

REQUEST FOR LEGAL SERVICES

RECEIVED

By Corporation Counsel at 9:16 am, Mar 30, 2026

Date: March 28, 2026

From: Yuki Lei K. Sugimura, Chair

Budget, Finance, and Economic Development Committee

TRANSMITTAL

Memo to:

DEPARTMENT OF THE CORPORATION COUNSEL

Attention: Kristie Wrigglesworth, Esq.

Subject: ADMINISTRATION AND MANAGEMENT OF GRANTS (BFED-20(12))

Background Data: Please see the attachment. Please submit your response to bfed.committee@mauicounty.us with a reference to BFED-20(12).

Work Requested: ☐ FOR APPROVAL AS TO FORM AND LEGALITY

☒ OTHER: Legal opinion.

Requestor's signature

Yuki Lei K. Sugimura
Yuki Lei K. Sugimura, Chair

Contact Person

Kirsten Szabo or Peter Hanano

(Telephone Extension: 7662 or 8007, respectively)

☐ 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 2, 2026

REASON: The Councilmembers' requested information for developing priorities, conditions, and amendments.

FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO: KMW

ASSIGNMENT NO. 2025-0169

BY: maa

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): See the requested response attached hereto and emailed to bfed.committee@mauicounty.us on 03/31/2026.

DEPARTMENT OF THE CORPORATION COUNSEL

Date

03/31/2026

By

Kristie Wrigglesworth

(Rev. 7/03)

bfed:020(12)acc02:kes

Attachment

Thank you for participating in the Council's Budget, Finance, and Economic Development Committee's discussion on the Administration and Management of Grants at its meeting of March 25, 2026.

The Committee discussed the County's grantmaking processes, including the distinction between grants and contracts and the possibility that some items may be structured as contracts rather than grants.

May I please request the following:

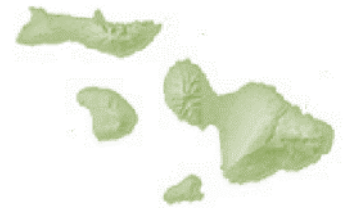
1. Explain when an item must be treated as a grant versus a contract, including the factors the Administration and your Department use to make that determination. Please include a copy of any written checklist, guidance, or criteria currently used.
2. Explain the implications under Chapter 343, Hawai'i Revised Statutes, when an item that was traditionally structured as a grant is instead structured as a contract, including:
 - Whether that change may trigger environmental review and when an environmental assessment or environmental impact statement may be required;
 - What exemptions may apply; and
 - Whether the change may affect the timing of a project or service delivery.

RICHARD T. BISSEN, JR.
Mayor

VICTORIA J. TAKAYESU
Corporation Counsel

MIMI DESJARDINS
First Deputy

LYDIA A. TODA
Risk Management Officer



DEPARTMENT OF THE CORPORATION COUNSEL
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200 SOUTH HIGH STREET, 3RD FLOOR
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TELEPHONE: (808)270-7740

MEMO TO: Maui County Council - BFED Committee
Yuki Lei K. Sugimura, Chair

FROM: Kristie M. Wrigglesworth, Deputy Corporation Counsel

DATE: March 31, 2026

SUBJECT: BFED-20(12) Administration and Management of Grants

We respond to your request for legal services dated March 28, 2026 requesting an opinion on the questions present below.

1. Explain when an item must be treated as a grant versus a contract, including the factors the Administration and your Department use to make that determination. Please include a copy of any written checklist, guidance, or criteria currently used.

Response:

Chapter 103D, Hawai'i Revised Statutes, known as the Hawai'i Public Procurement Code, governs the procurement of goods, services, or construction by state and county governmental bodies. It was enacted to standardize and reform government purchasing statewide. Section 3.12.070, Maui County Code, requires that expenditures of public money be made in accordance with the competitive bidding requirements and other applicable sections of Chapter 103, Hawai'i Revised Statutes, and as otherwise required by law. Chapter 103D, Hawai'i Revised Statutes, and Chapter 3.12, Maui County Code, together create a structured procurement system that promotes fair competition, transparency, and accountability in government contracting, and aims to deter favoritism, fraud, and corruption.

To distinguish between contracts that require procurement and grants, the following factors and questions, developed by Corporation Counsel and provided to all departments that administer grants, are currently being used:

1. Community-Based Program Purpose

Are the funds being used for a community-based program with independent program design that serves the community and supports a mission?

A “yes” response supports classification as a grant.

2. Indicators that Support Classification as a Contract

Are the funds being used for any of the following:

- Maintaining County Parks or Facilities
- Operating County programs under County control
- Delivering specific services directly to the County, where the County has defined the scope
- Receipt of deliverable or end product by the County
- Producing reports, studies, or systems for County use
- An activity that could be competitively bid

A “yes” response to any of the above suggests the arrangement may be a contract.

If any of the factors in Section 2 apply, a request for legal services should be submitted to Corporation Counsel for further analysis based on the specific facts and circumstances to determine if Chapter 103D, Hawai‘i Revised Statutes, and Chapter 3.12, Maui County Code, apply.

2. Explain the implications under Chapter 343, Hawai‘i Revised Statutes, when an item that was traditionally structured as a grant is instead structured as a contract, including:

- Whether that change may trigger environmental review and when an environmental assessment or environmental impact statement may be required;
- What exemptions may apply; and
- Whether the change may affect the timing of a project or service delivery.

Response:

1. Restructuring an item from a grant to a contract may trigger environmental review requirements under Chapter 343, Hawai‘i Revised Statutes. This is because a contract more often reflects direct County involvement or approval of a project that may require preparation of an

environmental assessment (EA) or an environmental impact statement (EIA), unless an exemption applies.

2. Certain classes of actions that have been determined to have minimal or no significant environmental impact may be exempt from the preparation of an EA. The current countywide EA exemption list identifies potential applicable exemptions. In addition, department-specific EA exemption lists are being developed by Corporation Counsel in coordination with department directors and are expected to replace the countywide list by the end of August 2026. These updated lists are intended to streamline the exemption determination process.
3. If an EA is required, project timelines may be significantly affected. The EA process involves preparation, consultation, public review and comment, and a final determination, which can take several months to complete. This should be considered when planning project implementation or service delivery timelines.

APPROVED FOR TRANSMITTAL:



KRISTIE M. WRIGGLESWORTH
Deputy Corporation Counsel

LF2025-0169
BFED-20(12) Response Memo to Chair Sugimura re administration and managements of grants.docx

BFED Committee

From: Kristie M. Wigglesworth <Kristie.Wigglesworth@co.maui.hi.us>
Sent: Tuesday, March 31, 2026 2:51 PM
To: BFED Committee
Cc: Melody A. Andrion
Subject: BFED-20(12) Response Memo to Chair Sugimura re Administration and Management of Grants | Closing (2025 -0169)
Attachments: BFED-20(12) Response Memo to Chair Sugimura re Administration & Management of Grants_RFLS Closing.PDF

Dear BFED Committee,

See the attached completed request for legal services dated March 28, 2026, and response memorandum.

Mahalo,

Kristie Wigglesworth
Deputy Corporation Counsel
Department of the Corporation Counsel
County of Maui
200 So. High Street, 3rd Floor
Wailuku, HI 96793
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Kristie.Wigglesworth@co.maui.hi.us

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