



NEIL ABERCROMBIE  
GOVERNOR

SHAN TSUTSUI  
LIEUTENANT GOVERNOR

**STATE OF HAWAII**  
**OFFICE OF THE LIEUTENANT GOVERNOR**  
**OFFICE OF INFORMATION PRACTICES**

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CHERYL KAKAZU PARK  
DIRECTOR

SENATE COMMITTEE ON WAYS AND MEANS  
HOUSE COMMITTEE ON FINANCE  
Joint Information Briefing  
December 19, 2013 – 9:00am  
State Capitol Auditorium

2014 Legislative Budget Briefing Testimony  
for Enforcement of Information Practices  
(Program ID: LTG1051A)

Honorable Chairs and Members of the Committees:

I am Cheryl Kakazu Park, Director of the Office of Information Practices. I am here today to present OIP's 2014 Budget Briefing Testimony.

**OVERVIEW:**

**A. Mission Statement**

OIP's mission statement is "ensuring open government while protecting your privacy."

OIP's main mission is to provide legal guidance and assistance to the public as well as to all state and county boards and agencies in the application of Hawaii's open government laws: (1) the Uniform Information Practices Act (Modified) ("UIPA"), HRS chapter 92F, providing public access to government records; and (2) the "Sunshine Law," Part of HRS chapter 92, requiring open access to public meetings and decisionmaking. OIP also administers the State's Record Report System ("RRS") under HRS Section 92F-18(b), and rules on appeals from Department of Taxation decisions as to what constitutes written opinions available for public inspection and copying under HRS Sec. 231-19.5(f) and (h). In 2013, OIP was given the added responsibility to assist the Office of Information Management and Technology (OIMT) in developing policies and procedures to implement Act 265, SLH 2013, which requires each Executive Branch department to use reasonable efforts to make appropriate and existing electronic data sets available online to the public at [data.hawaii.gov](http://data.hawaii.gov) and to keep the data updated.

OIP's duties include:

- assisting the public to obtain access to state and county government records, unless withholding is allowed by law;
- assisting state and county government agencies and boards to comply with the UIPA and Sunshine Law;
- providing formal and informal legal guidance under both the UIPA and Sunshine Laws to the general public or to governmental entities;
- investigating and resolving complaints relating to the public's access to and participation in government board meetings under the Sunshine Law;
- ruling on appeals of denials of access to records under the UIPA as an alternative method to court appeals for members of the public;
- keeping government accountable to individuals in the collection, use and dissemination of information about them; providing education under both laws to inform the public of their rights and the procedures for exercising those rights;
- providing education and training to state and county government boards and agencies regarding their responsibilities under, and compliance with, the UIPA, Sunshine Law, OIP's administrative rules, and the State's open data policy.

**B. Current Economic and Fiscal Conditions**

As the economic and fiscal conditions in recent years have improved, work furloughs have been eliminated, pay raises have been approved, and new personnel have been hired, OIP's staffing is currently in a stable condition with an experienced team of attorneys and support staff.

**C. FEDERAL FUNDS:**

Not applicable. OIP only receives state general funds.

**BUDGET REQUEST:**

**D. & E.:Budget Request**

Not applicable. OIP has not submitted a supplemental budget request this year.

**Additional Information**

Information for Tables 1 through 24 is presented in the attached spreadsheets attached hereto.

The total number of requests for OIP's assistance increased 14% in FY 2013 to 1227, as compared to 1075 in FY 2012. Although OIP was able to resolve 142 cases in FY 2013 (compared to 143 in FY 2012), the number of new cases opened by OIP increased 31% and OIP's backlog doubled due to the 35 cases added to it in FY 2013. OIP also saw an 11.7% increase in attorney of the day (AOD) inquiries, from 940 in FY 2012 to 1050 in FY 2013. Notably, AOD inquiries have increased over 55% and the total number of requests for assistance has increased 49.77% since

FY 2011, when OIP had the same number of staff positions as in FY 2013. OIP has been able to handle the increased number of AOD inquiries while also producing new training materials and still closing nearly the same number of cases, but has been unable to keep up with the 31% increase in the number of new cases.

