



**STATE OF HAWAII
OFFICE OF ELECTIONS**

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SCOTT T. NAGO
CHIEF ELECTION OFFICER

September 26, 2025

Chair Dylan Andrion and Members
of the Elections Commission's Permitted Interaction Group
c/o Office of Elections
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Dear Chair Andrion and Members
of the Elections Commission's Permitted Interaction Group:

This is in response to your PIG Report, entitled *Report on complaints relating to chain of custody of election ballots and reported irregularities in the administration of the 2024 General Election*, that was presented to the Elections Commission on August 27, 2025. The PIG Report alleges flaws in the tracking of voted materials and irregularities in the administration of the 2024 General Election.

In response, we have reviewed and addressed each allegation presented in the PIG Report. We believe:

- **Election records are verified.** The statewide voter registration system (SVRS) is the official and secure system for the issuance of ballots and receipt of voted materials. The records, including the election results, over/under report, and audits are verified by election officials with Official Observers, and these records work together in the administration of elections in compliance with federal and state law.
- **Ballot count discrepancies are mischaracterized.** The PIG Report relies on unofficial sources, like USPS postage receipts, rather than the official election records, like SVRS data, election results, and the over/under report. Our Office has provided the Elections Commission with detailed SVRS

records and the *2024 General Election Over/Under Report* demonstrating minimal discrepancies across counties, and no evidence of systemic error or fraud.

Response to the PIG Report allegation: “1) Electronic records—including certified election results, over-under reports, signature verification, and audits conducted using ballot images—are not verifiable.” Page 2.

This is mischaracterized as election records are verified by election officials who in turn compile records to provide to the public. The election processes, to compile these records, are methodical and multi-layered for transparency, accuracy, integrity, and security.

We, as election officials, are tasked with the responsibilities of providing election services. By statute, the County Elections Divisions are responsible for voter registration and voting – including the mailing and receipt of ballots and operating voter service centers. While, also by statute, our Office handles the printing and counting of ballots, and voter education.

Government agencies, like law enforcement, as well as the judicial branch, serve as third-party verification to the electoral process that allow candidates and groups of voters to present evidence of provable fraud, and represent the will of the people. Operationally, the public is invited to volunteer as a counting center official or official observer to experience the electoral process and the care and time involved in opening the valid return identification envelopes then scanning and securing the voted ballots. Further still, voters can verify for themselves that the ballot they voted and secured in their personalized return identification envelope has been accepted to be counted.

As it relates to records identified in the PIG Report, the following outlines the verification of the election results, over/under report, signature verification, and audits.

Election results

- Verified by Official Observers. The certified copy is maintained in a sealed container. The election results reports are available at:
<https://elections.hawaii.gov/election-results/>
- Certified by the Chief Election Officer. The certification of the results for the 2024 General Election was signed November 25, 2024. However, certificates of election, related to candidates, are held by the election office until the resolution of any contest for cause filed with the Hawaii Supreme Court.
- Supporting processes are conducted including testing that the vote counting system is counting ballots logically and accurately. Additionally, post-election

audits are conducted on at least 10% of precincts to ensure the accuracy and integrity of the disseminated results reports. Of note, the election results represent the will of the people and the culmination of voting processes.

- Supporting voted materials are the voted ballots which are sealed and preserved by our Office.

Over/under report

- Verified by election officials using the election results and records of voted materials from SVRS. The County Elections Divisions are the main users of SVRS which records the issuance of ballots and the receipt of voted materials. We would note that SVRS is the database of Hawaii's voters and as such contains private information that must be secured. Additionally, we would note that the election results are verified by Official Observers.
- Certified by the Chief Election Officer. The certification of the results for the 2024 General Election was signed November 25, 2024.
- Supporting processes are conducted including signature verification by the County Elections Divisions, as well as those related to the compilation and verification of the election results (i.e., testing the vote counting system and post-election audits).
- Supporting voted materials are the voted ballots and empty return identification envelopes which are sealed and preserved by our Office.

Signature verification

- Verified by County Election Officials. As the users of the system, the County Elections Divisions work with the scanner/sorter vendor to maintain the security of voter data and the accuracy of the software.
- Supporting processes include preventative maintenance and an audit of a sample of signatures by manual review to ensure the accuracy and integrity of the system.
- Supporting voted materials are the received return identification envelopes which are sealed and preserved by election officials (e.g., empty return identification envelopes).

Audits

- Certified and verified by our Office and Official Observers. The records of the audit, including the certifications and tally worksheets, are maintained by our Office.

- Supporting processes are conducted including testing the vote counting system and the processing of voted ballots.
- Supporting voted materials include the voted ballots which are sealed and preserved by our Office.

This allegation also needs context as the PIG Report disregards voters' right to privacy and the sensitive nature of voted materials for the integrity of the election, as required by federal and state law. As sealed voted materials are not accessible, we approach questions about the integrity of our elections, or the ability to independently verify the election, in two-parts – 1) through education of our processes, and 2) through the preservation of voted materials.

Education of our processes

To educate the public with information about how the process works we frequently reference laws and procedures. Our Office has made such references on several occasions in many ways. For example, there are our reports, which have been provided to the Elections Commission, explaining the nuances of the administration of elections. The following is a non-exhaustive list highlighting available documents which consistently detail the structure of election responsibilities and conduct of election processes:

- **Primer on state and county responsibilities.** January 16, 2024. <https://elections.hawaii.gov/wp-content/uploads/EC-Meeting-Packet-01-16-24.pdf>.
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- **Report on Election Security: The Authentication, Accounting, and Securing of Ballots.** February 20, 2024. <https://elections.hawaii.gov/wp-content/uploads/EC-Meeting-Packet-02-20-24.pdf>.
- **Policy: Official Observers Post-Election Audit.** <https://elections.hawaii.gov/wp-content/uploads/Meeting-Packet-2024.06.19.pdf>.
- **Report to the Legislature: Implementing Elections by Mail.** November 15, 2024. <https://elections.hawaii.gov/wp-content/uploads/Implementing-Elections-by-Mail-2024-Final.pdf>.
- **Audit of Representative District 37 from the 2022 General Election.** February 18, 2025. <https://elections.hawaii.gov/wp-content/uploads/Audit-of-Representative-District-37-from-the-2022-General-Election.pdf>.

