

STATE OF HAWAI'I

*Office of the Auditor*

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## 2014 ANNUAL REPORT

Jan K. Yamane  
*Acting State Auditor*

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STATE OF HAWAII  
*Office of the Auditor*

The Honorable Members of the Legislature  
The Honorable David Ige, Governor

March 23, 2015



Ladies and Gentlemen:

**Mission of the  
Office of the Auditor**

Improving government  
through independent and  
objective analyses.

I am pleased to present this Annual Report, which highlights the efforts of the Office of the State Auditor in 2014. This report, and the audits and special studies it summarizes, address many of the major issues facing state government.

At 72 pages, this is our largest annual report ever. One of the reasons it is so big is that we had a busy 2014—releasing 18 audits, analyses, and studies on everything from alternate uses of recycled glass to the regulation of medical marijuana dispensaries. We also performed 37 quick reviews of proposed special and revolving funds, and administered 29 financial statement audits, including the State's Comprehensive Annual Financial Report.

We also follow-up on recommendations made in our reports. After one year, we ask audited agencies to report their progress on implementing our recommendations. After three years, we revisit agencies to verify implementation of our recommendations. In 2014, we followed up on 25 recommendations made in two reports issued in 2011.

Recommendations represent an audit's "bottom line," designed to help government work better at less cost. Our *2014 Annual Report* shows that while our work requires us to sweat the little details, we never lose sight of the big picture.

Respectfully Submitted,

Jan K. Yamane  
*Acting State Auditor*

# After the Headlines

Jan K. Yamane, Acting State Auditor

Here at the Office of the Auditor we have a saying that “No audit should have a birthday.” It’s a not-so-subtle reminder to ourselves that our audits must be timely to be relevant. On rare occasions, when auditees were uncooperative and the issues were complicated and difficult to unravel, we have had audits that were eligible for a baby lū’au. (As you might suspect, we don’t throw parties on those occasions.) However, while our audits shouldn’t have birthdays, they do have long lifespans, because as one audit process ends with the publication and release of a report, another process begins: implementation and follow-up.

In 2008, the Legislature amended our governing statute to require we follow-up on recommendations made in our reports. The purpose of this change was to apprise the Legislature of recommendations not implemented by audited agencies. This is important, because although a report’s conclusions and findings may attract headlines and be the subject of editorials and other in-depth discussions, it’s the recommendations—tucked all the way at the back of a report—that represent an audit’s “bottom line.” Recommendations address the causes of an agency’s problems by offering implementable solutions. Recommendations are designed to help government work better at less cost. So, if an agency is unwilling or unable to implement an audit’s recommendations, the Legislature and the public should know.

**Although a report’s conclusions and findings may attract headlines and be the subject of editorials and other in-depth discussions, it’s the recommendations—tucked all the way at the back of a report—that represent an audit’s “bottom line.”**

Act 36, Session Laws of Hawai‘i (SLH) 2008—the act that implemented this change to require follow-ups—was modeled after a 2006 California law. This additional layer of oversight enables legislators to take into account an agency’s claims of progress against audit recommendations when discussing its budget. We based our follow-up process on U.S. Government Accountability Office (GAO) guidelines, which state that “effective follow-up is essential to realizing the full benefits of audit work.” As a result, our follow-up effort is active and robust. We interview relevant administrators, managers, and staff; and examine agencies’ policies, procedures, records, and relevant documents to assess whether their actions have

adequately fulfilled our recommendations.

As active and robust as our process is, our follow-up work does not constitute an actual audit. Our efforts are limited to inquiring, testing, and reporting on the implementation of recommendations made in

our previous reports. We do not explore new issues or revisit old ones that do not relate to our original recommendations.

