

REQUEST FOR LEGAL SERVICES

Date: April 9, 2024
From: Yuki Lei K. Sugimura, Chair
Budget, Finance, and Economic Development Committee

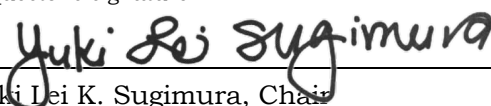
TRANSMITTAL

Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Kristina Toshikiyo, Esq.

Subject: GENERAL BUDGET PROVISIONS (BFED-1) (CC-5)

Background Data: Please see revised Sections 5 through 24 (General Budget Provisions) of Bill 60 (2024) (clean and track changes versions), incorporating housekeeping revisions. Please advise whether these revisions are acceptable or if you have further revisions to suggest. This version does not address any revisions that may still be desired to the penalties provision in light of the 2022 amendment to Charter section 13-10, or to the cap. Please submit your response to bfed.committee@mauicounty.us with a reference to BFED-1; CC-5.

Work Requested: FOR APPROVAL AS TO FORM AND LEGALITY
 OTHER: As described above.

Requestor's signature  Yuki Lei K. Sugimura, Chair	Contact Person <u>Carla Nakata</u> (Telephone Extension: <u>5519</u>)
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ROUTINE (WITHIN 15 WORKING DAYS) RUSH (WITHIN 5 WORKING DAYS)
 PRIORITY (WITHIN 10 WORKING DAYS) URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): April 16, 2024
REASON: In preparation for discussion of General Budget Provisions on April 17, 2024.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
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TO REQUESTOR: APPROVED DISAPPROVED OTHER (SEE COMMENTS BELOW)
 RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): _____

DEPARTMENT OF THE CORPORATION COUNSEL

Date _____

By _____

(Rev. 7/03)

GENERAL BUDGET PROVISIONS

SECTION 5. **E/Ps and LTAs.** An “E/P” or equivalent personnel is the decimal equivalent of a full-time position. A full-time position is equal to 2,080 scheduled hours of work during the fiscal year. All positions are computed as an equivalent of 2,080 scheduled hours of work; 1.0 E/P equals 2,080 hours. This method of computing the number of authorized personnel in a department or program must not be construed to grant to an incumbent in a position any rights beyond those provided by law or collective-bargaining agreement. All positions must be identified by an E/P designation. Disbursement must be limited to the total number of E/Ps identified in a program appropriation. Any transfer of E/Ps from one program to another must be approved by ordinance.

“LTA” or Limited Term Appointment means an appointment that is made from an eligible list or through a non-competitive promotion, transfer, or demotion for a specified temporary period.

SECTION 6. **Salaries and premium pay.** Appropriations for salaries and premium pay may be disbursed within the pertinent office, department, agency, or program for the following:

(A) a temporary position to functionally replace a permanent employee who is on long-term leave or who has been temporarily assigned to replace a permanent employee who is on long-term leave; disbursement must be limited in duration to the leave of the permanent employee who is on long-term leave; and

(B) trainee positions for which there is an existing or anticipated vacancy and for which hiring and replacing is critical to continued operations, if funds are available.

SECTION 7. **A and B accounts.** Unless otherwise provided in this ordinance, appropriations for each program may be disbursed for the following categories of use, if the disbursement is within the program and category of use for which it was appropriated:

(A) salaries, premium pay, or reallocation pay; and

(B) operations or services, and equipment.

The Budget Director must submit to the Council a quarterly report on all unbudgeted equipment purchased during the Fiscal Year.

Disbursement for salaries, premium pay, and reallocation pay must include temporary assignment pay, overtime pay, night differential pay, hazard pay, standby pay, emergency call back pay, reallocations, and reclassifications. Funds must not be disbursed for reallocations and reclassifications that involve a change in supervisory duties and responsibilities until the County Council receives written notice setting forth:

(A) an explanation of the reasons for the change; and

(B) organizational charts showing the existing organization and the proposed organization of the department.

The Administration must notify the County Council of any reallocation or reclassification when a position is transferred from the blue-collar compensation plan, white-collar non-professional compensation plan, white-collar professional compensation plan, uniformed fire compensation plan, or uniformed police compensation plan to a different compensation plan. An explanation of any temporary assignment, temporary transfer, and temporary allocation that is expected to be in effect for more than 30 days must be provided to the County Council. Receipt of written notice by the County Clerk constitutes receipt by the County Council. Any amounts appropriated as County matching funds may be encumbered and disbursed for operations, services, or equipment. Funds from the Countywide Self Insurance Program may be encumbered and disbursed for the replacement of motor vehicles and other equipment relating to insurance claim reimbursements.

Appropriations may be disbursed by a department to reimburse another department for work performed.

SECTION 8. General obligation bonds. General obligation bonds appropriated in this ordinance need not be authorized contemporaneously with this ordinance to be included as estimated revenues. Any increase or decrease in revenues or any increase or decrease in appropriations to any department or program, any transfer of funds from one department to another, or any transfer of funds within a department must be made in accordance with law.

SECTION 9. County and State laws. All provisions of law contained in the Maui County Code and Hawaii Revised Statutes that affect the expenditure of

the revenues from the rates, fees, assessments, and taxes in this ordinance are incorporated into this ordinance. All provisions of law limiting the expenditure of fund revenues are incorporated into this ordinance.

SECTION 10. **Capital improvement projects.** Each capital improvement project is described in Appendix C.