- **Letter to the Elections Commission.** March 17, 2025.
<https://elections.hawaii.gov/wp-content/uploads/2025-03-19-EC-Meeting-Packet.pdf>.
- **Letter to the Elections Commission.** July 29, 2025.
<https://elections.hawaii.gov/wp-content/uploads/2025-07-30-EC-Supplemental-Meeting-Packet.pdf>.
- **Response to the Elections Commission Permitted Interaction Group's Report on the Investigation into State and Kauai Compliance with HAR 3-177 and Discrepancies in Ballot Counts and Recommendation to the State of Hawaii Elections Commission.** August 22, 2025.
<https://elections.hawaii.gov/wp-content/uploads/2025-08-22-Response-to-Kauai-PIG-Report.pdf>.

Further, there is the information we present to the public on our website and through our voter education program.

We also frequently refer to the decisions of the courts in which they address these types of matters. As noted, interwoven with this are citations to the law and the historical administration of elections. The following is a non-exhaustive list of litigation related to the administration of elections by mail:

- ***Cushnie v. Nago*, SCEC-22-0000703, (December 15, 2022):** Commissioner Cushnie filed an election contest challenging the use of scanned digital images of the paper ballots as part of the post-election auditing process for the 2022 General Election. Our Office filed a detailed motion to dismiss, explaining how the voting system operated, the migration to elections by mail, and the auditing process. The case was ultimately dismissed by the Hawaii Supreme Court.
- ***HRP v. Nago*, 1CCV-22-0001499 (February 28, 2023):** The matter concerning the use of ballot images was subsequently pursued by the Hawaii Republican Party in 2023. This time the case was filed in First Circuit Court. Again, our Office filed a detailed motion to dismiss, and the case was dismissed.
- **Act 27, SLH 2024:** The Legislature considered and passed a law to clarify that electronic copies of the ballots could be used as part of the auditing process.

- ***Cushnie v. Nago, SCEC-24-0000797 (December 20, 2024)***: Commissioner Cushnie filed an election contest concerning chain of custody procedures related to the election for Kauai County Council that was unsuccessful.
- ***Cushnie v. Nago and Fountain Tanigawa, 5CCV-25-0000041 (June 20, 2025)***: Commissioner Cushnie sought to pursue a similar argument before the Fifth Circuit Court. Our Office and the County Clerk filed motions to dismiss, and the case was dismissed. Commissioner Cushnie is currently appealing the case.

Preservation of voted materials

The preservation of voted materials is required by federal and state law. Many of the voted materials are necessarily sealed and therefore not made accessibly available for review. The PIG Report appears to discount these laws and processes related to the preservation of voted materials and seems to suggest that our Office should not be complying with these laws.

Federal law requires that election officials “retain and preserve, for a period of twenty-two months from the date of any [election involving a federal office] all records and papers . . .” 52 USC § 20701. The federal Department of Homeland Security has also designated election infrastructure as critical infrastructure such that elections are “systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.” 42 USC § 5195c(e).¹

In implementing the federal law, state law, HRS § 11-154, provides: “[a]fter all the ballots have been tabulated they shall be sealed in containers” and recognizes that records be destroyed “after compliance with retention schedules of applicable federal law.” Additionally, as election results are subject to the filing of an election contest with the Hawaii Supreme Court, “voted materials shall not be open to the inspection of any voter until after the end of the contest period unless opened upon order of the court.” See HRS § 11-97(b). The term “voted material” has been interpreted expansively, such as not being limited to the physical ballots but also information identified from the return identification envelopes that contain said ballots. *Ahia v. Lee*, 2023 WL 334610

¹ “By ‘election infrastructure,’ we mean storage facilities, polling places, and centralized vote tabulations locations used to support the election process, and information and communications technology to include voter registration databases, voting machines, and other systems to manage the election process and report and display results on behalf of state and local governments.” *Statement by Secretary Jeh Johnson on the Designation of Election Infrastructure as a Critical Infrastructure Subsector*. <https://www.dhs.gov/archive/news/2017/01/06/statement-secretary-johnson-designation-election-infrastructure-critical>. January 6, 2017.

(Hawai'i). Further, as it relates to voted material, HAR § 3-177-757(i) provides: "[t]he containers or cabinets shall be sealed and stored for twenty-two months in accordance with federal law."

Acknowledging the laws and designation of elections as critical infrastructure are important to the context of the allegations in the PIG Report as they safeguard the integrity of our elections.

Records requests

We also find that this allegation is misleading as our Office did not receive any records requests from this PIG and likewise, it is our understanding that this PIG made no attempts to request information from the County Elections Divisions.

The PIG Report states, "that Freedom of Information (Uniform Information Practices Act, UIPA) requests were submitted seeking access to the State's electronic election records" and that "[a]ll these requests were denied." PIG Report, page 2. We find that the PIG Report does not appear to cite specific records requests. To the extent it refers to requests by others, the PIG Report does not share any requests or responses either by our Office or perhaps the County Elections Divisions.

While the Uniform Information Practices Act (UIPA) operates from the premise that all records are open to public inspection, it recognizes that there are reasons related to an agency's duties to the public that necessitate certain records are not disclosed. The main reasons a records request may be denied that are applicable to election records are typically HRS § 92F-13(1), (3), and (4), as they address privacy, the frustration of a legitimate government function, and the existence of other laws that specifically prohibit disclosure. Specifically:

§92F-13 Government records; exceptions to general rule. This part shall not require disclosure of:

(1) Government records which, if disclosed, would constitute a clearly unwarranted invasion of personal privacy;

(2) Government records pertaining to the prosecution or defense of any judicial or quasi-judicial action to which the State or any county is or may be a party, to the extent that such records would not be discoverable;

(3) Government records that, by their nature, must be confidential in order for the government to avoid the frustration of a legitimate government function;

(4) Government records which, pursuant to state or federal law including an order of any state or federal court, are protected from disclosure; and

(5) Inchoate and draft working papers of legislative committees including budget worksheets and unfiled committee reports; work product; records or transcripts of an investigating committee of the legislature which are closed by rules adopted pursuant to section 21-4 and the personal files of members of the legislature.

