

NOTICE TO REQUESTER

TO: Ralph Cushnie 1279 <request+bc6gfdx969@foi.uipa.org>
(Requester's name)

FROM: Elections Division <elections@kauai.gov>
(Agency, and agency contact person's name, telephone number, mailing, & email address)

DATE THAT THE RECORD REQUEST WAS RECEIVED BY AGENCY: 02/02/2025

DATE OF THIS NOTICE: 02/07/2025

GOVERNMENT RECORDS YOU REQUESTED (attach copy of request or provide brief description below):

1. See attached request letter and response from our office.
- 2.
- 3.
- 4.

THIS NOTICE IS TO INFORM YOU THAT YOUR RECORD REQUEST:

☒ Will be granted in its entirety.

☐ Cannot be granted. Agency is unable to disclose the requested records for the following reason:

- ☐ Agency does not maintain the records. (HRS § 92F-3)
- ☐ Other agency that is believed to maintain records: _____
- ☐ Agency needs further clarification or description of the records requested. Please contact the agency and provide the following information: _____
- ☐ Request requires agency to create a summary or compilation from records, but requested information is not readily retrievable. (HRS § 92F-11(c))

☒ Will be granted in part and denied in part, OR ☐ Is denied in its entirety
Although the agency maintains the requested records, it is not disclosing all or part of them based on the exemptions provided in HRS § 92F-13 and/or § 92F-22 or other laws cited below.
(Describe the portions of records that the agency will not disclose.)

RECORDS OR
INFORMATION WITHHELD

APPLICABLE
STATUTES

AGENCY
JUSTIFICATION

Account numbers and balances will be redacted.

REQUESTER'S RESPONSIBILITIES:

You are required to (1) pay any lawful fees and costs assessed; (2) make any necessary arrangements with the agency to inspect, copy or receive copies as instructed below; and (3) provide the agency any additional information requested.

For questions about this notice or the records being sought, please ask the agency's contact person named at the top of this form. Also, please submit your payment, if any, to the agency at the address listed at the top of this form. **DO NOT SEND YOUR PAYMENT** to the Office of Information Practices (OIP) unless you are requesting records directly from OIP.

If you do not comply with the requirements set forth in this notice within 20 business days after the postmark date of this notice or the date the agency makes the records available, you will be presumed to have abandoned your request and the agency shall have no further duty to process your request. Once the agency begins to process your request, you

may be liable for any fees and costs incurred. If you wish to cancel or modify your request, you must advise the agency upon receipt of this notice.

Please note that the Office of Information Practices (OIP) does not maintain the records of other agencies, and a requester must seek records directly from the agency it believes maintains the records. If the agency denies or fails to respond to your written request for records or if you have other questions regarding compliance with the UIPA, then you may contact OIP at (808) 586-1400, ois@hawaii.gov, or 250 South Hotel Street, Suite 107, Honolulu, Hawaii, 96813.

METHOD & TIMING OF DISCLOSURE:

Records available for public access in their entireties must be disclosed within a reasonable time, not to exceed 10 business days from the date the request was received, or after receipt of any prepayment required. Records not available in their entireties must be disclosed within 5 business days after this notice or after receipt of any prepayment required. HAR § 2-71-13(c). If incremental disclosure is authorized by HAR § 2-71-15, the first increment must be disclosed within 5 business days of this notice or after receipt of any prepayment required.

Method of Disclosure:

- ☐ Inspection at the following location: _____
- ☒ As requested, a copy of the record(s) will be provided in the following manner:
- ☐ Available for pick-up at the following location: _____
- ☐ Will be mailed to you.
- ☒ Will be transmitted to you by other means requested: request+bc6gfdx969@foi.uipa.org

Timing of Disclosure: All records, or the first increment if applicable, will be made available or provided to you:

- ☐ On _____, 20____.
- ☒ After prepayment of 50% of fees and 100% of costs, as estimated below.

For incremental disclosures, each subsequent increment will be disclosed within 20 business days after:

- ☐ The prior increment (if one prepayment of fees is required and received), or
- ☐ Receipt of each incremental prepayment, if prepayment for each increment is required.

Records will be disclosed in increments because the records are voluminous and the following extenuating circumstances exist:

- ☐ Agency must consult with another person to determine whether the record is exempt from disclosure under HRS chapter 92F.
- ☐ Request requires extensive agency efforts to search, review, or segregate the records or otherwise prepare the records for inspection or copying.
- ☐ Agency requires additional time to respond to the request in order to avoid an unreasonable interference with its other statutory duties and functions.
- ☐ A natural disaster or other situation beyond agency's control prevents agency from responding to the request within 10 business days.