SECTION 11. **Grant revenues.**

(A) The grant revenues itemized in Part I of Appendix A that include revenues from grants and revenues with restricted uses, are expected to be derived by the County from Federal, State, or private sources during Fiscal Year 2025. These grant revenues are appropriated in the amounts set forth in Part I of Appendix A to the programs and uses identified in this ordinance, subject to the following conditions:

(1) The Administration must be in receipt of notification from the grantor:

(a) providing a grant award or a statement that the grant award will be forthcoming; and

(b) that the County is authorized to incur costs in accordance with the grant award;

(2) The Administration must provide written notice to the County Council, attaching a copy of the notification from the grantor; and

(3) Salaries and premium pay for equivalent personnel are compensated based on the terms or rules and regulations of the grant. Compensation for limited term personnel is deemed appropriated for the entire duration of the grant. Unless specifically authorized, grant revenues must not be used for salaries and personnel services for a County position.

(B) Subject to the requirements of this section, the Mayor is authorized to execute any documents to receive and expend the funds for the grants and programs identified in Part I of Appendix A.

(C) Grant revenues derived during Fiscal Year 2025 that are not included in Part I of Appendix A are subject to Sections 12 and 13, as may be appropriate.

SECTION 12. **Additional grant revenues.** Whenever the County is notified that grant revenues are available from Federal or State sources for programs other than those identified in Part I of Appendix A, the County Council may authorize the acceptance of the revenues by adding the revenues to Part I of Appendix A. The following procedure must apply:

(A) These grant revenues are deemed appropriated upon enactment of an ordinance adding the estimated revenues to Part I of Appendix A; provided, that disbursement is conditioned on:

(1) receipt of a notification of grant award from the grantor, or receipt of notification from the grantor that the grant award will be forthcoming and that the County is authorized to incur costs in accordance with the grant award; and

(2) written notice to the County Council, to which a copy of the notification from the grantor is attached.

(B) Subject to the requirements of this section, the Mayor is authorized to execute any documents to receive and expend the funds for the programs identified in the grant award.

SECTION 13. **Donations.** Whenever the County receives a donation of money from private sources not provided for in Part I of Appendix A, the County Council may approve its acceptance and authorize its expenditure in accordance with Chapter 3.56, Maui County Code.

SECTION 14. **Special purpose revenues.** The special purpose revenues set forth in Part II of Appendix A are expected to be on hand as of June 30, 2024, or derived by the County during Fiscal Year 2025, from the programs or activities described in the Revised Charter of the County of Maui (1983), as amended, Maui County Code, or Hawaii Revised Statutes at the references set forth under A through FF in this ordinance. The balance remaining in each of the revolving or special funds as of June 30, 2024, is reappropriated to the particular fund. Revenues derived from the particular program or activities during the fiscal year must be deposited into the applicable special purpose revenue fund. Expenditures from a fund must be through appropriations set forth in Part II of Appendix A.

SECTION 15. **Fees, rates, assessments, and taxes.** The fees, rates, assessments, and taxes in Appendix B are adopted.

SECTION 16. **Schedule of concessions, leases, and licenses.** The schedule of concessions, leases, and licenses in Appendix B-1 is adopted.

SECTION 17. **Estimated funds.** The several amounts listed below are declared to be the estimated encumbered County funds as of June 30, 2024, and unencumbered County funds on hand as of July 1, 2024. The estimated amounts set forth in this section are shown in accordance with Section 9-3 of the Revised Charter of the County of Maui (1983), as amended. The actual amounts of any encumbered and unencumbered funds that the County will have on hand as of June 30, 2024, will be set forth in the Annual Comprehensive Financial Report.

Encumbered funds:	\$484,262,867
Unencumbered funds (carryover/savings)	\$102,314,422

SECTION 18. **Transfers and loans.**

(A) For the purpose of this section, “County fund” excludes pension or retirement funds, funds under the control of any independent board or commission, funds set aside for the redemption of bonds or the payment of interest thereon, park assessment funds, or special purpose funds. If there is money in any County fund that the Director of Finance determines to be in excess of the amount necessary for the fund’s immediate requirements, the Director of Finance may make a temporary transfer or interest-free loan from the fund to the Bond Fund or the Housing Interim Financing and Buy-Back Revolving Fund, if the transfer or loan will not impede the County’s necessary or desirable financial operations. The amount of temporary transfers or loans must not exceed the amount of general obligation bonds, state loans, or notes authorized but not issued. At any time, the aggregate amount of transfers and loans that are unreimbursed must not exceed 10 percent of the total operating budget. In case of a disaster or emergency as defined in section 127A-2, Hawaii Revised Statutes, and resulting in a proclamation of a state of emergency or local state of emergency under section 127A-14, Hawaii Revised Statutes, the Council may, by ordinance, increase the allowable aggregate amount of transfers and loans by an additional 10 percent. Money transferred or loaned must be expended only for appropriations from the Bond Fund or the Housing Interim Financing and Buy-Back Revolving Fund, which appropriations are specified to be financed from the sale of general obligation bonds or notes. The fund from which transfers or loans are made must be reimbursed from time to time, in whole or in part, as determined by the

Director of Finance, and must be reimbursed from the proceeds of the sale of general obligation bonds, notes, or state loans, when issued.

(B) Within 30 days after the date each transfer or loan is made, the Director of Finance must provide the following information to the County Council:

(1) the amount of each transfer or loan made to date and the accumulated total;

(2) the budgetary bonding authorization for each transfer or loan made to date; and

(3) the time schedule for the sale of proposed general obligation bonds, notes, or state loans proposed for reimbursement or repayment of each transfer or loan made to date.