Emphasis added.

Similarly, like other governmental entities, to safeguard information on critical infrastructure, it is the State's practice to not disclose IT security methodology, activities and data, including equipment and software employed and remediation actions, if any, because doing so could advertise vulnerabilities, promote phishing, and/or expose or impede investigation activities.

Electronic voting machines

Further, we find that this allegation is misleading as our Office did not receive any records requests or inquiries related to electronic voting machines from this PIG and likewise, it is our understanding that this PIG made no attempts to request such information from the County Elections Divisions.

The PIG Report claims that "requests for third-party inspection of the electronic voting system were denied" but fails to cite specific requests. We would assume that the PIG Report's reference to "electronic voting machines" relates to the vote counting system. As such, we would note that the vote counting system is federally certified by the U.S. Election Assistance Commission which establish testing system guidelines and authorized test laboratories. These test laboratories are independent and review the hardware, software, and audit logs of the system. The records of certification are available via <https://www.eac.gov/>. In the 2024 Elections, Hawaii used Verity Voting version 2.7.

The process by which vote counting systems are tested and certified is beyond the expertise of the PIG and requires reliance on subject-matter experts to develop, implement, and conduct. Of note, Official Observers test that the vote counting system is counting and tabulating the voted ballots logically and accurately before the election. This is significant as Official Observers are the "eyes and ears" of the public in the counting and tabulation of results at the counting center. As such, members of our community are able to interact with, test, and secure our vote counting system.

In summary, the PIG Report allegation disregards the process by which the election records are compiled and the requirements to preserve the records for the security and integrity of the elections. This allegation of the PIG appears to operate from the premise that the overall structure of elections and the various safeguards that are necessarily in place, as critical infrastructure, can be readily set aside.

Response to the PIG Report allegation: “2) None of the four County Clerk offices have provided records that comply with HAR §3-177-453, and there were more ballots counted in the Statewide Voter Registration System (SVRS) than counties reported collecting.” Page 3.

This is mischaracterized as the PIG Report focuses on its interpretation of HAR § 3-177-453 as the basis of its allegations. Specifically, the PIG Report appears to dispute the role of SVRS, which our Office has explained to be the official record in the tracking of the issuance and receipt of ballots for purposes of HAR § 3-177-453. The following is an outline of the processes related to the handling, tracking, and documentation of return identification envelopes in compliance with HAR § 3-177-453:

- 1) Return identification envelope: A return identification envelope is provided to every voter. After voting their ballot, they seal it into the return identification envelope. All voters must sign their return identification envelope to be validated by the County Elections Division.
 - a) Voters may submit the return identification envelope by mail or to a place of deposit in their County.
 - b) The County Elections Division collects the return identification envelopes from the mail (i.e., United States Postal Service [USPS]) and the places of deposit to validate and receive as voted material.
- 2) SVRS: The database of voters for registration and voting - including the issuance of a ballot to a voter and receipt of voted material (i.e., electronic ballot, return identification envelope, in-person voting) for purposes of the County Elections Divisions fulfilling their statutory duties and responsibilities. Valid voted materials are transferred to the state-operated counting center.
 - a) SVRS tracks the receipt of voted material by voter.
 - b) SVRS tracks the receipt of voted material by district/precinct (D/P) and method.
- 3) Election results: The state-operated counting centers scan and tabulate mail voted materials to compile the election results.

- a) The counting center separates voted ballots from the return identification envelopes. The empty return identification envelopes are securely stored.
 - b) The counting center reports the election results as a summary and by D/P by method (i.e., mail or in-person).
- 4) Over/under report: Following the post-election audit, our Office compiles “[a] list of all precincts in which an overage or underage occurred and the amount of the overage or underage.” An overage is when “there are more ballots than documented usage indicates,” while an underage is when there are “fewer ballots.” HRS § 11-153(a). As such it is the compilation of the record of valid voted materials from SVRS to the election results. Specifically:
- a) The number of valid mail and electronic ballots as logged in SVRS. These records correspond to the empty return identification envelopes and electronic ballots that are securely stored.
 - b) The number of invalid conditions that occurred at the counting center. These records correspond to voted materials that are securely stored.
 - c) The number of mail ballots counted and tabulated by the vote counting system. These records correspond to the voted ballot containers that are securely stored.
 - d) The number of voters who cast their ballot at a voter service center (VSC). These records correspond to voter applications maintained by the County Elections Divisions.
 - e) The number of in-person ballots counted and tabulated by the vote counting system. These records correspond to the voted ballot containers that are securely stored.

We have subsequently referred to the *2024 General Election Over/Under Report* and the record of voted materials from SVRS as it relates to the allegations purported for each County.

Response to the PIG Report allegation: “a. The County of Hawai‘i reported 19,042 fewer ballot envelopes collected than mail-in ballots counted by the State.” Page 3.

This is false as we find that the PIG Report makes an unsubstantiated claim and disregards election processes and documents to which the Elections Commission has

been referred. Specifically, the use of SVRS to track the receipt of voted material and the over/under report comparing the SVRS record of voted materials to the election results of voted ballots counted.

- The *2024 General Election Over/Under Report* was provided to the Elections Commission in correspondence dated March 17, 2025.² The report indicates an overage of 20 and an underage of 12, totaling 32 in the handling of 83,686 pieces of voted materials – mail and in-person, for the County of Hawaii.
- The *Excerpts of Voted Ballots from the Statewide Voter Registration System* were provided to the Elections Commission in a report dated August 22, 2025.³ The excerpts provide the number of valid return identification envelopes cumulatively received by the Hawaii County Elections Division from October 21, 2024, through November 6, 2024, as well as on November 13, 2024, and November 22, 2024. The Hawaii County Elections Division validated 76,605 mail voted materials, as compared to 76,595 mail turnout on the election results. The accounting of the difference is represented by the *2024 General Election Over/Under Report*.

We understand that this PIG corresponded with the Hawaii County Elections Division and in response the County Clerk stated that “[t]he County of Hawai‘i did not report ‘a receipt of only 57,553 ballot envelopes’...nor does it have any credible indication of ‘any errors in ballot handling or reporting.’” The Hawaii County Elections Division used SVRS as the official record-keeping in the receipt of voted materials.

