Hawaii Redistricting Commission	Hawaii	Compliant			Not Compliant
Office of the Legislative Auditor	Hawaii	Compliant	Compliant		
Executive					
Office of the Mayor/Managing Director	Hawaii	Compliant			Not Compliant
Committee on the Status of Women	Hawaii	Compliant			Not Compliant
Office of Aging	Hawaii	Compliant	Compliant		
Committee on People with Disabilities	Hawaii	Compliant			Not Compliant
Committee on Aging	Hawaii	Compliant			Not Compliant
Civil Defense Agency	Hawaii	Compliant			Not Compliant
Office of Corporation Counsel	Hawaii	Compliant		Compliant	
Board of Ethics	Hawaii	Compliant		Compliant	
Cost of Government Commission	Hawaii	Compliant		Compliant	
Department of Environmental Management	Hawaii	Compliant			Not Compliant
Environmental Management Commission	Hawaii	Compliant	Compliant		
Department of Finance	Hawaii	Compliant	Compliant		
Standardization Committee	Hawaii	Compliant	Compliant		
Real Property Tax Board of Review	Hawaii	Compliant			Not Compliant
Pension Board	Hawaii	Compliant			Not Compliant
Public Access, Open Space and Natural Resources Preservation Commission	Hawaii	Compliant			Not Compliant
Fire Department	Hawaii	Compliant	Compliant		
Fire Commission	Hawaii	Compliant			Not Compliant
Office of Housing & Community Development	Hawaii	Compliant			Not Compliant
Hawaii County Housing Agency	Hawaii	Compliant			Not Compliant
Workforce Investment Board	Hawaii	Compliant			Not Compliant
Department of Human Resources	Hawaii	Compliant	Compliant		
Merit Appeals Board	Hawaii	Compliant			Not Compliant
Salary Commission	Hawaii	Compliant			Not Compliant
Department of Information Technology	Hawaii	Compliant		Compliant	
Department of Liquor Control	Hawaii	Compliant	Compliant		
Liquor Commission	Hawaii	Compliant			Not Compliant
Liquor Control Adjudication Board	Hawaii	Compliant			Not Compliant
Mass Transit Agency	Hawaii	Compliant	Compliant		
Transportation Commission	Hawaii	Compliant			Not Compliant
Department of Parks and Recreation	Hawaii	Compliant	Compliant		
Veterans Advisory Committee	Hawaii	Compliant			Not Compliant
Department of Planning	Hawaii	Compliant			Not Compliant
Planning Commission	Hawaii	Compliant			Not Compliant
Board of Appeals	Hawaii	Compliant			Not Compliant
Kailua Village Design Commission	Hawaii	Compliant			Not Compliant
Police Department	Hawaii	Compliant	Compliant		
Police Commission	Hawaii	Compliant			Not Compliant
Office of the Prosecuting Attorney	Hawaii	Compliant			Not Compliant
Department of Public Works	Hawaii	Compliant	Compliant		
Department of Research and Development	Hawaii	Compliant	Compliant		
Agriculture Commission	Hawaii	Compliant			Not Compliant
Energy Commission	Hawaii	Compliant			Not Compliant
Department of Water Supply	Hawaii	Compliant	Compliant		
Water Board	Hawaii	Compliant	Compliant		
Traffic Division	Hawaii	Compliant			Not Compliant
Arborist Advisory Committee	Hawaii	INACTIVE			
Bicycle/Pedestrian Safety Committee	Hawaii	INACTIVE			

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County Council	Maui	Compliant			Not Compliant
Office of the County Clerk	Maui	Not Compliant			Not Compliant
Office of Council Services	Maui	Compliant			Not Compliant
Executive					
Mayor's Office					
Committee on the Status of Women	Maui	Compliant			Not Compliant
Cost of Government Commission	Maui	Compliant			Not Compliant
Kula Agricultural Park Committee	Maui	Compliant			Not Compliant
Salary Commission	Maui	Compliant			Not Compliant
Civil Defense Agency	Maui	Compliant			Not Compliant
Department of Management/Managing Director	Maui	Compliant			Not Compliant
Department of the Corporation Counsel	Maui	Compliant			Not Compliant
Board of Ethics	Maui	Compliant			Not Compliant
Charter Commission	Maui	Compliant			Not Compliant
Department of Finance	Maui	Compliant			Not Compliant
Real Property Ta270- Review Board	Maui	Compliant		Compliant	
Department of Public Works	Maui	Compliant			Not Compliant
Board of Code Appeals	Maui	Compliant			Not Compliant
Commission on Naming Streets, Parks, & Facilities	Maui	Compliant			Not Compliant
Maui County Outdoor Lighting Standards Committee	Maui	Compliant			Not Compliant