(C) Proceeds of tax-exempt general obligation bonds, state loans, or notes may be applied to reimburse or repay a transfer or loan that was used to fund public improvement costs paid before the issuance date, if the expenditure was:

(1) not made more than 60 days before the County's adoption of a declaration of official intent to finance the public improvement or the approval by ordinance authorizing the project to be funded with general obligation bonds, notes, or state loans;

(2) not made more than 18 months before the issuance date or the date the public improvement funded by the transfer or loan was placed-in-service, whichever is later; and

(3) not made more than three years before the issuance date, unless the cost is attributable to a "preliminary expenditure." For this purpose, preliminary expenditure means architectural, engineering, surveying, soil testing, and similar costs incurred prior to the commencement of construction or rehabilitation of the public improvement funded by the transfer or loan, but does not include land acquisition, site preparation, and similar costs incident to the commencement of acquisition, construction, or rehabilitation of the public improvement funded by the transfer or loan. Preliminary expenditures funded with proceeds of tax-exempt general obligation bonds or notes may not exceed 20 percent of the issue of tax-exempt general obligation bonds or notes.

(D) The Budget Director must consult with the Director of Finance from time to time as to the timing and eligibility of accrued expenditures eligible for reimbursement by tax-exempt general obligation bonds or notes. The Budget Director must annually provide the Director of Finance with a list of capital expenditures to be financed from the proceeds of tax-exempt general obligation bonds, notes, or state loans prior to their final inclusion in the County's annual budget.

(E) Nothing in this ordinance precludes the County from reimbursing temporary transfers or loans from taxable bonds or notes.

(F) At the close of each quarter, the Director of Finance must submit to the County Council a Combined Statement of Cash Receipts and Disbursements showing for each month for each individual fund the cash balance at the start of the accounting period, the cash receipts and disbursements during the period, and the cash balance at the end of the period. Within 45 days after the close of each quarter, the Director of Finance must submit a separate report showing the accumulated balance of any fund or account that exceeds \$100,000, and which would be available for appropriation upon certification by the Mayor.

(G) Within 45 days after the end of each quarter, the Director of Finance must submit to the County Council a report of the Countywide capital improvement projects for which an appropriation has been made, that includes a breakdown of all encumbrances and expenditures made the preceding quarter, by CBS number and project title.

(H) Within 45 days after the end of each quarter, the Managing Director must submit to the County Council a report of all capital improvement projects for which an appropriation has been made, that includes a brief description of the status of each project, and the estimated start and completion date of the project.

SECTION 19. Establishment of accounts. The Director of Finance is authorized to establish appropriate individual and separate accounts for receipts and expenditures except as otherwise provided in this ordinance. The Director of Finance is authorized to establish accounts for items of receipt and expenditures for the departments, agencies, or divisions as required by law to establish accounting and financial procedures under utility and other enterprise fund accounting.

SECTION 20. **Transfer of appropriations from countywide costs to a department.** The Director of Finance is authorized to transfer appropriations from programs under countywide costs to a department if:

(A) generally accepted accounting principles require the transfer to properly reflect the financial accounting of the department;

(B) the total appropriation transferred does not exceed the appropriation of the respective program in countywide costs; and

(C) the County Council is notified of the transfer with an explanation of the action. Receipt of written notice by the County Clerk constitutes receipt by the County Council.

SECTION 21. **Penalties.** Whoever intentionally or knowingly violates this ordinance may, upon conviction, be fined not more than \$1,000 or imprisoned not more than 30 days, or both.

SECTION 22. **Self-insurance coverage adjustment.** If a court of competent jurisdiction holds any appropriation in this ordinance invalid, the appropriation for the County's self-insurance coverage must be adjusted to the extent necessary to ensure the estimated revenues, proposed expenditures, and total appropriations are equal in amount, as required by Section 9-5 of the Revised Charter of the County of Maui (1983), as amended.

SECTION 23. **Severability.** If a court of competent jurisdiction holds any appropriation in this ordinance invalid, the invalidity does not affect other provisions or applications of the ordinance that can be given effect without the invalid provision or application.

SECTION 24. **Effective date.** This Ordinance takes effect on July 1, 2024.

APPROVED AS TO FORM AND LEGALITY:

Department of the Corporation Counsel
County of Maui

bfed:2025bgt:240407acc01_attachment:cmn

GENERAL BUDGET PROVISIONS

SECTION 5. **E/Ps and LTAs.** An “E/P” or equivalent personnel is the decimal equivalent of a full-time position. A full-time position is equal to 2,080 scheduled hours of work during the fiscal year. All positions are computed as an equivalent of 2,080 scheduled hours of work; 1.0 E/P equals 2,080 hours. This method of computing the number of authorized personnel in a department or program must not be construed to grant to an incumbent in a position any rights beyond those provided by law or collective-bargaining agreement. All positions must be identified by an E/P designation. Disbursement must be limited to the total number of E/Ps identified in a program appropriation. Any transfer of E/Ps from one program to another must be approved by ordinance.

“LTA” or Limited Term Appointment means an appointment that is made from an eligible list or through a non-competitive promotion, transfer, or demotion for a specified temporary period.

SECTION 6. **Salaries and premium pay.** Appropriations for salaries and premium pay may be disbursed within the pertinent office, department, agency, or program for the following:

(A) a temporary position to functionally replace a permanent employee who is on long-term leave or who has been temporarily assigned to replace a permanent employee who is on long-term leave; disbursement must be limited in duration to the leave of the permanent employee who is on long-term leave; and

(B) trainee positions for which there is an existing or anticipated vacancy and for which hiring and replacing is critical to continued operations, if funds are available.

SECTION 7. **A and B accounts.** Unless otherwise provided in this ordinance, appropriations for each program may be disbursed for the following categories of use, if the disbursement is within the program and category of use for which it was appropriated:

(A) salaries, premium pay, or reallocation pay; and

(B) operations or services, and equipment.

~~Furthermore, t~~The Budget Director must submit to the Council a quarterly report on all unbudgeted equipment purchased during the Fiscal Year.