Additionally, the PIG Report references that the County of Hawaii provided the USPS BRM postage receipts it had readily available in response to a records request. However, these records are not used for tracking or reconciling the receipt of return identification envelopes. The PIG Report erroneously uses the USPS BRM postage receipts to make its claim that the number of return identification envelopes does not match the number of voted ballots counted regardless of the fact that our Office and the County of Hawaii have explained that the official record for tracking the receipt of voted material is SVRS.

² Letter to the Elections Commission. March 17, 2025. <https://elections.hawaii.gov/wp-content/uploads/2025-03-19-EC-Meeting-Packet.pdf>.

³ *Response to the Elections Commission Permitted Interaction Group's Report on the Investigation into State and Kauai Compliance with HAR 3-177 and Discrepancies in Ballot Counts and Recommendation to the State of Hawaii Elections Commission*. August 22, 2025. <https://elections.hawaii.gov/wp-content/uploads/2025-08-22-Response-to-Kauai-PIG-Report.pdf>. Pages APPENDIX-1077 to APPENDIX-1178.

Further, the PIG Report provides no documentation to verify and is overly reliant on anecdote to support its claim.

Response to the PIG Report allegation: "b. The County of Kaua'i reported different collection totals on different dates and amended its records with no explanation." Page 4.

This is misleading as explanations have been documented and provided to address differences in collection records in the form of court filings and our previous response to an investigation on the same matter by a separate Elections Commission PIG. This finding of the PIG Report attempts to relitigate the previous court cases brought forth by Commissioner Cushnie without providing new evidence and seeks to continue a debate, dismissing what has already been stated.

For complete information, we would refer to our *Response to the Elections Commission Permitted Interaction Group's Report on the Investigation into State and Kauai Compliance with HAR 3-177 and Discrepancies in Ballot Counts and Recommendation to the State of Hawaii Elections Commission*.⁴ This response details the collection records as well as the processes and documentation followed by election officials to log, reconcile, and secure voted materials to address allegations of irregularities and complaints of misconduct. The following highlights passages in response to the PIG Report's allegation.

An explanation of the processes and differences in totals was provided in a declaration submitted by the County of Kauai as part of the earlier litigation before the Hawaii Supreme Court. It noted an error in which the USPS envelope count on October 22, 2024, was omitted from the white original of a form and then eventually entered on the yellow copy.

5. Plaintiff's spreadsheet is incomplete. Specifically, Plaintiff is missing the form for ballot envelopes collected from drop boxes island-wide on October 22, 2024. Additionally, Plaintiff's form depicting ballot envelopes received at the office and voter service center and the USPS is missing the quantity of ballot envelopes received via the USPS. We believe that the USPS ballot envelope count was inadvertently omitted when the form was initially completed and was eventually recorded on only the yellow copy of the form and not on the white original copy of the form, which was used to create the photocopies provided to the Plaintiff.

⁴ *Response to the Elections Commission Permitted Interaction Group's Report on the Investigation into State and Kauai Compliance with HAR 3-177 and Discrepancies in Ballot Counts and Recommendation to the State of Hawaii Elections Commission*. August 22, 2025. <https://elections.hawaii.gov/wp-content/uploads/2025-08-22-Response-to-Kauai-PIG-Report.pdf>.

Response to the Elections Commission Permitted Interaction Group's Report on the Investigation into State and Kauai Compliance with HAR 3-177 and Discrepancies in Ballot Counts and Recommendation to the State of Hawaii Elections Commission.
August 22, 2025. Page APPENDIX-153.

Additionally, explanations of process and differences in totals have been provided to further explain that the 3,004 number should have been something closer to 3,421.

The USPS BRM postage receipts total 18,149. This total includes return identification envelopes that would be marked as invalid in the check-in and logging processing into SVRS. There was a significant discrepancy with the hand-count on the *Envelope Collection* form on October 22, 2024. We've concluded that the USPS BRM postage receipts from October 21, 2024, and October 22, 2024, are associated with the Envelope Collection form, dated October 22, 2024, recording 3,004 hand-counted. The *Envelope Collection* form initially reflected no entry for that day, and it may have been that a number closer to 3,421, which corresponds to the USPS BRM postage receipts of October 21 and October 22 and should have been entered. Specifically, there are 4 USPS BRM postage receipts for October 21, 2024, and October 22, 2024 which add up to 3,421 (i.e. 867, 409, 275, and 1,870).

Response to the Elections Commission Permitted Interaction Group's Report on the Investigation into State and Kauai Compliance with HAR 3-177 and Discrepancies in Ballot Counts and Recommendation to the State of Hawaii Elections Commission.
August 22, 2025. Page 12 and 13.

In summary, we found that the collection documents provided by the Kauai County Elections Division aligned with the official records of SVRS. The collection documents included a cumulative review of the records of the *Envelope Collection* forms and USPS BRM postage to the cumulative SVRS record, finding an overall difference of 6 between the collection records in the receipt of 27,057 mail ballots in SVRS. This difference is not indicative of systemic issues with the security and integrity of the election. Additionally, we detail that the official record-keeping for tracking the receipt of voted materials by the County Elections Divisions is SVRS, and the official record-keeping by our Office is the results report.

For completeness and consistency, we would refer to the following records related to the 2024 General Election:

- The *2024 General Election Over/Under Report* was provided to the Elections Commission in correspondence dated March 17, 2025.⁵ The report indicates an overage of 36 and an underage of 4, totaling 40 in the handling of 30,566 pieces of voted materials – mail and in-person, for the County of Kauai.
- The *Excerpts of Voted Ballots from the Statewide Voter Registration System* were provided to the Elections Commission in a report dated August 22, 2025.⁶ The excerpts provide the number of valid return identification envelopes cumulatively received by the Kauai County Elections Division from October 21, 2024, through November 6, 2024, as well as on November 13, 2024, and November 22, 2024. The Kauai County Elections Division validated 27,057 mail voted materials, as compared to 27,075 mail turnout on the election results. The accounting of the difference is represented by the *2024 General Election Over/Under Report*.

The allegation purported in the PIG Report appears to ignore the evidence presented by our Office and the Kauai County Elections Division as well as the litigation considered and decided upon by the Hawaii Supreme Court. We find the approach of this PIG's investigation of disregarding evidence to be harmful to the electoral process and government operations on a larger scale.