Looking to the future, OIP anticipates a continued increase in AOD inquiries, especially as government employees become more educated about their open record and open data responsibilities as a result of OIP's UIPA Record Request Log and the statewide training on the Log that is taking place this week as well as the new initiatives that will be developed in conjunction with OIMT. With the addition of the open data attorney position authorized for two years in Act 263, SLH 2013, OIP is hopeful that it will be able to keep up with its new work while also reducing its case backlog in FY 2014.

Retaining experienced staff remains a key goal of OIP. Given the small size of the office in comparison to other departments or divisions, the loss of experienced staff would adversely and disproportionately impact OIP's productivity and effectiveness.

Department of Lt. Governor  
Office of Information Practices  
Prioritized List of Functions

Table 1

Priority	Description of Function	Activities	Prog ID(s)	Statutory Reference
1	Administration of the state's open records law, the Uniform Information Practices Act (Modified)	(1) Review and rule on appeals from an agency's denial of access; (2) render opinions concerning the public's right to access records; (3) assist the public in obtaining responses to record requests where an agency fails to respond to a request as required under the UIPA and associated administrative rules; (4) provide general legal guidance concerning records access issues; (5) assist agencies in complying with legal requirements; (6) produce training materials, presentations, and other communications directed to agency personnel and the public; (7) monitor lawsuits; (8) track and recommend legislation; and (9) prepare annual report to legislature.	LTG105IA	Chapter 92F, HRS
2	Administration of the state's open meetings law, the Sunshine Law	(1) Render advisory opinions concerning the public's right to participate in meetings of government boards; (2) investigate and resolve complaints concerning a board's noncompliance with the requirements of the Sunshine Law; (3) provide general guidance concerning open meetings issues; (4) assist boards and agency staff in complying with legal requirements; (5) produce training materials, presentations, and other communications directed to board members, staff, and the public; (6) monitor lawsuits; (7) track and recommend legislation; and (8) prepare annual report to legislature.	LTG105IA	Part 1, Chapter 92, HRS
3	Administration of the state's records report system (RRS)	(1) Assist agencies to meet their annual statutory obligations in maintaining their reports; (2) provide ongoing RRS workshops for state and county RRS coordinators; (3) produce RRS instructional materials and perform other functions necessary to administer the RRS system.	LTG105IA	Section 92F-18(b), HRS
4	Determination of certain appeals from the Department of Taxation	(1) Review and rule on appeals from the Department of Taxation's decision as to what constitutes a written opinion that is available for public inspection and copying.	LTG105IA	Section 231-19.5(f) and (h), HRS

Department of Lt. Governor  
Office of Information Practices  
Prioritized List of Functions

Table 1

Priority	Description of Function	Activities	Prog ID(s)	Statutory Reference
5	Promote open data and the UIPA	(1) Assist the Office of Information Management & Technology to create open data policy procedures and standards consistent with the UIPA, and state and federal laws relating to security and privacy; (2) encourage government agencies to post open data and assist them in determining whether data sets are appropriate for posting on data.hawaii.gov and their agency websites.	LTG1051A	Act 263, SLH 2013

Department of Lt Governor  
Office of Information Practices  
Department Totals

Table 2

Fiscal Year 2014				
Act 134/13 Appropriation	Restriction	Emergency Appropriations	Total FY14	MOF
			\$ -	
\$ 426,935.00			\$ 426,935.00	A
			\$ -	
			\$ -	
			\$ -	
\$ 426,935.00	\$ -	\$ -	\$ 426,935.00	Total
Fiscal Year 2015				
Act 134/13 Appropriation	Reductions	Additions	Total FY15	MOF
\$ 426,935.00			\$ 426,935.00	A
			\$ -	
			\$ -	
			\$ -	
			\$ -	
\$ 426,935.00	\$ -	\$ -	\$ 426,935.00	Total

Department of Lt. Governor  
Office of Information Practices  
Program ID Totals

Table 3

<u>Prog ID</u>	<u>Program Title</u>	<u>MOF</u>	<u>As appropriated by Act 134/13 (FY14)</u>			<u>Governor's Submittal (FY15)</u>			<u>Percent Change of \$\$\$\$</u>
			<u>Pos (P)</u>	<u>Pos (T)</u>	<u>\$\$\$</u>	<u>Pos (P)</u>	<u>Pos (T)</u>	<u>\$\$\$</u>	
LTG105	Enforcement of Information Practices	A	5.00	3.00	\$ 406,611.00	5.00	3.00	\$ 406,611.00	0%