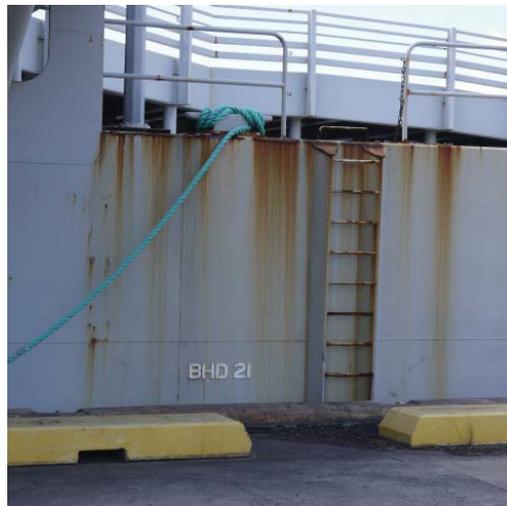
This may sound like a lot of straightforward, important-but-necessary paper-pushing and some of it is; however, while verifying and analyzing, we have also uncovered some headline-worthy issues that we reported to the Legislature and the rest of the public. For instance, in our follow-up on recommendations made in *Performance Audit on the State Administration’s Actions Exempting Certain Harbor Improve-*

**ments to Facilitate large Capacity Ferry Vessels from the Requirements of the Hawai‘i Environmental Impact Statements Law** (Report No. 08-09), we determined that the State would be paying \$63 million in Superferry-related expenses. A majority of these expenses were related to the construction, repair, and maintenance of four barges it provided to Hawai‘i Superferry, Inc., an interisland ferry service that shut down operations in 2009. Because the barges were built for the specific needs of Hawai‘i Superferry, Inc., the vessels could not be repurposed by the State. By late 2011, the Department of Transportation’s plans to sell the barges had yet to be implemented. We found three of the barges docked at Honolulu Harbor. Idle and not receiving routine maintenance, the vessels were slowly rusting away, their value diminishing.



**Hawai‘i Superferry, Inc.’s Alakai**  
Source: Office of the Auditor

When we revisited our **Study on the Appropriate Accountability Structure of the Hawai‘i Teacher Standards Board** (Report No. 09-05), we found that the board had addressed operational issues highlighted in our report. However, we found that an unresolved dispute with a former information technology contractor continued to put the organization and the public school teachers it licenses at risk. The contractor, who failed to deliver an online licensing system as promised, refused to return confidential personal information of teachers licensed by the board from 2003 through 2008. When we questioned whether the



**Maui Barge, Manaiakalani in Honolulu Harbor in 2011**  
Source: Office of the Auditor

board resolved this matter, a board member responded that the contractor had “just vanished.” Other board members said that the matter “just faded away,” and they thought it had been resolved. It had not.

But not all updates are gloom and doom. In fact, in general, we find agencies are making good faith efforts to improve their operations. For example, in **Performance Audit of the Hawai‘i Public Charter School System** (Report No. 11-03), we found a school system

without any real outside oversight. The Charter School Review Panel, which was responsible for holding charter schools accountable for their performance, misinterpreted state law and minimized its oversight role. However, Act 130, SLH 2012, established a governance

structure that required a newly established State Public Charter School Commission to play an integral and active role in overseeing charter schools. The commission’s new accountability system had yet to be fully implemented at the time we followed up on it in 2014, so we couldn’t conduct a full analysis of it, but we were encouraged by what we saw. We also made sure to carefully document the system’s new frameworks as well as its poli-