Disbursement for salaries, premium pay, and reallocation pay must include temporary assignment pay, overtime pay, night differential pay, hazard pay, standby pay, emergency call back pay, reallocations, and reclassifications. Funds must not be disbursed for reallocations and reclassifications that involve a change in supervisory duties and responsibilities until the County Council receives written notice setting forth:

(A) an explanation of the reasons for the change; and

(B) organizational charts showing the existing organization and the proposed organization of the department.

The Administration must notify the County Council of any reallocation or reclassification when a position is transferred from the blue-collar compensation plan, white-collar non-professional compensation plan, white-collar professional compensation plan, uniformed fire compensation plan, or uniformed police compensation plan to a different compensation plan. An explanation of any temporary assignment, temporary transfer, and temporary allocation that is expected to be in effect for more than 30 days must be provided to the County Council. Receipt of written notice by the County Clerk constitutes receipt by the County Council. Any amounts appropriated as County matching funds may be encumbered and disbursed for operations, services, or equipment. ~~Furthermore, f~~Funds from the Countywide Self Insurance Program may be encumbered and disbursed for the replacement of motor vehicles and other equipment relating to insurance claim reimbursements.

Appropriations may be disbursed by a department to reimburse another department for work performed.

SECTION 8. General obligation bonds. General obligation bonds appropriated in this ordinance need not be authorized contemporaneously with this ordinance to be included as estimated revenues. Any increase or decrease in revenues or any increase or decrease in appropriations to any department or program, any transfer of funds from one department to another, or any transfer of funds within a department must be made in accordance with law.

SECTION 9. **County and State laws.** All provisions of law contained in the Maui County Code and Hawaii Revised Statutes that affect the expenditure of the revenues from the rates, fees, assessments, and taxes in this ordinance are incorporated into this ordinance. All provisions of law limiting the expenditure of fund revenues are incorporated into this ordinance.

SECTION 10. **Capital improvement projects.** ~~Project descriptions for~~ Each capital improvement project is described in Appendix C.

SECTION 11. **Grant revenues.**

(A) The grant revenues itemized in Part I of Appendix A that include revenues from grants and revenues with restricted uses, are expected to be derived by the County from Federal, State, or private sources during Fiscal Year 2025. These grant revenues are appropriated in the amounts set forth in Part I of Appendix A to the programs and uses identified in this ordinance, subject to the following conditions:

(1) The Administration must be in receipt of notification from the grantor:

(a) providing a grant award or a statement that the grant award will be forthcoming; and

(b) that the County is authorized to incur costs in accordance with the grant award; ~~and~~

(2) The Administration must provide written notice to the County Council, attaching a copy of the notification from the grantor; ~~and~~

(3) Salaries and premium pay for equivalent personnel are compensated based on the terms or rules and regulations of the grant. ~~Compensation for~~ Limited term personnel ~~are is~~ deemed appropriated for the entire duration of the grant. Unless specifically authorized, grant revenues must not be used for salaries and personnel services for a County position.

— (B) Subject to the requirements of this section, the Mayor is authorized to execute any documents to receive and expend the funds for the grants and programs identified in Part I of Appendix A.

— (C) Grant revenues derived during Fiscal Year 2025 that are not included in Part I of Appendix A are subject to Sections 12 and 13, as may be appropriate.

SECTION 12. Additional grant revenues. Whenever the County is notified that grant revenues are available from Federal or State sources for programs other than those identified in Part I of Appendix A, the County Council may authorize the acceptance of the revenues by adding the revenues to Part I of Appendix A. The following procedure must apply:

(A) These grant revenues are deemed appropriated upon enactment of an ordinance adding the estimated revenues to Part I of Appendix A; provided, that disbursement is conditioned on:

(1) receipt of a notification of grant award from the grantor, or receipt of notification from the grantor that the grant award will be forthcoming and that the County is authorized to incur costs in accordance with the grant award; and

(2) written notice to the County Council, to which a copy of the notification from the grantor is attached.

(B) Subject to the requirements of this section, the Mayor is authorized to execute any documents to receive and expend the funds for the programs identified in the grant award.

SECTION 13. Donations. Whenever the County receives a donation of money from private sources not provided for in Part I of Appendix A, the County Council may approve its acceptance and authorize its expenditure in accordance with Chapter 3.56, Maui County Code.

SECTION 14. Special purpose revenues. The special purpose revenues set forth in Part II of Appendix A are expected to be on hand as of June 30, 2024, or derived by the County during Fiscal Year 2025, from the programs or activities described in the Revised Charter of the County of Maui (1983), as amended, Maui County Code, or Hawaii Revised Statutes at the references set forth under A through **EEEE** in this ordinance. The balance remaining in each of the revolving or special funds as of June 30, 2024, is reappropriated to the particular fund. Revenues derived from the particular program or activities during the fiscal year must be deposited into the applicable special purpose

revenue fund. Expenditures from a fund must be through appropriations set forth in Part II of Appendix A.

SECTION 15. **Fees, rates, assessments, and taxes.** The fees, rates, assessments, and taxes in Appendix B are adopted.

SECTION 16. **Schedule of concessions, leases, and licenses.** The schedule of concessions, leases, and licenses in Appendix B-1 is adopted.

SECTION 17. **Estimated funds.** The several amounts listed below are declared to be the estimated encumbered County funds as of June 30, 2024, and unencumbered County funds on hand as of July 1, 2024. The estimated amounts set forth in this section are shown in accordance with Section 9-3 of the Revised Charter of the County of Maui (1983), as amended. The actual amounts of any encumbered and unencumbered funds that the County will have on hand as of June 30, 2024, will be set forth in the Annual Comprehensive Financial Report.