Response to the PIG Report allegation: "c. The County of Maui provided no records documenting the number of ballot envelopes collected or transported, as required by HAR §3-177-453." Page 6.

This is misleading as it is our understanding that this PIG made no attempts to request information from the Maui County Elections Division.

The allegation is also false because the Maui County Elections Divisions used SVRS to receive and validate return identification envelopes. We would again refer to the following records related to the 2024 General Election:

⁵ Letter to the Elections Commission. March 17, 2025. <https://elections.hawaii.gov/wp-content/uploads/2025-03-19-EC-Meeting-Packet.pdf>.

⁶ *Response to the Elections Commission Permitted Interaction Group's Report on the Investigation into State and Kauai Compliance with HAR 3-177 and Discrepancies in Ballot Counts and Recommendation to the State of Hawaii Elections Commission*. August 22, 2025. <https://elections.hawaii.gov/wp-content/uploads/2025-08-22-Response-to-Kauai-PIG-Report.pdf>. Pages APPENDIX-1077 to APPENDIX-1178.

- The *2024 General Election Over/Under Report* was provided to the Elections Commission in correspondence dated March 17, 2025.⁷ The report indicates an overage of 116 and an underage of 84, totaling 200 in the handling of 63,573 pieces of voted materials – mail and in-person, for the County of Maui.
- The *Excerpts of Voted Ballots from the Statewide Voter Registration System* were provided to the Elections Commission in a report dated August 22, 2025.⁸ The excerpts provide the number of valid return identification envelopes cumulatively received by the Maui County Elections Division from October 21, 2024, through November 6, 2024, as well as on November 13, 2024, and November 22, 2024. The Maui County Elections Division validated 57,690 mail voted materials, as compared to 57,713 mail turnout on the election results. The accounting of the difference is represented by the *2024 General Election Over/Under Report*.

This allegation further mischaracterizes election processes. The PIG Report appears to be based on its disagreement with the role of the SVRS and the role of Official Observers. Specifically, the official record for the tracking of valid return identification envelopes is SVRS, and Official Observers were present at the transfer of return identification envelopes to the state-operated counting center. Additionally, many of the records associated with the counting center are sealed for 22 months, including at times, possibly forms that were not intended to be sealed.

The PIG Report seems to focus on the transport of return identification envelopes to the state-operated counting center, relying on our correspondence, dated March 17, 2025, in which we transmitted various records to the Elections Commission. Our correspondence stated the following regarding the County of Maui:

The County of Maui used the State's Certification of Sealing/Certification of Unsealing form to transfer materials to the State counting center. The form is a multipurpose form that can be used for various containers and associated content. The Certification of Sealing/Certification of Unsealing documents reflect the documents that a reasonable search of our records have produced that could have been used in connection with the transfer

⁷ Letter to the Elections Commission. March 17, 2025. <https://elections.hawaii.gov/wp-content/uploads/2025-03-19-EC-Meeting-Packet.pdf>.

⁸ *Response to the Elections Commission Permitted Interaction Group's Report on the Investigation into State and Kauai Compliance with HAR 3-177 and Discrepancies in Ballot Counts and Recommendation to the State of Hawaii Elections Commission*. August 22, 2025. <https://elections.hawaii.gov/wp-content/uploads/2025-08-22-Response-to-Kauai-PIG-Report.pdf>. Pages APPENDIX-1077 to APPENDIX-1178.

of ballots from the county to the State counting center. All of them have been provided, and they have been bates stamped MAUI 001 to MAUI 036.

Our review of these documents reflected that some of the documents concerning the transfer of validated mail ballots, as opposed to voter service center ballots, that we expected to see were not present and may have been misplaced due to human error. We contacted the County of Maui, and it confirmed the process by which it would use the Certification of Sealing/Certification of Unsealing document each time it sealed validated return identification envelopes for transfer. Likewise, we confirmed with counting center staff that they unsealed the containers and filled out the Certification of Sealing/Certification of Unsealing forms as they had in prior elections. The forms ultimately should have been placed in the cut seals envelope, but our search of those envelopes does not reflect the forms.

We would emphasize that this human error appears to have resulted from the volume of forms and documents handled in the course of the election and is not indicative of a systemic issue or breach in the security of the ballots. Election processes are purposefully layered for redundancies. In this and all instances related to the security of the handling of the return envelopes, the county clerks maintain a record of the number of envelopes accepted through the statewide voter registration system on a regular (e.g., daily) basis. Likewise, our Office tracks the number of voted ballots counted by the voting system on the dates of counting.

Letter to the Elections Commission. March 17, 2025. <https://elections.hawaii.gov/wp-content/uploads/2025-03-19-EC-Meeting-Packet.pdf>. Pages 4 and 5.

As it relates to the County of Maui, the processing facility and the counting center are separated by one floor of the building and the transfer from the county to the State was conducted in the presence of Official Observers. The transfer documentation and processes are not used for reconciliation of voted materials. Additionally, the county officials and Counting Center Officials have stated that the voted materials were sealed on transfer then unsealed at the counting center, but the physical forms have been otherwise misplaced, including the possibility that they have been sealed and stored with other records, such as the empty return identification envelopes themselves. The paperwork, SVRS reports, the presence of Official Observers, and the sealing process are built in redundancies of the system. Those redundancies show their value when these types of situations occur (i.e. there are multiple ways to confirm the transfer of return identification envelopes to the counting center).

Response to the PIG Report allegation: "d. The City and County of Honolulu provided no records documenting the number of ballot envelopes collected or transported." Page 6.

This is misleading as it is our understanding that this PIG made no attempts to request information from the Honolulu Elections Division.

The allegation is also false because the Honolulu Elections Divisions used SVRS to receive and validate return identification envelopes. We would again refer to the following records related to the 2024 General Election:

- The *2024 General Election Over/Under Report* was provided to the Elections Commission in correspondence dated March 17, 2025.⁹ The report indicates an overage of 115 and an underage of 136, totaling 251 in the handling of 344,411 pieces of voted materials – mail and in-person, for the City and County of Honolulu.
- The *Excerpts of Voted Ballots from the Statewide Voter Registration System* were provided to the Elections Commission in a report dated August 22, 2025.¹⁰ The excerpts provide the number of valid return identification envelopes cumulatively received by the Honolulu Elections Division from October 21, 2024, through November 6, 2024, as well as on November 13, 2024, and November 22, 2024. The Honolulu Elections Division validated 321,801 mail voted materials, as compared to 321,695 mail turnout on the election results. The accounting of the difference is represented by the *2024 General Election Over/Under Report*.

