

December 12, 1989

MEMORANDUM

TO: The Honorable Carla W. Coray
Director of Auditoriums
City and County of Honolulu

FROM: Hugh R. Jones, Staff Attorney

SUBJECT: Public Inspection of Compensation Paid to Ushers;
Parking Fees Charged to Municipal Employees

This is in reply to your letter dated August 21, 1989, requesting an advisory opinion concerning public inspection under the Uniform Information Practices Act (Modified) ("UIPA"), chapter 92F, Hawaii Revised Statutes, of compensation paid to ushers employed by the Department of Auditoriums ("Department") and parking rates charged to municipal employees.

ISSUES PRESENTED

I. Whether government records containing information relating to compensation paid presently or in the past to ushers employed by the Department are subject to public inspection under the UIPA.

II. Whether government records reflecting the rates charged to Department employees for parking fees are subject to public inspection under the UIPA.

BRIEF ANSWERS

I. Yes. Under the UIPA, the compensation paid to contract hires by an agency must be available for public inspection. Insofar as ushers employed by the Department are contract hires,

OIP Op. Ltr. No. 89-11

The Honorable Carla W. Coray
December 12, 1989
Page 2

the amount of their compensation both past and present is subject to public inspection.

II. Yes. Rates charged by the City and County of Honolulu to its employees for parking are established by ordinance and are subject to public inspection under the UIPA.

FACTS

An usher employed by the Department has requested information concerning the hourly wages paid to ushers in the past, the dates that ushers received pay raises in the past and the amounts paid by such employees for parking fees in the past. Ushers employed by the Department are "contract hires" and are exempt from civil service requirements.

DISCUSSION

Under the UIPA, the State's new public records law, the Legislature set forth records or categories of records which must be available for public inspection. These records are enumerated at section 92F-12(a), Hawaii Revised Statutes, which provides in pertinent part:

§92F-12 Disclosure required. (a) Any provision to the contrary notwithstanding each agency shall make available for public inspection and duplication during regular business hours:

. . . .

(10) Regarding contract hires and consultants employed by agencies, the contract itself, the amount of compensation, the duration of the contract, and the objectives of the contract;

The Honorable Carla W. Coray
December 12, 1989
Page 3

With respect to state and county contract hires, the Report of the Governor's Committee on Public Records and Privacy 110 (1987)¹ states:

There was also interest in ensuring that information on state and county contract hires is available to the public. This information is generally assumed to be public [T]his is an area of potential concern since contract hires avoid normal civil service hiring mechanisms or bidding processes and thus there is justification for monitoring the actions of public officials. At minimum, the names, salaries, and scope of services should be available in all cases, though a strong argument can be made that these contracts should be completely open.

As set forth in section 92F-12(a)(10), Hawaii Revised Statutes, it is apparent that the Legislature acted upon the above recommendation of the Governor's Committee. Accordingly, the hourly wages paid to such employees and the contract itself must be available for public inspection under the UIPA. Similarly, wages earned by such employees in the past, to the extent that such records continue to be maintained by an agency, are also available for public inspection. Nothing in the UIPA regulates the period of time that an agency must retain government records. Rather, with respect to records maintained by the City and County of Honolulu, the Municipal Reference and Records Center establishes the retention periods in coordination with the departments.

With respect to parking rates charged by the City and County of Honolulu to its employees, such rates are established by ordinance. The various counties are required by state law to compile, consolidate, revise, and index all duly enacted ordinances. See Haw. Rev. Stat. § 46-2.1 (1985). Such ordinances are subject to public inspection and copying under section 92F-11(a), Hawaii Revised Statutes. Accordingly, City and County ordinances establishing rates charged to municipal employees for parking are available for public inspection.

¹The recommendations of the Governor's Committee had a significant impact upon the drafting of the UIPA. See S. Stand. Comm. Rep. No. 2580, 14th Leg., 1988 Reg. Sess., Haw. S.J. 1093, 1095 (1988).

The Honorable Carla W. Coray
December 12, 1989
Page 4

The UIPA requires that government records setting forth the amount of compensation paid to contract hires of state and county government be available for public inspection once any confidential information has been deleted. Ushers employed by the Department are contract hires of the City and County of Honolulu and, therefore, the present and past compensation of these individuals are subject to public inspection, if such information is contained within government records maintained by an agency.

Amounts charged to employees of the City and County of Honolulu for parking are established by ordinance. Under section 92F-11(a), Hawaii Revised Statutes, these rates are likewise subject to public inspection.

Hugh R. Jones
Staff Attorney

HRJ:sc

APPROVED:

Kathleen A. Callaghan
Director