ESTIMATED FEES & COSTS AND PAYMENT:

FEES: For personal record requests under Part III of chapter 92F, HRS, the agency may charge you for its costs only, and fee waivers do not apply.

For public record requests under Part II of chapter 92F, HRS, the agency is authorized to charge you fees to search for, review, and segregate your request (even if a record is subsequently found to not exist or will not be disclosed in its entirety). The agency must waive the first \$30 in fees assessed for general requesters, OR in the alternative, the first \$60 in fees when the agency finds that the request is made in the public interest. Only one waiver is provided for each request. See HAR §§ 2-71-19, -31 and -32.

COSTS: For either personal or public record requests, the agency may charge you for the costs of copying and delivering records in response to your request, and other lawful fees and costs.

PREPAYMENT: The agency may require prepayment of 50% of the total estimated fees and 100% of the total estimated costs prior to processing your request. If a prepayment is required, the agency may wait to start any search for or review of the records until the prepayment is received by the agency. Additionally, if you have outstanding fees or costs from previous requests, including abandoned requests, the agency may require prepayment of 100% of the unpaid balance from prior requests before it begins any search or review for the records you are now seeking.

The following is an itemization of what you must pay, based on the estimated fees and costs that the agency will charge you and the applicable waiver amount that will be deducted:

For public record requests only:

Fees: Search	Estimate of time to be spent: <u>1.0</u> hours (\$2.50 for each 15-minute period)	\$ 10.00
Review & segregation	Estimate of time to be spent: <u>2.0</u> hours (\$5.00 for each 15-minute period)	\$ 40.00
Fees waived	<input checked="" type="checkbox"/> general (\$30), OR <input type="checkbox"/> public interest (\$60) (Only one waiver per request)	<\$ <u>30.00</u> >
Other	_____	\$
	(Pursuant to HAR §§ 2-71-19 & 2-71-31)	
Total Estimated Fees:		\$ 20.00

For public or personal record requests:

Costs: Copying	Estimate of # of pages to be copied: _____ (@ \$ _____ per page, pursuant to HRS § 92-21)	\$
Delivery	Postage	\$
Other	_____	\$
Total Estimated Costs:		\$ -0-

TOTAL ESTIMATED FEES AND COSTS from above: \$ 20.00

☐ The estimated fees and costs above are for the first incremental disclosure only. Additional fees and costs, and no further fee waivers, will apply to future incremental disclosures.

☒ **PREPAYMENT IS REQUIRED** (50% of fees + 100% of costs, as estimated above) \$ 10.00

☐ **UNPAID BALANCE FROM PRIOR REQUESTS** (100% must be paid before work begins) \$

TOTAL AMOUNT DUE AT THIS TIME \$ 10.00

Payment may be made by: ☒ cash
☒ personal check payable to Director of Finance
☐ other _____

Submit your payment to the agency at the address listed at the beginning of this form, including the name of the agency's contact person.

From: Ralph Cushnie <request+bc6gfdx969@foi.uipa.org>
Sent: Sunday, February 2, 2025 9:29 AM
To: Elections
Subject: Notice to Requester (request+bc6gfdx969@foi.uipa.org) [#1279]

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

1 February 2024

Office of the County Clerk, Kauai

C/O Lyndon Yoshioka

4386 Rice Street, Suite 101

Lihu'e, Hawaii 96766

Email: elections@kauai.gov

Subject: Request for Business Reply Receipts from USPS and Clarifications Regarding 2024 General Election Chain of Custody Dear Mr. Yoshioka, I am writing to formally request records related to the chain of custody for ballots during the 2024 General Election. In reviewing the chain of custody documents provided for October 22, 2024, and November 5, 2024, I have identified discrepancies that raise concerns about the accuracy and integrity of the election records.

The original chain of custody forms provided to me on November 21, 2024, for October 22, 2024, did not include any U.S. Postal Service (USPS) entries. However, a revised form indicates an entry of 3,004 envelopes without the required initials, dates, times, or supporting backup receipts from the USPS. This lack of proper documentation raises concerns regarding the integrity of the ballot handling process.