Encumbered funds:	\$484,262,867
Unencumbered funds (carryover/savings)	\$102,314,422

SECTION 18. **Transfers and loans.**

(A) For the purpose of this section, “County fund” excludes pension or retirement funds, funds under the control of any independent board or commission, funds set aside for the redemption of bonds or the payment of interest thereon, park ~~dedication~~ assessment funds, or special purpose funds. If there is money in any County fund that the Director of Finance determines to be in excess of the amount necessary for the fund’s immediate requirements, the Director of Finance may make a temporary transfer or interest-free loan from the fund to the Bond Fund or the Housing Interim Financing and Buy-Back Revolving Fund, if the transfer or loan will not impede the County’s necessary or desirable financial operations. The amount of temporary transfers or loans must not exceed the amount of general obligation bonds, state loans, or notes authorized but not issued. At any time, the aggregate amount of transfers and loans that ~~must bear~~ unreimbursed must not exceed 10 percent of the total operating budget. In case of a disaster or emergency as defined in section 127A-2, Hawaii Revised Statutes, and resulting in a proclamation of a state of emergency or local state of emergency under section 127A-14, Hawaii Revised Statutes, the Council may, by ordinance, increase the allowable aggregate amount of transfers and loans by an additional 10 percent. Money transferred or loaned must be expended only for appropriations from the Bond

Fund or the Housing Interim Financing and Buy-Back Revolving Fund, which appropriations are specified to be financed from the sale of general obligation bonds or notes. The fund from which transfers or loans are made must be reimbursed from time to time, in whole or in part, as determined by the Director of Finance, and must be reimbursed from the proceeds of the sale of general obligation bonds, notes, or state loans, when issued.

(B) Within 30 days after the date each transfer or loan is made, the Director of Finance must provide the following information to the County Council:

———(A1) the amount of each transfer or loan made to date and the accumulated total;

———(B2) the budgetary bonding authorization for each transfer or loan made to date; and

———(C3) the time schedule for the sale of proposed general obligation bonds, notes, or state loans proposed for reimbursement or repayment of each transfer or loan made to date.

(C) Proceeds of tax-exempt general obligation bonds, state loans, or notes may be applied to reimburse or repay a transfer or loan that was used to fund public improvement costs paid before the issuance date, if the expenditure was:

———(A1) not made ~~prior to~~ more than 60 days before the County’s adoption of a declaration of official intent to finance the public improvement or the approval by ordinance authorizing the projects to be funded with general obligation bonds, notes, or state loans;

———(B2) not made more than 18 months ~~prior to~~ before the issuance date or the date the public improvement funded by the transfer or loan was placed-in-service, whichever is later; and

———(C3) not made more than three years ~~prior to~~ before the issuance date, unless the cost is attributable to a “preliminary expenditure.” For this purpose, preliminary expenditure means architectural, engineering, surveying, soil testing, and similar costs incurred prior to the commencement of construction or rehabilitation of the public improvement funded by the transfer or loan, but does not include land acquisition, site preparation, and similar costs incident to the commencement of acquisition,

construction, or rehabilitation of the public improvement funded by the transfer or loan. Preliminary expenditures funded with proceeds of tax-exempt general obligation bonds or notes may not exceed 20 percent of the issue of tax-exempt general obligation bonds or notes.

(D) The Budget Director must consult with the Director of Finance from time to time as to the timing and eligibility of accrued expenditures eligible for reimbursement by tax-exempt general obligation bonds or notes. The Budget Director must annually provide the Director of Finance with a list of capital expenditures to be financed from the proceeds of tax-exempt general obligation bonds, notes, or state loans prior to their final inclusion in the County's annual budget.

(E) Nothing in this ordinance precludes the County from reimbursing temporary transfers or loans from taxable bonds or notes.

(F) At the close of each quarter, the Director of Finance must submit to the County Council a Combined Statement of Cash Receipts and Disbursements showing for each month for each individual fund the cash balance at the start of the accounting period, the cash receipts and disbursements during the period, and the cash balance at the end of the period. Within 45 days after the close of each quarter, the Director of Finance must submit a separate report showing the accumulated balance of any fund or account that exceeds \$100,000, and which would be available for appropriation upon certification by the Mayor.

(G) Within 45 days after the end of each quarter, the Director of Finance must submit to the County Council a report of the Countywide capital improvement projects for which an appropriation has been made, that includes a breakdown of all encumbrances and expenditures made the preceding quarter ~~and a brief description of each expenditure~~, by CBS number and project title.

~~Furthermore,~~ (H) Within 45 days after the end of each quarter, the Managing Director must submit to the County Council a report of all capital improvement projects for which an appropriation has been made, that includes a brief description of the status of each project, and the estimated start and completion date of the project.

SECTION 19. **Establishment of accounts.** The Director of Finance is authorized to establish appropriate individual and separate accounts for

receipts and expenditures except as otherwise provided in this ordinance. The Director of Finance is authorized to establish accounts for items of receipt and expenditures for the departments, agencies, or divisions as required by law to establish accounting and financial procedures under utility and other enterprise fund accounting.

SECTION 20. **Transfer of appropriations from countywide costs to a department.** The Director of Finance is authorized to transfer appropriations from programs under countywide costs to a department if:

(A) generally accepted accounting principles require the transfer to properly reflect the financial accounting of the department;

(B) the total appropriation transferred ~~must~~does not exceed the appropriation of the respective program in countywide costs; and

(C) the County Council is notified of the transfer with an explanation of the action. Receipt of written notice by the County Clerk constitutes receipt by the County Council.

SECTION 21. **Penalties.** Whoever intentionally or knowingly violates this ordinance may, upon conviction, be fined not more than \$1,000 or imprisoned not more than 30 days, or both.

