

# OAHU WORKFORCE DEVELOPMENT BOARD

innovation + opportunity + economic growth + human capital

## FULL BOARD MEETING

July 6, 2016 • 8:00 am to 9:00 am (approximate)

The Queen's Conference Center • 1301 Punchbowl Street, Board Room • Honolulu, HI 96813

## MINUTES

Present: James Tollefson, Kalei Inn, Shawn Kana'iaupuni, Jason Chang, Connie Mitchell, Marian Tsuji, Emmet White, Tim Wong, Russel Cheng, Meli James, Danelia Newman, Joanne Kealoha, Caroline Sluyter, Richard Vieira, Brian Lee, Lorna Woo, John Yamamoto, Carolyn Edward, Pono Chong, Gregg Fraser, Craig Watase, John Morton, Norma MacDonald

Absent: Brian Keala Benz, Richard Kaipo Lum, Cade Watanabe, Robbie Melton, Brent Kakesako, Kathryn Matayoshi, Albert Perez, Vance Roley

Staff: Marilyn A. Matsunaga, Alison Lum

Guests: Gary Nakata, Duane Pang, Barbara Yamashita

### I. Call to Order and Introductions

Board Chair Jim Tollefson called the meeting to order at 8:10 am when quorum was achieved. He commented that not everyone was present at the last meeting and asked everyone to introduce themselves.

The board members, staff and guests present introduced themselves.

### II. Approval of the Agenda

Unanimously approved.

Board Chair Jim Tollefson added that the agenda was also approved by the State Office of Information Practices which over sees the Sunshine Law.

### III. Public comment on issues on agenda, or if not on agenda, for consideration for board's agenda at next meeting

Mr. Gary Nakata, Director of the Department of Community Services asked Board Chair Jim Tollefson if he could say a few words.

This is my first time here, thank you for the invitation and, apologies we are going to have to leave at 8:30 for another meeting. Chair, thank you for the opportunity to speak really quickly on this. For those of you straining your neck, I'll just stand over here. This is my first meeting with the Board so on behalf of the Mayor, welcome and we look forward to working with you to make life better for a number of people on the island of Oahu. We are in receipt of the agenda and we've reviewed the letter that was attached to it. We just want to let you know that we look forward to working with you and your representatives in coming up with a plan to deal with these issues. With the advice and working with Marilyn over the last year and a half

we have been working on these issues and are coming up with a plan. We do know that there has been a recent game changer with rules being published. By some accounts people have told me that there is a thousand pages or there is 1500 pages... great reading, light reading material before you go to bed. But through our analysis we also understand that there's some new developments in there that I think will make the conflict of interest issues a little smoother and a little bit more palatable to work on, but that is not for one side to say or the other side to say, I think it's an "us thing", it's a "we thing", and we look forward to working with your representatives. If I might suggest Chair, it might be a good opportunity for the representatives on both sides and the team to get together to discuss the game changers and the new rules even before we approach the Mayor and I think we can make a comprehensive and collective recommendation to the Mayor. And I think he would appreciate that very much.

I'm joined by Barbara Yamashita, our Deputy Director, who's the smart one of the half, I'm just the voice, the guy that stands up and says things, and, again, we look forward to this partnership working with all of you to make like better for our employee workforce out there. Like I said she is the smart one of the half, I'm the voice. Again, apologies, we are going to have to leave at 8:30, again we look forward to working with you all in the days and months and years ahead. Thank you Marilyn for all you have done and your diligence. Chair, thank you.

Aloha.

VI. Action Item:

**Review and Approval of Letter to the Mayor from the Board regarding conflict-of-interest issues**

Executive Director Marilyn Matsunaga read the historical background summary which is contained in the letter and the chronology.

Discussion:

Question from Board Member John Morton: I assume the City still interested in still being a contractor and operating or competing for these services?

DCS Director Gary Nakata: The answer is yes, I think we bring the expertise to do it and at least one of our staff is nationally recognized to provide these services.

Board Member John Morton: If it has to go through procurement, whose procurement? Is it the City's procurement? The City would be making a procurement decision about a contract with itself?

DCS Director Gary Nakata: Yes. Really, while we can say that City is contracting with itself, just to give you some background information, the City makes many contracts with/per service providers the City does also have a Purchasing Department that works under the auspices of the Budget and Fiscal Services Department, which is a department separate from the Department of Community Services and any other contracting agency and this division follows the procurement code very strictly. And so with respect to any kind of conflict of interest that may occur following the procurement code in a very stringent manner, generally it... prohibits and restricts any situation that could come up and arise with conflict of interest.

Board Member John Morton: I just want to be sure that with this change at the Federal level, which is driving this, that they would agree with you.

DCS Director Gary Nakata: Generally I would think the Federal Law would.

Executive Director Marilyn Matsunaga: They just came out with the official regs and we just started reading it.

Board Member John Morton: So it sounds like it is time for a meeting just to talk these things through.

DCS Director Gary Nakata: The City is the grant recipient. Even if there was Federal laws mandating it, generally I would imagine that for procurement code it adheres to the local circumstances.

Board's Deputy Corporate Counsel Duane Pang: The Federal regs provide guidelines as to how to deal with potential conflict of interest, they will be effective very soon... within the next 60 days... we will look at them and that's why the initiation of this letter and the meeting to get the parties together to draw the potential wall to avoid the conflict-of-interest. We will be following the same procurement process and the Board will be doing procurement with the assistance of the purchasing department. The money does pass through the entire City.

Board Member Brain Lee: How is the criteria for selection established? Is it low bid?