Department of Lt. Governor  
Office of Information Practices  
Budget Request Decisions

Table 4

<u>Prog ID</u>	<u>Description of Request</u>	<u>MOF</u>	<u>Initial Department Request</u>			<u>Initial Budget &amp; Finance Recommendation</u>			<u>Governor's Final Decision</u>		
			<u>Pos (P)</u>	<u>Pos (T)</u>	<u>\$\$\$</u>	<u>Pos (P)</u>	<u>Pos (T)</u>	<u>\$\$\$</u>	<u>Pos (P)</u>	<u>Pos (T)</u>	<u>\$\$\$</u>
LTG105	N/A										



Department of Lt. Governor  
 Office of Information Practices  
 Proposed Budget Reductions

Table 5

<u>Prog ID</u>	<u>Description of Reduction</u>	<u>Impact of Reduction</u>	<u>MOF</u>	<u>Pos (P)</u>	<u>Pos (T)</u>	<u>\$\$\$</u>	<u>Carry-over?</u> <u>(Y/N)</u>
LTG105	N/A						

Department of Lt. Governor  
Office of Information Practices  
Proposed Budget Additions

Table 6

<u>Prog ID</u>	<u>Request Category</u>	<u>Prog ID Priority</u>	<u>Dept-Wide Priority</u>	<u>Description of Addition</u>	<u>Justification</u>	<u>MOF</u>	<u>Pos (P)</u>	<u>Pos (T)</u>	<u>\$\$\$</u>
LTG105				N/A					

Department of Lt. Governor  
 Office of Information Practices  
 Current Year (FY14) Restrictions

Table 7

<u>Prog ID</u>	<u>MOF</u>	<u>Restriction \$\$\$</u>	<u>Percent of Act 134/13 Prog ID Appropriation</u>	<u>Impact</u>
LTG105	A	\$ -	0.00%	N/A

Department of Lt. Governor  
Office of Information Practices  
Emergency Appropriation Requests

Table 8

<u>Prog ID</u>	<u>Description of Request</u>	<u>Explanation of Request</u>	<u>MOF</u>	<u>Pos (P)</u>	<u>Pos (T)</u>	<u>\$\$\$</u>
LTG105	N/A					

Department of Lt. Governor  
Office of Information Practices  
Expenditures Exceeding the Appropriation

Table 9

<u>Prog ID</u>	<u>MOF</u>	<u>Date</u>	<u>Appropriation</u>	<u>Amount Exceeding Appropriation</u>	<u>Percent Exceeded</u>	<u>Reason for Exceeding Ceiling</u>	<u>Legal Authority</u>	<u>Recurring (Y/N)</u>	<u>GF Impact (Y/N)</u>
LTG105	A		\$ 426,935.00	\$ -	0.0%	N/A			

Department of Lt. Governor  
Office of Information Practices  
Intradepartmental Transfers

Table 10

<u>Actual or Anticipated Date of Transfer</u>	<u>MOF</u>	<u>Pos (P)</u>	<u>Pos (T)</u>	<u>\$\$\$</u>	<u>From Prog ID</u>	<u>Percent of Program ID Appropriation Transferred From</u>	<u>To Prog ID</u>	<u>Percent of Receiving Program ID Appropriation</u>	<u>Reason for Transfer</u>	<u>Recurring (Y/N)</u>
N/A				\$ -				0.0%		

Department of Lt. Governor  
Office of Information Practices  
Federal Awards

Table 11

<u>State Expending Agency</u>	<u>Program ID</u>	<u>Award Number</u>	<u>CFDA Number</u>	<u>Award Description</u>	<u>Awarding Federal Agency</u>	<u>Award Amount</u>	<u>Award Amount Allocated to the Pgm ID in Column B</u>	<u>State Appropriation Symbol</u>	<u>Contact Name</u>	<u>Contact Phone</u>	<u>Contact Email</u>
	LTG105	N/A	N/A	N/A		\$0	\$0				