SECTION 22. **Self-insurance coverage adjustment.** If a court of competent jurisdiction holds any appropriation in this ordinance invalid, the appropriation for the County's self-insurance coverage must be adjusted to the extent necessary to ~~maintain the equality of~~ensure the estimated revenues, proposed expenditures, and total appropriations are equal in amount, as required by Section 9-5 of the Revised Charter of the County of Maui (1983), as amended.

SECTION 23. **Severability.** If a court of competent jurisdiction holds any appropriation in this ordinance invalid, the invalidity does not affect other provisions or applications of the ordinance that can be given effect without the invalid provision or application.

BFED Committee

From: BFED Committee
Sent: Tuesday, April 9, 2024 4:26 PM
To: CorpCounselRFLS@co.maui.hi.us
Cc: BFED Committee; Lesley Milner
Subject: OCS - BFED, FISCAL YEAR ("FY") 2025 BUDGET (BFED 1) (CC 5); reply by 04/16/2024
Attachments: (CC-5) Correspondence to Corp Counsel 04-09-2024.pdf; 240407acc01_attachment with edits.doc

REQUEST FOR LEGAL SERVICES

RECEIVED

By Corporation Counsel at 7:34 am, Apr 10, 2024

Date: April 9, 2024
From: Yuki Lei K. Sugimura, Chair
Budget, Finance, and Economic Development Committee

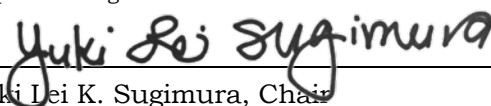
TRANSMITTAL
Memo to:

DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Kristina Toshikiyo, Esq.

Subject: GENERAL BUDGET PROVISIONS (BFED-1) (CC-5)

Background Data: Please see revised Sections 5 through 24 (General Budget Provisions) of Bill 60 (2024) (clean and track changes versions), incorporating housekeeping revisions. Please advise whether these revisions are acceptable or if you have further revisions to suggest. This version does not address any revisions that may still be desired to the penalties provision in light of the 2022 amendment to Charter section 13-10, or to the cap. Please submit your response to bfed.committee@mauicounty.us with a reference to BFED-1; CC-5.

Work Requested: FOR APPROVAL AS TO FORM AND LEGALITY
 OTHER: As described above.

Requestor's signature  Yuki Lei K. Sugimura, Chair	Contact Person <u>Carla Nakata</u> (Telephone Extension: <u>5519</u>)
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ROUTINE (WITHIN 15 WORKING DAYS) RUSH (WITHIN 5 WORKING DAYS)
 PRIORITY (WITHIN 10 WORKING DAYS) URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): April 16, 2024
REASON: In preparation for discussion of General Budget Provisions on April 17, 2024.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO: <u>KCT</u>	ASSIGNMENT NO. <u>2023-0087</u>	BY: <u>maa</u>
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TO REQUESTOR: APPROVED DISAPPROVED OTHER (SEE COMMENTS BELOW)
 RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): _____

DEPARTMENT OF THE CORPORATION COUNSEL

Date 4/11/24

By  (Rev. 7/03)

GENERAL BUDGET PROVISIONS

SECTION 5. **E/Ps and LTAs.** An “E/P” or equivalent personnel is the decimal equivalent of a full-time position. A full-time position is equal to 2,080 scheduled hours of work during the fiscal year. All positions are computed as an equivalent of 2,080 scheduled hours of work; 1.0 E/P equals 2,080 hours. This method of computing the number of authorized personnel in a department or program must not be construed to grant to an incumbent in a position any rights beyond those provided by law or collective-bargaining agreement. All positions must be identified by an E/P designation. Disbursement must be limited to the total number of E/Ps identified in a program appropriation. Any transfer of E/Ps from one program to another must be approved by ordinance.

“LTA” or Limited Term Appointment means an appointment that is made from an eligible list or through a non-competitive promotion, transfer, or demotion for a specified temporary period.

SECTION 6. **Salaries and premium pay.** Appropriations for salaries and premium pay may be disbursed within the pertinent office, department, agency, or program for the following:

(A) a temporary position to functionally replace a permanent employee who is on long-term leave or who has been temporarily assigned to replace a permanent employee who is on long-term leave; disbursement must be limited in duration to the leave of the permanent employee who is on long-term leave; and

(B) trainee positions for which there is an existing or anticipated vacancy and for which hiring and replacing is critical to continued operations, if funds are available.

SECTION 7. **A and B accounts.** Unless otherwise provided in this ordinance, appropriations for each program may be disbursed for the following categories of use, if the disbursement is within the program and category of use for which it was appropriated:

(A) salaries, premium pay, or reallocation pay; and

(B) operations or services, and equipment.

The Budget Director must submit to the Council a quarterly report on all unbudgeted equipment purchased during the Fiscal Year.

Disbursement for salaries, premium pay, and reallocation pay must include temporary assignment pay, overtime pay, night differential pay, hazard pay, standby pay, emergency call back pay, reallocations, and reclassifications. Funds must not be disbursed for reallocations and reclassifications that involve a change in supervisory duties and responsibilities until the County Council receives written notice setting forth:

(A) an explanation of the reasons for the change; and

(B) organizational charts showing the existing organization and the proposed organization of the department.

The Administration must notify the County Council of any reallocation or reclassification when a position is transferred from the blue-collar compensation plan, white-collar non-professional compensation plan, white-collar professional compensation plan, uniformed fire compensation plan, or uniformed police compensation plan to a different compensation plan. An explanation of any temporary assignment, temporary transfer, and temporary allocation that is expected to be in effect for more than 30 days must be provided to the County Council. Receipt of written notice by the County Clerk constitutes receipt by the County Council. Any amounts appropriated as County matching funds may be encumbered and disbursed for operations, services, or equipment. Funds from the Countywide Self Insurance Program may be encumbered and disbursed for the replacement of motor vehicles and other equipment relating to insurance claim reimbursements.