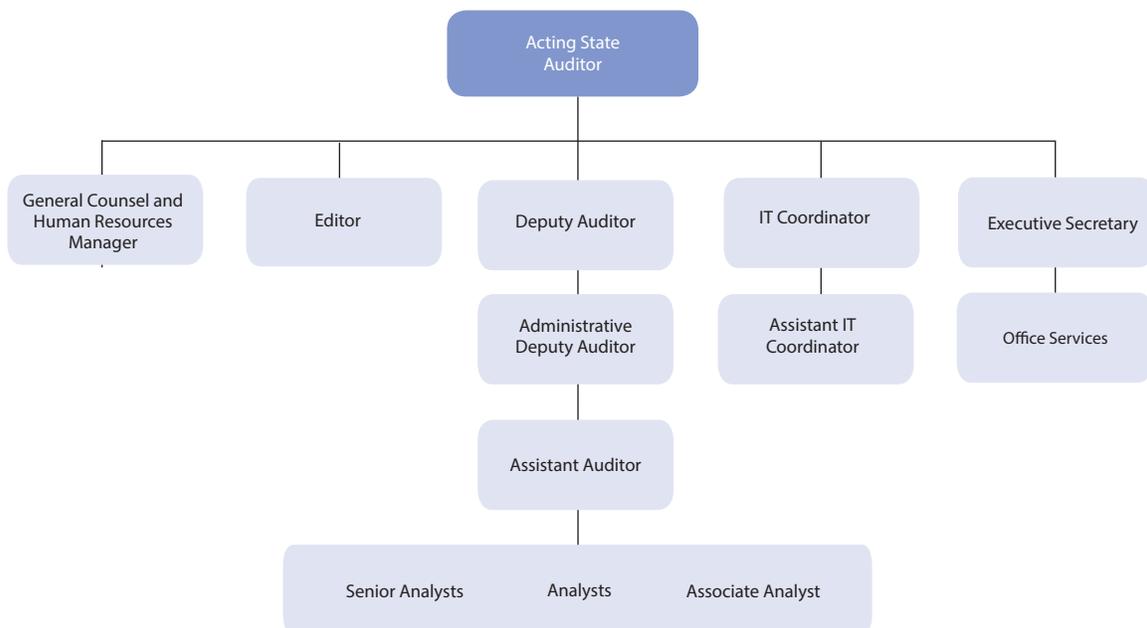
cies, procedures and processes, because that work will provide a good foundation for future audits.

So, in a sense, like the proverbial good soldier, our audits never die or fade away. Instead, they are revisited after several years and in many instances, revived. ◆

## Office of the Auditor Staff

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## Organization of the Office of the Auditor



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# Summary of 2014 Reports

# Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Departments of Accounting and General Services, Agriculture, and Budget and Finance

Report No. 14-01, January 2014

*Section 23-12, HRS, requires the Auditor to review all existing special, revolving, and trust funds every five years. Reviews are scheduled so that each department's funds will be reviewed once every five years. This is our fifth review of the revolving funds, trust funds, and trust accounts of the Departments of Accounting and General Services, Agriculture, and Budget and Finance. However, it is our first review of their special funds, since Act 130, Session Laws of Hawai'i 2013, amended section 23-12, HRS, to require we review special funds along with revolving funds, trust funds, and trust accounts.*

**R**evolving funds, such as loan funds, are often established with an appropriation of seed money from the general fund, and must demonstrate the capacity to be self-sustaining. Special funds are used to account for revenues earmarked for particular purposes and from which expenditures are made for those purposes.

Trust funds, such as a pension fund, invoke the State's fiduciary responsibility to care for and use assets held for the benefit of those with a vested interest in the assets. Trust accounts are typically separate holding or clearing accounts and are often used as accounting devices for crediting or charging state agencies or projects for payroll or other costs.

We reported on 91 special funds, revolving funds, trust funds, and trust accounts: 22 special funds, 15 revolving funds, 14 trust funds, and 40 trust accounts. We used criteria developed by the Legislature as well as by our office from a review of public finance and accounting literature. For each fund, we presented a five-year financial summary, the purpose of the fund, and conclusions about its use. We did not audit the financial data, which was provided for informational purposes. We did not present conclusions about the effectiveness of the

program or its management, or whether the program should be continued. However, we found that 11 of the 91 funds and accounts did not meet applicable fund criteria. We also noted inconsistent adherence to statutory reporting of financial transactions and balances resulted in reports that were incomplete or not filed.

Additionally, although some funds had been repealed or were no longer active, their appropriation accounts had not been closed and balances remain. Accurate and complete reporting, as well as timely closing of funds, will greatly improve the Legislature's oversight and control of these funds and provide increased budgetary flexibility.

We transmitted a draft of this review to the relevant departments.

The departments generally concurred with our review of their funds.

