

ALAN M. ARAKAWA
Mayor



DAVID J. UNDERWOOD
Director

CYNTHIA M. RAZO-PORTER
Deputy Director

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2017 AUG -3 PM 1:39

COUNTY OF MAUI
DEPARTMENT OF PERSONNEL SERVICES

200 S. HIGH STREET * WAILUKU, MAUI, HAWAII 96793-2155
PHONE (808) 270-7850 * FAX (808) 270-7969

Website: www.mauicounty.gov/departments/Personnel * Email: personnel.services@mauicounty.gov

August 8, 2017

OFFICE OF THE
COUNTY COUNCIL

2017 AUG -9 PM 4:24

RECEIVED

Honorable Alan M. Arakawa
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

For Transmittal to:

Honorable Riki Hokama
Chair, Budget and Finance Committee
Maui County Council
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

 8/9/17
Mayor Date

Dear Chair Hokama:

SUBJECT: **PLAN OF AUDITS (FISCAL YEAR 2016) (AUDIT OF COUNTY PROCUREMENTS (pCARD))
(BF-98(3))**

We are in receipt of your communication (BF-98(3)), which poses several questions regarding employee retirement benefits. Please find our answers below.

1. *May an employee's retirement benefits be withheld as a penalty of a civil or criminal violation? Please explain.*

The benefits of the Employees' Retirement System are set forth by state statute. As far as we are aware, there is no provision that allows a member's retirement benefits to be withheld as a penalty for a civil or criminal conviction. Our understanding is that legislation has been proposed in prior years to provide for this, but the proposed legislation has not been enacted.

While there is no general provision allowing for such forfeiture, there are provisions allowing the County to garnish the retirement benefits of a member if the member has embezzled, stolen, or otherwise unlawfully taken, received, retained, or failed properly to account for any property or funds belonging to the County which have not been returned or repaid.

Honorable Riki Hokama

August 8, 2017

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2. *Has there been any instance in which a County employee was not entitled to retirement benefits as a penalty of a civil or criminal violation? Please explain.*

We do not know if there were any instances in which an employee's retirement benefits were withheld or garnished by the County. We are not aware of any, but garnishment would be initiated by the Director of Finance, with the assistance of the Department of the Corporation Counsel, in communication directly with the Employees' Retirement System. As our department would not necessarily have played a role in this process, there may be incidents of which we are unaware.

3. *Do any of the bargaining unit contract agreements contain provisions addressing retirement benefits in the event of a civil or criminal violation? If so, please provide a copy of the provision.*

None of the County's collective bargaining agreements contain provisions addressing retirement benefits. Under §89-9(d) of the Hawaii Revised Statutes, retirement benefits are specifically excluded from the scope of bargaining for our bargaining units, so the parties could not legally negotiate such a provision.

I hope this addresses your request. If you have any questions, please feel free to contact me at extension 7850.

Sincerely,



DAVID UNDERWOOD
Director of Personnel Services

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Attachment