Appropriations may be disbursed by a department to reimburse another department for work performed.

SECTION 8. General obligation bonds. General obligation bonds appropriated in this ordinance need not be authorized contemporaneously with this ordinance to be included as estimated revenues. Any increase or decrease in revenues or any increase or decrease in appropriations to any department or program, any transfer of funds from one department to another, or any transfer of funds within a department must be made in accordance with law.

SECTION 9. County and State laws. All provisions of law contained in the Maui County Code and Hawaii Revised Statutes that affect the expenditure of

the revenues from the rates, fees, assessments, and taxes in this ordinance are incorporated into this ordinance. All provisions of law limiting the expenditure of fund revenues are incorporated into this ordinance.

SECTION 10. **Capital improvement projects.** Each capital improvement project is described in Appendix C.

SECTION 11. **Grant revenues.**

(A) The grant revenues itemized in Part I of Appendix A that include revenues from grants and revenues with restricted uses, are expected to be derived by the County from Federal, State, or private sources during Fiscal Year 2025. These grant revenues are appropriated in the amounts set forth in Part I of Appendix A to the programs and uses identified in this ordinance, subject to the following conditions:

(1) The Administration must be in receipt of notification from the grantor:

(a) providing a grant award or a statement that the grant award will be forthcoming; and

(b) that the County is authorized to incur costs in accordance with the grant award;

(2) The Administration must provide written notice to the County Council, attaching a copy of the notification from the grantor; and

(3) Salaries and premium pay for equivalent personnel are compensated based on the terms or rules and regulations of the grant. Compensation for limited term personnel is deemed appropriated for the entire duration of the grant. Unless specifically authorized, grant revenues must not be used for salaries and personnel services for a County position.

(B) Subject to the requirements of this section, the Mayor is authorized to execute any documents to receive and expend the funds for the grants and programs identified in Part I of Appendix A.

(C) Grant revenues derived during Fiscal Year 2025 that are not included in Part I of Appendix A are subject to Sections 12 and 13, as may be appropriate.

SECTION 12. **Additional grant revenues.** Whenever the County is notified that grant revenues are available from Federal or State sources for programs other than those identified in Part I of Appendix A, the County Council may authorize the acceptance of the revenues by adding the revenues to Part I of Appendix A. The following procedure must apply:

(A) These grant revenues are deemed appropriated upon enactment of an ordinance adding the estimated revenues to Part I of Appendix A; provided, that disbursement is conditioned on:

(1) receipt of a notification of grant award from the grantor, or receipt of notification from the grantor that the grant award will be forthcoming and that the County is authorized to incur costs in accordance with the grant award; and

(2) written notice to the County Council, to which a copy of the notification from the grantor is attached.

(B) Subject to the requirements of this section, the Mayor is authorized to execute any documents to receive and expend the funds for the programs identified in the grant award.

SECTION 13. **Donations.** Whenever the County receives a donation of money from private sources not provided for in Part I of Appendix A, the County Council may approve its acceptance and authorize its expenditure in accordance with Chapter 3.56, Maui County Code.

SECTION 14. **Special purpose revenues.** The special purpose revenues set forth in Part II of Appendix A are expected to be on hand as of June 30, 2024, or derived by the County during Fiscal Year 2025, from the programs or activities described in the Revised Charter of the County of Maui (1983), as amended, Maui County Code, or Hawaii Revised Statutes at the references set forth under A through FF in this ordinance. The balance remaining in each of the revolving or special funds as of June 30, 2024, is reappropriated to the particular fund. Revenues derived from the particular program or activities during the fiscal year must be deposited into the applicable special purpose revenue fund. Expenditures from a fund must be through appropriations set forth in Part II of Appendix A.

SECTION 15. **Fees, rates, assessments, and taxes.** The fees, rates, assessments, and taxes in Appendix B are adopted.

SECTION 16. **Schedule of concessions, leases, and licenses.** The schedule of concessions, leases, and licenses in Appendix B-1 is adopted.

SECTION 17. **Estimated funds.** The several amounts listed below are declared to be the estimated encumbered County funds as of June 30, 2024, and unencumbered County funds on hand as of July 1, 2024. The estimated amounts set forth in this section are shown in accordance with Section 9-3 of the Revised Charter of the County of Maui (1983), as amended. The actual amounts of any encumbered and unencumbered funds that the County will have on hand as of June 30, 2024, will be set forth in the Annual Comprehensive Financial Report.

Encumbered funds:	\$484,262,867
Unencumbered funds (carryover/savings)	\$102,314,422

SECTION 18. **Transfers and loans.**

(A) For the purpose of this section, “County fund” excludes pension or retirement funds, funds under the control of any independent board or commission, funds set aside for the redemption of bonds or the payment of interest thereon, park assessment funds, or special purpose funds. If there is money in any County fund that the Director of Finance determines to be in excess of the amount necessary for the fund’s immediate requirements, the Director of Finance may make a temporary transfer or interest-free loan from the fund to the Bond Fund or the Housing Interim Financing and Buy-Back Revolving Fund, if the transfer or loan will not impede the County’s necessary or desirable financial operations. The amount of temporary transfers or loans must not exceed the amount of general obligation bonds, state loans, or notes authorized but not issued. At any time, the aggregate amount of transfers and loans that are unreimbursed must not exceed 10 percent of the total operating budget. In case of a disaster or emergency as defined in section 127A-2, Hawaii Revised Statutes, and resulting in a proclamation of a state of emergency or local state of emergency under section 127A-14, Hawaii Revised Statutes, the Council may, by ordinance, increase the allowable aggregate amount of transfers and loans by an additional 10 percent. Money transferred or loaned must be expended only for appropriations from the Bond Fund or the Housing Interim Financing and Buy-Back Revolving Fund, which appropriations are specified to be financed from the sale of general obligation bonds or notes. The fund from which transfers or loans are made must be reimbursed from time to time, in whole or in part, as determined by the

Director of Finance, and must be reimbursed from the proceeds of the sale of general obligation bonds, notes, or state loans, when issued.