According to the Lihue Postmaster, all ballot envelopes delivered to or picked up from the USPS are accompanied by an invoice declaring the number of ballot envelopes delivered. The envelopes are individually counted by the USPS, not weighed. None of the USPS entries in the revised form are backed by such receipts from the post office.

Additionally, on November 5, 2024, the entry for the number of envelopes collected from the Hanalei NC drop box was corrected at the Kauai County Elections Office from 91 to 88. However, the envelope count spreadsheet inaccurately reflects this corrected number as 188 envelopes. This inconsistency further undermines the reliability of the election records and adds to the concerns raised by the discrepancies in the chain of custody documentation.

Pursuant to Hawaii Revised Statutes §19-3 concerning election fraud, altering an official governmental document constitutes an election offense. This statute explicitly outlines that tampering with, disarranging, or falsifying election-related documents is considered election fraud. The discrepancies noted in the revised chain of custody form and the inconsistencies in the envelope count spreadsheet, including the addition of entries without proper authentication, could potentially fall under this violation.

Therefore, I request copies of all Business Reply Receipts from the USPS that substantiate the USPS entries reflected in the revised chain of custody documents. These receipts are critical to verifying the legitimacy of the envelope counts received from the USPS and ensuring compliance with state election laws. Additionally, I request an explanation regarding the discrepancy in the envelope count for the Hanalei NC on November 5, 2024, as reflected on the summary spreadsheet.

I have attached relevant documentation, including the chain of custody records and envelope collection data, to assist in your review.

Please process this request promptly. If there are any fees associated with fulfilling this request, kindly inform me in advance.

Thank you for your attention to this matter. I look forward to your timely response.

Sincerely,

Ralph Cushnie

COUNTY COUNCIL

Mel Rapozo, Chair
KipuKai Kualii, Vice Chair
Addison Bulosan
Bernard P. Carvalho, Jr.
Felicia Cowden
Fern Holland
Arryl Kaneshiro



OFFICE OF THE COUNTY CLERK

Jade K. Fountain-Tanigawa, County Clerk
Lyndon M. Yoshioka, Deputy County Clerk

Telephone: (808) 241-4188
Facsimile: (808) 241-6349
Email: cokcouncil@kauai.gov

Council Services Division
4396 Rice Street, Suite 209
Lihu'e, Kaua'i, Hawai'i 96766

February 7, 2025

Ralph Cushnie, Elections Commissioner
Via Email Only: request+bc6gfdx969@foi.uipa.org

Dear Mr. Cushnie,

Please note that the figures reflected in Business Reply Mail (BRM) documents represent the total count of **all** mail-pieces received, including ballot envelopes, standard letters, and ballot envelopes returned due to outdated addresses. Therefore, these counts do **not** exclusively represent ballot envelopes. Relying on BRM numbers to determine official ballot counts would be inaccurate.

You repeatedly refer to the manual count sheets as "chain of custody forms." This terminology is incorrect and creates confusion. As you are aware, each of these documents includes the following disclaimer: "Figures on this form represent a manual count of envelopes – not the number of ballots counted. The manual counts were made for internal purposes to track election progress with the understanding that it would not match official election results."

Your continued reliance on a document containing this explicit disclaimer is puzzling. The Supreme Court recently addressed this very issue, stating, "It is unreasonable to infer a ballot count from this data due to this disclaimer" (SCEC-24-0000797).

The manual count sheets served solely to track election progress. Any perceived inconsistency or correction within these sheets is irrelevant to the official election results, as these sheets do not represent the official count. The envelope count spreadsheet referenced in your letter also carries the same disclaimer: "Figures on this form represent a manual count of envelopes – not the number of ballots counted. The manual counts were made for internal purposes to track election progress with the understanding that it would not match official election results."

Despite this clear disclaimer, you allege election fraud based upon these documents. The Supreme Court has deemed such arguments "unavailing because [you] disregard the Disclaimer' at the bottom of each page of the data..." Your persistent disregard of this disclaimer and continued baseless accusations of election fraud based on this flawed reasoning are concerning.

RESPONSE TO RALPH CUSHNIE REQUEST FOR "BUSINESS REPLY
RECEIPTS"

Page 2

I strongly recommend reviewing the Supreme Court's recent ruling. Your accusations appear to stem from a misunderstanding of the relevant documentation, a misunderstanding that persists despite clear judicial guidance.

Sincerely,

A handwritten signature in black ink, appearing to be 'LY' with a stylized flourish.

LYNDON M. YOSHIOKA
Deputy County Clerk