Board's Deputy Corporate Counsel Duane Pang: There are a number of processes and we are going to work with the purchasing department, they're the experts on that. The guidelines and requirements will be Request for Proposals, or what we call full bids, will be I think done and then DCS will review it and then issue the guidelines.

Board Member Brian Lee: Will this Board have the final say?

Board's Deputy Corporate Counsel Duane Pang: As I understand it, yes.

Board Chair Jim Tollefson: Yes

Board Member Brian Lee: Is there a hard deadline that is driven by the Federal Regulations?

Executive Director Marilyn Matsunaga: The drop dead date for everything to transition is June 30, 2017

Board Member Gregg Fraser: If WorkLinks doesn't receive the funding again will it go away? Is it the only funding for WorkLinks receives? Is this the only funding that keeps WorkLinks alive?

DCS Director Gary: I think that it's the bulk of funding, if would dramatically impact the division, but more so I think our concern is that it will dramatically impact the client services.

Board Chair Jim Tollefson: It's about \$3 million federal funds

Board Member Gregg Fraser: Do we have a list of other service providers who may be applying?

Executive Director Marilyn Matsunaga: There is one provider that has come forward and has told me directly that they will be bidding and that's Goodwill Hawaii. Lots could bid. Nationwide, we hear that a number of non-profits and even for-profits are bidding. We even heard that there is a company from the UK that has been submitting bids all over. The law allows all kinds of entities to bid - for-profits, nonprofits, all kinds of entities have been bidding, community colleges are allowed to bid, state government can bid, other educational entities may bid.

Board Chair Jim Tollefson: What's coming out of this too is something we've been thinking about since this all changed, the opportunities and challenges this Board is going to face is that we are going to make the decision so that why we want to make sure this is done properly because we all have the fiduciary responsibility to make this is done right. So this is a step in that direction.

Board Chair Jim Tollefson called for a motion to approve the letter and direct himself, as Board Chair, to send the letter to Mayor Caldwell. Motion to approve the letter was made by Brian Lee, seconded by Gregg Fraser. None were opposed, 1 abstained (Craig Watase).

VII. Announcements

Next Board Meeting August 16, 2016

VIII. Adjournment

Adjourned at 8:30 am.

# OAHU WORKFORCE DEVELOPMENT BOARD

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July 6, 2016

The Honorable Kirk Caldwell  
Mayor, City and County of Honolulu  
Honolulu Hale  
Honolulu, Hawaii 96813

Dear Mayor Caldwell,

This letter is sent with the endorsement of the Full Board's vote.

Approximately 1 ½ years ago, the Oahu Workforce Development Board (OWDB) first expressed concerns to the City's Department of Community Services (DCS) about an imminent conflict-of-interest situation between the Board and the Department of Community Services. This situation was created with the passage of the Federal Workforce Innovation and Opportunity Act (WIOA) that signed into law by President Obama in July of 2014.

WIOA mandates its Local Boards across the nation, such as OWDB, to put out to competitive bid the contracts for its direct services. For Oahu, this means that the Board's services for [1]. Adults/Dislocated Workers; [2]. Youth; and [3]. One-Stop Operator will all be put out to competitive bid. Collectively, these services are often referred to as "Oahu WorkLinks."

## **Historical Background Summary:**

Prior to 1998, the Board was a non-profit known as the "Oahu Private Industry Council" (OPIC) and it operated under the Federal Job Training Partnership Act of 1982 (JTPA).

In 1998, the Federal Workforce Investment Act (WIA) was passed. Around that same time, the Board changed from being a non-profit to becoming a part of government as an administratively attached agency to the City's Department of Community Services. Under WIA, Boards across the nation were allowed to either put out for competitive bid contracts for direct services or to designate it direct service providers. Oahu's Local Board choose to designate its direct service providers. The Board designated the City's Department of Community Services/WorkHawaii Division as the provider for [1]. Adults/Dislocated Workers; [2]. Youth; and [3]. One-Stop Operator. All three services represent just under \$3 million per fiscal year.

In July of 2014, President Obama signed into law the federal Workforce Innovation and Opportunity Act (WIOA). The purpose of WIOA is for business-led Boards to better align the workforce system with education and economic development in an effort to create a collective response to economic and labor market challenges on the national, state, and local levels. WIOA continues the trend in Congressional workforce legislation by further engaging the private sector to lead local workforce development efforts. WIOA supports the development of strong, vibrant regional economies where businesses thrive and people want to live and work (source: National Association of Workforce Boards).

**Current Situation:**

The Board is "administratively attached" to the City's Department of Community Services (DCS). DCS/WorkHawaii Division is the Board's vendor for [1]. Adults/Dislocated Workers; [2]. Youth; and [3]. One-Stop Operator. These contracts are valued at just under \$3 million per fiscal year. Further, DCS is serving as the Mayor's Representative to the Board. Everything is reporting to the same entity – DCS.

This organizational and reporting structure is the source of the conflict-of-interest situation. Under the old WIA law of 1998, this arrangement might have been efficient. Under the current WIOA law of 2014, this organizational and reporting structure is no longer viable.

State officials indicate that a conflict-of-interest does exist and that it may impact Oahu's ability to receive federal WIOA funding.

Federal officials have also expressed concern about the organizational and reporting relationships between the Board and DCS.

**Board's Request:**

The Board requests a meeting with you, your Managing Director, the Director of DCS and the Board Officers to discuss and resolve this situation. Issues to discuss may include – intent of the federal WIOA law, organizational and reporting relationships, and outlining a timeline for implementing necessary changes.

The primary contact person for the Board on this matter is Board Chair Jim Tollefson and he may be reached at 808-225-2126 to confirm a meeting date and time.

Thank you for your personal attention to this matter.