Subdivision Engineering Standards Committee	Maui	Compliant			Not Compliant
Traffic Safety Council	Maui	Compliant			Not Compliant
Department of Parks and Recreation	Maui	Not Compliant			Not Compliant
Maui County Arborist Committee	Maui	Not Compliant			Not Compliant
Department of Fire and Public Safety	Maui	Compliant			Not Compliant
Fire & Public Safety Commission	Maui	Compliant			Not Compliant
Department of Planning	Maui	Not Compliant			Not Compliant
Board of Variances and Appeals	Maui	Not Compliant			Not Compliant
Cultural Resources Commission	Maui	Not Compliant			Not Compliant
Hana Advisory Committee to Maui Planning Commission	Maui	Not Compliant			Not Compliant
Maui Redevelopment Agency	Maui	Not Compliant			Not Compliant
Maui Planning Commission	Maui	Not Compliant			Not Compliant
Lanai Planning Commission	Maui	Not Compliant			Not Compliant
Molokai Planning Commission	Maui	Not Compliant			Not Compliant
Urban Design Review Board	Maui	Not Compliant			Not Compliant
Department of Personnel Services	Maui	Compliant			Not Compliant
Affirmative Action Advisory Council	Maui	Compliant			Not Compliant
Civil Service Commission	Maui	Compliant			Not Compliant
Department of Housing and Human Concerns	Maui	Compliant			Not Compliant
Animal Control Board	Maui	Compliant			Not Compliant
Commission on Children & Youth	Maui	Compliant			Not Compliant
Commission on Culture and the Arts	Maui	Compliant			Not Compliant
Commission on Persons with Disabilities	Maui	Compliant			Not Compliant
Council on Aging	Maui	Compliant			Not Compliant
Grants Review Committee	Maui	Compliant			Not Compliant
Department of Water Supply	Maui	Compliant			Not Compliant
Board of Water Supply	Maui	Compliant			Not Compliant
Department of Police	Maui	Compliant			Not Compliant
Police Commission	Maui	Compliant			Not Compliant
Department of Liquor Control	Maui	Compliant			Not Compliant
Liquor Control Adjudication Board	Maui	Compliant			Not Compliant
Liquor Control Commission	Maui	Compliant			Not Compliant
Department of the Prosecuting Attorney	Maui	Compliant			Not Compliant
Department of Transportation	Maui	Compliant			Not Compliant
Department of Environmental Management	Maui	Compliant			Not Compliant
Solid Waste Research & Advisory Committee	Maui	Compliant			Not Compliant

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County Council	Kauai	Compliant	Compliant		
County Clerk	Kauai	Compliant	Compliant		
Executive					
Mayor	Kauai	Compliant	Compliant		
Office of Boards & Commissions	Kauai	Compliant	Compliant		
Board of Ethics	Kauai	Compliant	Compliant		
Charter Commission	Kauai	Compliant	Compliant		
Cost Control Commission	Kauai	Compliant	Compliant		
Fire Commission	Kauai	Compliant	Compliant		
Police Commission	Kauai	Compliant	Compliant		
Salary Commission	Kauai	Compliant	Compliant		
Agency on Elderly Affairs	Kauai	Compliant	Compliant		
Agency on Housing	Kauai	Compliant	Compliant		
Agency on Transportation	Kauai	Compliant	Compliant		
ADA Coordinator	Kauai	Compliant	Compliant		
Civil Defense Agency	Kauai	Compliant	Compliant		
Office of Economic Development	Kauai	Compliant	Compliant		
County Attorney	Kauai	Compliant	Compliant		
Department of Finance	Kauai	Compliant	Compliant		
Department of Liquor Control	Kauai	Compliant	Compliant		
Liquor Control Commission	Kauai	Compliant	Compliant		
Department of Parks and Recreation	Kauai	Compliant	Compliant		
Department of Personnel Services	Kauai	Compliant	Compliant		
Civil Service Commission/Merit Appeals Board	Kauai	Compliant	Compliant		
Police Department	Kauai	Compliant	Compliant		
Department of the Prosecuting Attorney	Kauai	Compliant	Compliant		
Department of Public Works	Kauai	Compliant	Compliant		
Department of Water	Kauai	Compliant	Compliant		
Board of Water Supply	Kauai	Compliant	Compliant		
Fire Department	Kauai	Compliant	Compliant		
Planning Department	Kauai	Compliant	Compliant		
Planning Commission	Kauai	Compliant	Compliant		
Kauai Historic Preservation Review Commission	Kauai	Compliant	Compliant		
Public Access, Open Space & Natural Resources Preservation Fund Commission	Kauai	Compliant	Compliant		