COLUMN	DATA ELEMENT	DEFINITION
A	State Expending Agency	State entity authorized to expend the funds as authorized by the appropriation or as delegated by the Governor. Select from drop-down menu. See legend below.
B	Program I.D.	The unique identifier for the specific program responsible for carrying out the program consisting of the abbreviation for the State entity followed by the organization number for the program. <b>Format: XXX###</b>
C	Award Number	The identifying number assigned by the awarding Federal Agency, such as the federal grant number, federal contract number or the federal loan number that appears in the federal award document.
D	CFDA No.	The number associated with the published description of Federal assistance program in the Catalog of Federal Domestic Assistance. Only applies to grants and loans. A list of CFDA codes can be searched at: <a href="https://www.cfda.gov/index?s=program&amp;tab=list&amp;mode=list">https://www.cfda.gov/index?s=program&amp;tab=list&amp;mode=list</a> <b>Format: ##.###.</b>
E	Award Description	Award title and description with purpose of funding action.
F	Awarding Federal Agency	Name of the federal agency that awarded and administers the award on behalf of the funding agency. Select from drow-down menu. See agency list below.
G	Award Amount	For Grants: The total amount of the award. For Loans: The total amount of the loan obligated by the Federal Agency; the face value of the loan. For Contracts: The total amount obligated by the Federal Agency.
H	Award Amount Allocated to the Program ID in Column B	Enter the portion of the total award amount allocated to this Program ID. For example, if a federal award in the amount of \$500 is allocated to only AGR100, the "Award Amount" and the "Award Amount Allocated to the Pgm ID in Column B" would both be \$500. However, if the \$500 will be allocated to AGR100, AGR200 and AGR300, in the amounts of \$100, \$250 and \$150, respectively, the "Award Amount" would be the \$500 for all three program IDs but the "Award Amount Allocated to the Pgm ID in Column B" would be \$100 for AGR100, \$250 for AGR200 and \$150 for AGR300
I	State Appropriation Symbol	The account number established in FAMIS. The appropriation account is a combination of 4 fields: Fund Type, Fiscal Year, Appropriation Account Number, and Dept. Code. If an award has appropriation symbols for multiple fiscal years, enter the symbol for the first fiscal year. <b>Format: X-YY-###-X</b>
J	Contact Name	Name of the individual at the program level responsible for performance of the award.
K	Contact Phone No.	Phone no. of the individual at the program level responsible for performance of the award.
L	Contact Email	Email of the individual at the program level responsible for performance of the award.
	<b>LEGEND:</b>	
	<b>State Expending Agency</b>	
A (AGR)	Department of Agriculture	
B (BED)	Department of Business, Economic Dev & Tourism	
C (LNR)	Department of Land and Natural Resources	
D (TRN)	Department of Transportation	
E (EDN)	Department of Education	
F (UOH)	University of Hawaii	
G (DEF)	Department of Defense	
H (HTH)	Department of Health	



I (HHL)	Department of Hawaiian Home Lands	
J (JUD)	Judiciary	
K (HMS)	Department of Human Services	
L (LBR)	Department of Labor and Industrial Relations	
M (AGS)	Department of Accounting and General Services	
N (ATG)	Department of Attorney General	
O (BUF)	Department of Budget and Finance	
P (HRD)	Department of Human Resources Development	
Q (GOV)	Office of the Governor	
R (CCA)	Department of Commerce and Consumer Affairs	
S (LTG)	Office of the Lieutenant Governor	
T (TAX)	Department of Taxation	
V1 (PSD)	Department of Public Safety	
Z1 (OHA)	Office of Hawaiian Affairs	
	<b><u>Federal Agency</u></b>	
	Dept.of Agriculture	
	Dept. of Commerce	
	Dept. of Defense	
	Dept. of Education	
	Dept. of Energy	
	Dept. of Health and Human Services	
	Dept. of Homeland Security	
	Dept. of Housing and Urban Development	
	Dept. of Justice	
	Dept. of Labor	
	Dept. of State	
	Dept. of the Interior	
	Dept. of the Treasury	
	Dept. of Transportation	
	Dept. of Veterans Affairs	
	Corporation for National & Community Svc	
	Environmental Protection Agency	
	General Services Administration	
	NASA	
	National Science Foundation	
	Nuclear Regulatory Commission	
	Office of Personnel Management	
	Small Business Administration	
	Social Security Administration	
	U.S. Agency for International Development	