The PIG Report seems to base its allegation on what seems to be its operational disagreement that SVRS is the record for the receipt of voted material. It also appears to disagree with the administrative decisions of the Honolulu Elections Division regarding how they go about its retrievals from the places of deposit. While we respect that this PIG seems to have expressed an opinion on the conduct of the County Elections Division, we disagree with the interpretation and assertion that the conduct violated the laws and rules governing elections.

⁹ Letter to the Elections Commission. March 17, 2025. <https://elections.hawaii.gov/wp-content/uploads/2025-03-19-EC-Meeting-Packet.pdf>.

¹⁰ *Response to the Elections Commission Permitted Interaction Group's Report on the Investigation into State and Kauai Compliance with HAR 3-177 and Discrepancies in Ballot Counts and Recommendation to the State of Hawaii Elections Commission*. August 22, 2025. <https://elections.hawaii.gov/wp-content/uploads/2025-08-22-Response-to-Kauai-PIG-Report.pdf>. Pages APPENDIX-1077 to APPENDIX-1178.

The County Elections Divisions determine how they will collect return identification envelopes from places of deposit and USPS and bring them back to their offices to formally document their receipt in the SVRS. This includes the consideration of matters such as the volume of return identification envelopes involved and the safety of the workers, among other possible considerations.

County Election Officials collect and transport the return identification envelopes at places of deposit and from USPS. These procedures typically involve county election staff driving to the designated places of deposit in a county vehicle and securing the ballots in containers and bringing them back to the county building for processing through the high-speed scanner/sorter to receive and validate for entry into SVRS. Unlike analogous services like those provided by USPS, some counties have attempted to count envelopes in the field, while others - due to volume or perhaps safety issues, focus on securing the return identification envelopes and transferring them to the county building for processing. When collecting return identification envelopes, the purpose and goal of the county election officials are to secure and transport the return identification envelopes to their processing facility.

The inventory of the return identification envelopes is conducted at the county's processing facility through the high-speed scanner/sorter. This effectuates the process that the tracking mechanism of SVRS is the official record by which we accomplish the language of HAR § 3-177-453(b) (i.e. "The clerk shall maintain a complete and current count of all marksense ballots issued, spoiled, and received in their county. The accounting of marksense ballots by the clerk shall be recorded on forms prescribed by the chief election officer"). The SVRS serves as the official record for purposes of tracking the issuance and receipt of ballots. In summary, the goal of the collection process is to secure the return identification envelopes and to deliver them to the County Elections Divisions where they will account for them using the official system.

Response to the Elections Commission Permitted Interaction Group's Report on the Investigation into State and Kauai Compliance with HAR 3-177 and Discrepancies in Ballot Counts and Recommendation to the State of Hawaii Elections Commission.
August 22, 2025. Pages 20 and 21.

We find that the PIG Report provides no documentation to verify and is overly reliant on anecdote to support its claim.

In summary, the PIG Report allegation seems to be based on an operational disagreement on the use of SVRS as the record for tracking the receipt of voted

materials. We would reiterate that while we respect that the PIG Report has provided an opinion on an operational matter, we disagree with its interpretation and assumptions. The SVRS has historically served as the official record of voting, predating elections-by-mail. Election officials have applied their knowledge and expertise to implement, test, and review its processes. We find that this is also reflected across government operations as “[i]n Hawai‘i, we defer to those agencies with the na‘auao (knowledge/wisdom) on particular subject matters to get complex issues right.” See *Rosehill v. State*, 155 Hawai‘i 41, 59, 556 P.3d 387, 405 (2024).

Response to the PIG Report allegation: “3) The Office of Elections has misled the public about ballot security and the integrity of mail-in voting.” Page 7.

This appears to be an opinion. The PIG Report alleges that we are misleading the public as it relates to a specific webpage, “Election Security,” which is accessed via the homepage to the Voting menu dropdown. On this webpage, the office provides and answers questions about conducting secure elections. It is organized to reflect the chronological flow of election processes:

- Voter registration: The first step of participating in an election is to register to vote and maintain voter records.
- Sending/Receiving Ballots: As an elections-by-mail state, all properly registered voters are automatically sent a ballot for them to vote and return to be received by the County Elections Division.
- Processing Voted Ballots: Voted ballots remain sealed in their return identification envelope until they are processed for handling and counting at the state-operated counting center.

The PIG Report cites a question under Processing Voted Ballots which would relate to the handling and reconciliation of voted ballots at the state-operated counting center. Specifically:

How do you ensure election officials don't throw away ballots?

Ballots are always transported and processed in the presence of Official Observers. Official Observers serve as the “eyes and ears” of the public and monitor that election officials are maintaining the security and integrity of the elections. Additionally, the number of ballots received and counted are reconciled at the end of each day to ensure there are no discrepancies.

The PIG Report asserts that this is strictly interpreted that “[t]he language on the website refers to the meaning of HAR §3-177-453” which is incorrect. This interpretation by the PIG overlooks the scope and intent of the webpage to provide a broad overview of information related to election security. As it relates to the question cited, the answer is not focused on the duty of the county clerks at their respective offices but instead focuses on the duty of the State to count the ballots once they are at its state-operated counting centers.

As it relates to counting of ballots at the state-operated counting centers, our Office handles voted ballots in the presence of Official Observers and matches the number of mail ballots received by the county clerks in SVRS to the number of voted ballots counted by the vote counting system. This reconciliation is conducted in the spirit and manner of the over/under report to track progress and reduce risk. However, we must emphasize that the over/under report is compiled after the conduct of the post-election audit at the end of the contest period.

We have a responsibility to provide general information that reflects election processes. As such, the “Election Security” webpage reflects these general processes, and it is not intended to serve as a comprehensive legal or procedural guide of operations.