(B) Within 30 days after the date each transfer or loan is made, the Director of Finance must provide the following information to the County Council:

(1) the amount of each transfer or loan made to date and the accumulated total;

(2) the budgetary bonding authorization for each transfer or loan made to date; and

(3) the time schedule for the sale of proposed general obligation bonds, notes, or state loans proposed for reimbursement or repayment of each transfer or loan made to date.

(C) Proceeds of tax-exempt general obligation bonds, state loans, or notes may be applied to reimburse or repay a transfer or loan that was used to fund public improvement costs paid before the issuance date, if the expenditure was:

(1) not made more than 60 days before the County's adoption of a declaration of official intent to finance the public improvement or the approval by ordinance authorizing the project to be funded with general obligation bonds, notes, or state loans;

(2) not made more than 18 months before the issuance date or the date the public improvement funded by the transfer or loan was placed-in-service, whichever is later; and

(3) not made more than three years before the issuance date, unless the cost is attributable to a "preliminary expenditure." For this purpose, preliminary expenditure means architectural, engineering, surveying, soil testing, and similar costs incurred prior to the commencement of construction or rehabilitation of the public improvement funded by the transfer or loan, but does not include land acquisition, site preparation, and similar costs incident to the commencement of acquisition, construction, or rehabilitation of the public improvement funded by the transfer or loan. Preliminary expenditures funded with proceeds of tax-exempt general obligation bonds or notes may not exceed 20 percent of the issue of tax-exempt general obligation bonds or notes.

(D) The Budget Director must consult with the Director of Finance from time to time as to the timing and eligibility of accrued expenditures eligible for reimbursement by tax-exempt general obligation bonds or notes. The Budget Director must annually provide the Director of Finance with a list of capital expenditures to be financed from the proceeds of tax-exempt general obligation bonds, notes, or state loans prior to their final inclusion in the County's annual budget.

(E) Nothing in this ordinance precludes the County from reimbursing temporary transfers or loans from taxable bonds or notes.

(F) At the close of each quarter, the Director of Finance must submit to the County Council a Combined Statement of Cash Receipts and Disbursements showing for each month for each individual fund the cash balance at the start of the accounting period, the cash receipts and disbursements during the period, and the cash balance at the end of the period. Within 45 days after the close of each quarter, the Director of Finance must submit a separate report showing the accumulated balance of any fund or account that exceeds \$100,000, and which would be available for appropriation upon certification by the Mayor.

(G) Within 45 days after the end of each quarter, the Director of Finance must submit to the County Council a report of the Countywide capital improvement projects for which an appropriation has been made, that includes a breakdown of all encumbrances and expenditures made the preceding quarter, by CBS number and project title.

(H) Within 45 days after the end of each quarter, the Managing Director must submit to the County Council a report of all capital improvement projects for which an appropriation has been made, that includes a brief description of the status of each project, and the estimated start and completion date of the project.

SECTION 19. Establishment of accounts. The Director of Finance is authorized to establish appropriate individual and separate accounts for receipts and expenditures except as otherwise provided in this ordinance. The Director of Finance is authorized to establish accounts for items of receipt and expenditures for the departments, agencies, or divisions as required by law to establish accounting and financial procedures under utility and other enterprise fund accounting.

SECTION 20. **Transfer of appropriations from countywide costs to a department.** The Director of Finance is authorized to transfer appropriations from programs under countywide costs to a department if:

(A) generally accepted accounting principles require the transfer to properly reflect the financial accounting of the department;

(B) the total appropriation transferred does not exceed the appropriation of the respective program in countywide costs; and

(C) the County Council is notified of the transfer with an explanation of the action. Receipt of written notice by the County Clerk constitutes receipt by the County Council.


SECTION 21. **Penalties.** Whoever intentionally or knowingly violates this ordinance may, upon conviction, be fined not more than \$1,000 or imprisoned not more than 30 days, or both.

SECTION 22. **Self-insurance coverage adjustment.** If a court of competent jurisdiction holds any appropriation in this ordinance invalid, the appropriation for the County's self-insurance coverage must be adjusted to the extent necessary to ensure the estimated revenues, proposed expenditures, and total appropriations are equal in amount, as required by Section 9-5 of the Revised Charter of the County of Maui (1983), as amended.

SECTION 23. **Severability.** If a court of competent jurisdiction holds any appropriation in this ordinance invalid, the invalidity does not affect other provisions or applications of the ordinance that can be given effect without the invalid provision or application.

SECTION 24. **Effective date.** This Ordinance takes effect on July 1, 2024.

APPROVED AS TO FORM AND LEGALITY:



Department of the Corporation Counsel
County of Maui

bfed:2025bgt:240407acc01_attachment:cmn

BFED Committee

From: Kristina Toshikiyo <Kristina.C.Toshikiyo@co.maui.hi.us>
Sent: Thursday, April 11, 2024 9:53 AM
To: BFED Committee
Cc: Melody Andrion; Carla M. Nakata
Subject: BFED-1 (CC-5) FY25 General Budget Provisions
Attachments: BFED-1 (CC-5) 2024-04-10 RFLS Closing FY2025 General Budget Provisions.pdf

Aloha,

Please see the attached approved revisions to the GDP, thank you!

Kristina

***Department of Corporation Counsel emails may contain attorney-client privilege information and should not be forwarded without approval.

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