Department of Lt. Governor  
Office of Information Practices  
Non-General Fund Listing

Table 12

Name of Fund	Purpose	Statutory Reference	MOF	<u>Beginning FY14 Unencumbered Cash Balance</u>	<u>Estimated FY14 Revenues</u>	<u>Estimated FY14 Expenditures and Encumbrances</u>	<u>Estimated FY14 Net Transfers</u>	<u>Estimated FY14 Ending Unencumbered Cash Balance</u>	<u>Balance in Excess of Program Needs</u>
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Department of Lt. Governor  
Office of Information Practices  
Vacant Positions as of November 30

Table 14

<u>Prog ID</u>	<u>Date of Vacancy</u>	<u>Expected Fill Date</u>	<u>Position Number</u>	<u>Position Title</u>	<u>Exempt (Y/N)</u>	<u>SR Level</u>	<u>BU Code</u>	<u>Perm. Temp (P/T)</u>	<u>FTE</u>	<u>MOF</u>	<u>Budgeted Amount</u>	<u>Actual Salary Last Paid</u>	<u>Authority to Hire (Y/N)</u>	<u>Occupied by 89 Day Hire (Y/N)</u>	<u># of 89 Hire Appts</u>	<u>Describe if Filled by other Means</u>	<u>Priority # to Retain</u>
LTG105	No Vacancies																

Department of Lt. Governor  
Office of Information Practices  
Personnel Separations

Table 15

<u>Prog ID/Org</u>	<u>Separation Date</u>	<u>Position Number</u>	<u>Position Title</u>	<u>Exempt (Y/N)</u>	<u>SR Level</u>	<u>BU Code</u>	<u>T/P</u>	<u>MOF</u>	<u>Budgeted FTE</u>	<u>Budgeted Salary</u>	<u>Actual FTE</u>	<u>Actual Salary</u>	
LTG105	8/19/2013	*102021	*Staff Attorney (JZB)	Y	N/A	73	P	A	1.00	\$ 62,856	1.00	\$ 62,856.00	
LTG105	9/24/2013	**102088	**Staff Attorney (CMA)	Y	N/A	73	T	A	1.00	\$ 55,128	1.00	\$ 55,128.00	
LTG105	8/14/2013	117247	Staff Attorney (LHJ)	Y	N/A	73	T	A	1.00	\$ 58,404	1.00	\$ 58,404.00	
			* Employee in Position 102021 transferred into newly established position pursuant to Act 263, SLH 2013.										
			Funding appropriated by said Act for FY14-15. (See Table 16)										
			** Employee in Position 102088 transferred into Position 102021.										

Department of Lt. Governor  
Office of Information Practices  
New Hires

Table 16

<u>Prog ID/Org</u>	<u>New Hire Effective Date</u>	<u>Position Number</u>	<u>Position Title</u>	<u>Exempt (Y/N)</u>	<u>SR Level</u>	<u>BU Code</u>	<u>T/P</u>	<u>MOF</u>	<u>Budgeted FTE</u>	<u>Budgeted Salary</u>	<u>Actual FTE</u>	<u>Actual Salary</u>
LTG105	8/15/2013	*120957	*Open Data Staff Attorney (JZB)	Y	N/A	73	T	A	1.00	\$ 75,000	1.00	\$ ** 75,000
LTG105	9/24/2013	***10202	***Staff Attorney (CMA)	Y	N/A	73	P	A	1.00	\$ 68,004	1.00	\$ 68,004
LTG105	10/3/2013	102088	Staff Attorney (WKP)	Y	N/A	73	T	A	1.00	\$ 57,960	0.35	\$ 20,286
LTG105	9/5/2013	117247	Staff Attorney (MKH)	Y	N/A	73	T	A	1.00	\$ 57,804	1.00	\$ 57,804
			* Position 120957 is appropriated by Act 263, SLH 2013.									
			The Act appropriated funding and established one full time position to promote open data for FY14-15, pursuant to Chapter 92F, HRS, the Uniform Practices Act (Modified).									
			** Salary paid out of a separate fund appropriated by Act 263, SLH 2013. G-350-S									
			*** Incumbent employed at OIP since FY12. This is a position transfer only.									