We also find that this allegation is misleading as the PIG Report claims: The P.I.G. sees discrepancies between the manual counts provided by Kaua'i and Hawai'i Counties and the ballots counted by the State, while the Office of Elections and the County Clerks maintain there are no discrepancies. This argument could be settled if the Office of Elections and the County Clerks would release the records to the Commission.

PIG Report. Page 9.

The PIG Report continues to disregard that:

- The County Elections Divisions do not use manual hand-counts, as such a method has been found to be unreliable, for the purposes of reconciliation. Instead, SVRS is the official record to track the receipt of voted materials.¹¹

¹¹ The records voted materials from SVRS have been provided in the *Response to the Elections Commission Permitted Interaction Group's Report on the Investigation into State and Kauai Compliance with HAR 3-177 and Discrepancies in Ballot Counts and Recommendation to the State of Hawaii Elections Commission*. August 22, 2025. <https://elections.hawaii.gov/wp-content/uploads/2025-08-22-Response-to-Kauai-PIG-Report.pdf>. Pages APPENDIX-1077 to APPENDIX-1178.

- Our Office provides the over/under report to indicate if an overage or underage in the number of voters to the number of ballots counts has occurred by precinct.¹²

The PIG Report has cited a specific reference to a webpage on our website out of the context in which it is intended. This is not based on an investigation of evidence, but rather an opinion meant to sensationalize a singular interpretation of a webpage. Our Office remains committed to informing voters of the time, place, and manner of the elections with the mission of providing secure, accessible, and convenient election services to all citizens statewide. In doing so, we must strategically manage our resources – most valuable being time and funding, to reach the greatest number of voters as well as targeting those most likely to otherwise be disenfranchised. One of the ways the office makes information available is through its website.

Response to the PIG Report allegation: “4) The P.I.G. investigation concluded that the Chief Election Officer did not certify the 2024 General Election results in accordance with the requirements of HRS §11-155.” Page 9.

This needs context as we find that the PIG Report misconstrues HRS § 11-155 with HRS § 11-156 though they reflect two different types of certifications with different timelines.

The first is the Certification of Results under HRS § 11-155. By certification, we are referring to the results reports by district and precinct (e.g. the count for each candidate or position on a ballot question, blank, or overvote). Our Office issues a certification of results, in accordance with HRS § 11-155, “after the expiration of the time for bringing an election contest.” In practice, this certification could be issued the same day as “the expiration of the time for bringing an election,” in the days shortly thereafter, or after the resolution of any election contests. The deadline to file an election contest for the 2024 General Election was 4:30 p.m. on November 25, 2024. HRS § 11-174.5. As such, the Certification of Results was issued shortly after that deadline on November 25, 2024.

The second type of certification involves the individual Certificate of Election that is provided to each winning candidate indicating they have been elected to their specific office, or the Certificate of Results that indicates that a proposed ballot question has been adopted or rejected. This type of certification is covered by HRS § 11-156 which states “[i]f there is an election contest these certificates shall be **delivered only after a final determination in the contest has been made and the time for an appeal has**

¹² The *2024 General Elections Over/Under Report* was included as a letter to the Elections Commission. March 17, 2025. <https://elections.hawaii.gov/wp-content/uploads/2025-03-19-EC-Meeting-Packet.pdf>.

expired." Emphasis added. Additionally, the candidates need to have filed their reports and resolved any outstanding fines with the Campaign Spending Commission. *Id.*

The earliest a Certificate of Election could be delivered, assuming no election contests were filed, and everything was resolved with the Campaign Spending Commission by the candidate would be shortly after the 4:30 p.m. deadline on the twentieth day following the election. For purposes of state and federal offices, our Office has the certificates dated the same date as the expiration date for filing an election contest with the Hawaii State Supreme Court. The actual delivery date of the certificates is contingent on when any litigation is finally determined and the resolution of any Campaign Spending Commission matters. As it relates to our Certificates of Elections for state and federal offices concerning the 2024 General Election, they were delivered after the determination of any litigation and the resolution of any Campaign Spending Commission matters.

We disagree with the PIG Report's allegation that the Office of Elections did not certify the 2024 General Election results with the requirements of HRS §11-155, citing lack of evidence and overreliance on selective documents and witnesses. The certification of the results includes the documentation and the overall processes and personal knowledge of the conduct of the election.

Response to the PIG Report allegation: "5) The Elections Commission and the Deputy Attorney General's office suppressed complaints and evidence of malfeasance." Page 10.

This is unsubstantiated as the Office of Elections provides administrative support to the Elections Commission which includes notifying the public of meetings and materials. To the extent the PIG's allegations somehow relate to this office, the PIG Report presents no evidence.

Response to the recommendations by the PIG

The recommendations by the PIG are unsubstantiated. The PIG Report does not provide source material or new evidence, demonstrating the investigation lacks rigor and credibility. The PIG Report presents inaccuracies and relies on opinion rather than laws, documentation and official records, and facts. The PIG Report does not present evidence of systemic failure or fraud.

We do not believe the PIG Report has presented evidence to warrant the conduct of an external independent audit. This is also supported in the decision by the Hawaii Supreme Court regarding the 2024 General Election contest for cause filed by

Commissioner Cushnie.¹³ Since the Elections Commission adopted a recommendation, on August 27, 2025, to pursue an external independent audit, we would highlight:

- Voted materials are to remain sealed for 22 months, pursuant to law.
- The Elections Commission does not have independent statutory authority to procure goods or services.

As it relates to the sealed voted materials, our Office is responsible for preserving the voted materials for a period of 22 months in which they remain sealed following the election unless ordered by the court. "Voted materials" has been broadly defined to include the return identification envelopes as well as the ballots. Even after the expiration of the 22-month period, election officials would continue to be responsible for secure handling and disposal to ensure the integrity of the election. As such, the Office of Elections must maintain custody of the voted materials for any handling. Specifically, the Office of Elections is required to maintain custody of the voted materials and likewise, auditors would be required to, among other things, document the secure storage and handling of voted materials.

As it relates to an external independent audit, our initial assumption would be that such efforts are to be pursued by an entity other than our Office, and that it would be contrary to the recommendation for our Office to pursue the procurement which would develop the scope and criteria of the audit.