Department of Lt. Governor  
Office of Information Practices  
Unauthorized Positions

Table 17

<u>Prog ID/Org</u>	<u>Date Established</u>	<u>Legal Authority</u>	<u>Position Number</u>	<u>Position Title</u>	<u>Exempt (Y/N)</u>	<u>SR Level</u>	<u>BU Code</u>	<u>T/P</u>	<u>MOF</u>	<u>FTE</u>	<u>Annual Salary</u>	<u>Filled (Y/N)</u>	<u>Occupied by 89 Day Hire (Y/N)</u>
LTG105	N/A		None										

Department of Lt. Governor  
Office of Information Practices  
Overtime Expenditures

Table 18

Prog ID	Program Title	MOF	FY12 (actual)			FY13 (actual)			FY14 (estimated)			FY15 (budgeted)		
			<u>Base Salary</u> \$\$\$\$	<u>Overtime</u> \$\$\$\$	<u>Overtime</u> Percent	<u>Base Salary</u> \$\$\$\$	<u>Overtime</u> \$\$\$\$	<u>Overtime</u> Percent	<u>Base Salary</u> \$\$\$\$	<u>Overtime</u> \$\$\$\$	<u>Overtime</u> Percent	<u>Base Salary</u> \$\$\$\$	<u>Overtime</u> \$\$\$\$	<u>Overtime</u> Percent
LTG105	Enforcement of Information Practices	A	\$ -	\$ -	0.0%	\$ -	\$ -	0.0%	\$ -	\$ -	0.0%	\$ -	\$ -	0.0%



Department of Lt. Governor  
Office of Information Practices  
Overpayments

Table 19

<u>Employee Name</u>	<u>Date of Over-payment</u>	<u>Gross Amount Overpaid</u>	<u>Amount Recovered</u>	<u>Balance</u>	<u>Category</u>				<u>Reason for Overpayment</u>	<u>Referred to Attorney General</u>
					<u>Employed</u>		<u>Not Employed</u>			
					<u>Occurred &gt; 2 Years</u>	<u>Occurred &lt; 2 Years</u>	<u>Occurred &gt; 2 Years</u>	<u>Occurred &lt; 2 Years</u>		
None	N/A	\$ -		\$ -						

Department of Lt. Governor  
Office of Information Practices  
Contract Costs

Table 20

<u>Prog ID</u>	<u>MOF</u>	<u>Frequency</u>		<u>Max Value</u>	<u>Outstanding Balance</u>	<u>Term of Contract</u>			<u>Organization</u>	<u>Category</u> <u>E/L/P/C/</u> <u>G/S</u>	<u>Description</u>	<u>Method and</u> <u>Frequency of</u> <u>Monitoring</u>	<u>POS</u> <u>Y/N</u>
		<u>Amount</u>	<u>(M/A/O)</u>			<u>Date Executed</u>	<u>From</u>	<u>To</u>					
LTG105	A	\$ 400	M			11/30/2011	Jan-12	Jan-15	Thompson Reuters	E	Westlaw Online Legal Research	Monthly	
LTG105	A	\$ 286	M			11/22/2013	Dec-13	Dec-18	Xerox Corporation	E	Multifunction Copier Machine	Monthly	
Note: Leases are based on monthly payments. Amount is before taxes.													

Department of Lt. Governor  
Office of Information Practices  
Capital Improvements Program Requests

Table 21

<u>Prog ID</u>	<u>Prog ID</u> <u>Priority</u>	<u>Dept- Wide</u> <u>Priority</u>	<u>Project Title</u>	<u>MOF</u>	<u>FY14 \$\$\$</u>	<u>FY15 \$\$\$</u>
LTG105	N/A		None			

Department of Lt. Governor  
Office of Information Practices  
Capital Improvements Program Lapses

Table 22

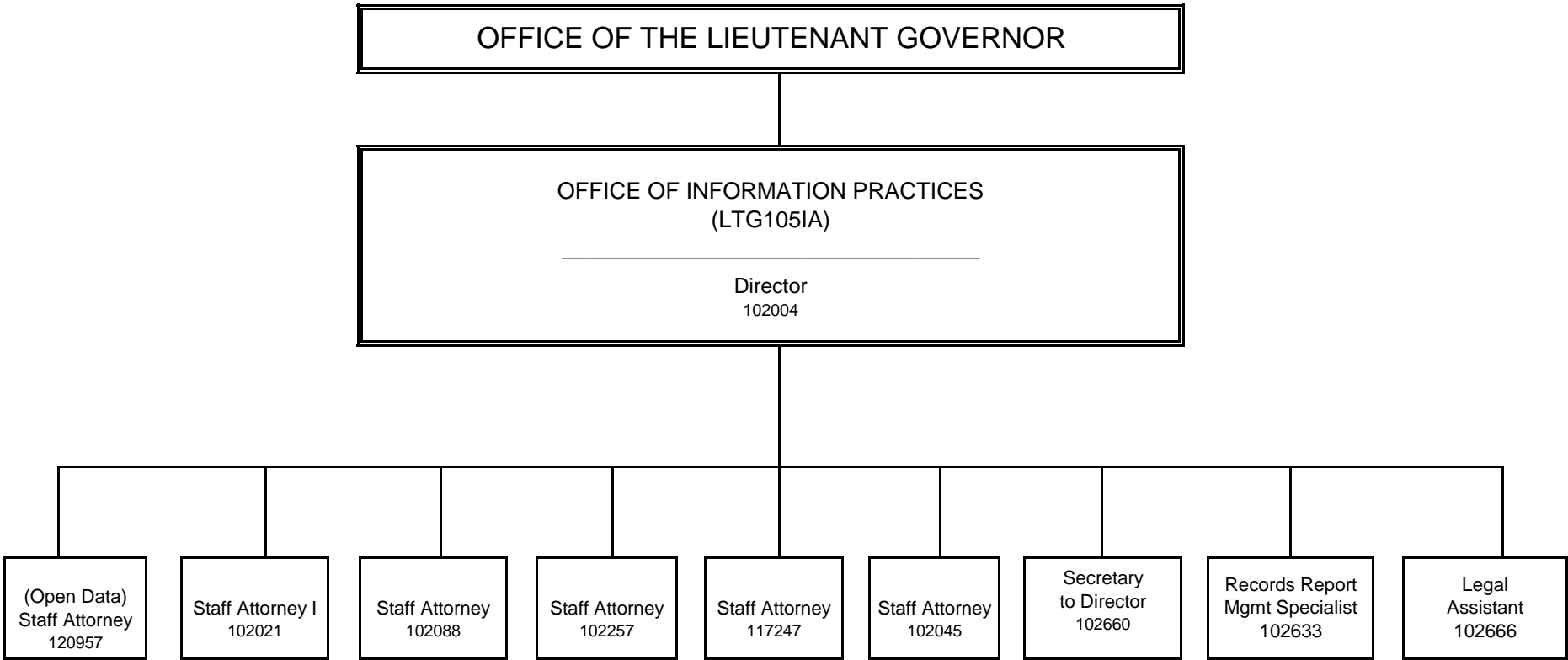
<u>Prog ID</u>	<u>Act/Year of Appropriation</u>	<u>Project Title</u>	<u>MOF</u>	<u>Amount \$\$\$\$</u>	<u>Reason</u>
LTG105	N/A	None			

Department of Lt. Governor  
Office of Information Practices  
Division Resources

Table 23

<u>Division</u>	<u>Associated Program IDs</u>
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Department of Lt. Governor  
Office of Information Practices  
Organizational Chart



Department of Lt. Governor  
Office of Information Practices  
Organizational Charts

Table 24

<u>Year of Change</u> FY14/FY15	<u>Page</u> <u>Number</u>	<u>Description of Change</u>
FY14/FY15	--	Add newly established Open Data Staff Attorney Position #120957 (pursuant to Act 263, SLH 2013)