As the PIG Report has recommended returning to in-person voting on paper ballots on Election Day, we would highlight that the Hawaii State Legislature passed a bill to conduct elections by mail in 2019 recognizing that "an increasing number of Hawaii voters are submitting their votes by mail" and that "expanding this program throughout the State would significantly reduce logistical issues related to conducting elections at polling places." Act 136 SLH 2019. As enacted, HRS §11-101 provides "[b]eginning with the 2020 primary election, all elections shall be conducted by mail in accordance with this title." Any changes to the election type (e.g., voting by mail, polling place voting, hybrid) would require legislation.

We would add that elections-by-mail are far more accessible than in-person voting for polling place elections, which required voting on one day, for exact hours, in specified locations. Elections-by-mail have expanded the time a voter has with their

¹³ Hawaii Supreme Court Decision to SCEC-24-0000797, *Cushnie v. Nago* (December 20, 2024) provided in *Response to the Elections Commission Permitted Interaction Group's Report on the Investigation into State and Kauai Compliance with HAR 3-177 and Discrepancies in Ballot Counts and Recommendation to the State of Hawaii Elections Commission*. August 22, 2025. <https://elections.hawaii.gov/wp-content/uploads/2025-08-22-Response-to-Kauai-PIG-Report.pdf>. Pages APPENDIX-350 to APPENDIX-370.

ballot to review it and learn about their options and have removed the barriers requiring that voters make time on a specific day. Hawaii residents lead busy lives, and elections-by-mail meet this reality by offering voters convenience and flexibility to vote on their own schedule.

We find that since the implementation of elections-by-mail, the vast majority of voters have chosen to return their voted ballot by mail (i.e., through USPS or by hand delivery to a place of deposit). The following tables provide voter participation by mail and in-person as captured by the election results for each General Election since voting by mail was enacted.

Table 1. Voter participation by method of voting, General Elections, 2020-2024

	Mail	% of total	In-person	% of total	Total
2020	551,036	95.0%	28,748	5.0%	579,784
2022	402,674	96.0%	16,689	4.0%	419,363
2024	483,078	92.5%	39,158	7.5%	522,236

We also find that the implementation of voting by mail has resulted in more voters participating in the electoral process. The table below ranks the top 10 highest voter participation by year for the General Elections since statehood. We find that the elections-by-mail years rank as the top 2 for voter participation. Of note, the 2022 General Election ranks the highest among midterm (or Gubernatorial) election years, which historically have lower rates of participation. The ranks of 1 through 6 are all Presidential General Elections.

Table 2. Top 10 General Elections, 1959-2024, by voter participation

Rank	Year	Voter Participation
1	2020	579,784
2	2024	522,236
3	2008	456,064
4	2016	437,664
5	2012	437,159
6	2004	431,662
7	2022	419,665
8	1998	412,520
9	2018	398,657
10	2010	385,464

While the PIG Report cites years and percentages, on page 11, it is unclear what they are referencing. Our best guess is that they are referring to the Primary Election turnout percentages from 2016 to 2024. While voter participation is typically lower in a

Primary Election, we have ranked the voter participation in the years cited by the PIG Report for reference:

Table 3. Ranking voter participation, Primary Elections, 2016-2024

Rank	Year	Voter Participation	% of Registered Voters
1	2020	407,190	51.2%
2	2022	340,159	39.8%
3	2018	289,180	38.6%
4	2024	271,345	32.3%
5	2016	252,725	34.8%

Additionally, we have included voter participation from the 2018 General Election, the election immediately preceding the transition to election by mail:

Table 4. Voter participation by method, 2018 General Election

195,237	Mail
+ 28,300	Early voting
= 223,537	Absentee voting
+ 175,120	Polling place voting
= 398,657	Voter participation

This shows that in the 2018 General Election voting by mail accounted for 48.9% of voter participation and that 56.1% of voters cast their ballot before Election Day. Election Day voting at the polling place accounted for 43.9% voter participation for a difference of 48,417 fewer voters. The 2018 General Election is just the last in a trend towards more voters participating as a no-excuse absentee voter and helped to precipitate the transition to an elections-by-mail model.

Conclusion

We believe that the PIG Report has oversimplified the conduct of elections by discounting the institutional knowledge as well as the hundreds of years of combined experience of election officials in our Office and the County Elections Divisions. The PIG Report appears disingenuous as it does not consider the complex nature of elections where cumulative expertise is an advantage to each election office.

We find the PIG Report minimizes the hundreds of thousands of voters who have opted to vote by mail since and before the implementation of elections by mail and appears to disseminate unfounded allegations questioning the integrity of the electoral processes.

Additionally, the PIG Report's allegations oversimplify the handling of the thousands of pages of documentation and multi-layered processes that our Office and the County Elections Divisions handle in the course of an election.

The PIG Report appears to purport that investigation by anecdote, rather than the documentation and accounts provided by election officials, are equal to proof and fact-finding. We find that the PIG Report has made unsubstantiated allegations to discredit election officials. Such unsubstantiated allegations are destructive to government operations and seek to erode the will of the people fostered by secure, accessible, and convenient elections. We must again address that this PIG's interaction with our Office and the County Elections Divisions was minimal. Specifically, our Office received two correspondences from the PIG, both of which were related to the conduct of the Elections Commission to which this office is limited to providing administrative support.

We believe the PIG went further and arguably beyond its established mandate. The PIG Report delved into a broader critique of elections in its allegations. These critiques appear to be based on other interactions with the Office of Elections and County Clerks that predate the PIG, not an investigation on the matters voted upon by the Elections Commission.

Finally, the investigation by this PIG lacks rigor as demonstrated by the lack of substance in its report. The PIG Report relies on sensationalized and bold claims but has not proved its allegations with evidence of malfeasance. However, despite the unsubstantiated allegations presented in the PIG Report, our Office will continue to work for the will of the people and with the County Elections Divisions cooperatively towards the conduct of future elections.

Very truly yours,

A handwritten signature in black ink, appearing to read 'SCOTT T. NAGO', with a long horizontal flourish extending to the right.

SCOTT T. NAGO
Chief Election Officer

STN:AT:nn
OE-25-114

c: Chair Michael Curtis and Members of the Elections Commission