**We reported on 91 funds and accounts: 22 special funds, 15 revolving funds, 14 trust funds, and 40 trust accounts. We found that 11 of the funds and accounts did not meet applicable fund criteria.**

# Audit of the Department of Human Services' Med-QUEST Division and Its Medicaid Program

Report No. 14-02, January 2014

*This audit of the Department of Human Services' Med-QUEST Division was requested by the 2013 Legislature through House Concurrent Resolution No. 184, which asked the Auditor to conduct a comprehensive financial audit of the Med-QUEST Division, with emphasis on the Medicaid program.*

While Hawai'i's Medicaid program is financed with a combination of state and federal funds, we found that the Med-QUEST Division concentrates its reporting around meeting federal measures and requirements, which focus on quality of health care services delivered, and not State concerns, which are largely related to costs. With State contributions to the Medicaid program nearly doubling over the past five years, legislators were understandably concerned about the relevance and usefulness of the information they received from the division. Absent adequate and appropriate information, however, the Legislature was unable to make informed decisions and enact legislation to implement any cost containment measures relating to the Medicaid program.

After analyzing data from the Med-QUEST Division and other government and private sources, we found that Hawai'i's Medicaid costs compared favorably to other states and the national average. Although Hawai'i had a higher Medicaid enrollment per capita compared to other states, its Medicaid costs are below the national average and the division had been relatively successful in controlling spending per enrollee and stabilizing program costs. In addition, while Hawai'i had some flexibility in containing these costs, we found that these options were increasingly limited. Requirements related to the Compacts of Free Association agreements and the implementation of the Affordable Care Act prevented the division from making certain adjustments to benefits and eligibility.

We also found that division management neglected to commit sufficient resources towards preventing fraud, waste, and abuse. As a result, Hawai'i's detection and enforcement activities lagged far behind national averages, exposing the State to tens of millions of dollars in losses annually. For instance, in 2011, the Centers for Medicare and Medicaid Services projected that improper payments from the Hawai'i Medicaid and Children's Health Insurance programs totaled \$66.9 million. Since additional federal regulation will limit cost containment options for the State, the division needs to be more proactive in containing the costs that it can control by establishing and implementing an effective and efficient fraud, waste, and abuse detection program.

The department generally agreed with our conclusions and recommendations and said it had already undertaken actions to address several of our recommendations. It agreed Hawai'i's Medicaid program fares well compared to peer states and the rest of the nation, and that it has managed to control costs on a per-enrollee basis even while enrollment has increased. The department also said it is committed to eliminating all fraud, waste, and abuse, and that it has made substantial improvements in program integrity. It also stated that implementation of its new eligibility system, KOLEA, will reduce eligibility errors.

**In FY2015, Med-QUEST Division health care payment appropriations alone accounted for nearly 15 percent of State spending.**

# Sunrise Analysis: Regulation of Unaccredited Degree Granting Institutions

Report No. 14-03, January 2014

*Demand for higher education degrees has led to a thriving industry that includes both accredited colleges and universities and unaccredited degree granting institutions. Unaccredited institutions, which account for an estimated 20 percent of legally operating degree granting institutions in the U.S., have long been considered synonymous with “diploma mills,” entities that offer degrees for a fee but require little to no work to obtain the degree.*

**A**lthough Hawai‘i has a reputation for lax regulation of diploma mills, it is also known for actively prosecuting them. We found that enforcement by the Department of Commerce and Consumer Affairs (DCCA), Office of Consumer Protection, against unaccredited degree granting institutions (UDGIs) for violations of prohibited practices under existing laws in Chapter 446E, Hawai‘i Revised Statutes, provides sufficient consumer protection.

House Bill No. 1200, House Draft 2 (HB No. 1200, HD2), proposed to re-establish the State Post-Secondary Education Commission within DCCA instead of the University of Hawai‘i. Effective July 1, 2015, the commission is charged with overseeing the post-secondary authorization program of unaccredited degree granting institutions pursuant to chapter 446E, HRS.

The bill’s purpose was to bring Hawai‘i into compliance with Title IV of the federal Higher Education Act of 1965, as amended in October 2010, to hold programs accountable for preparing students for gainful employment and protect them from misleading recruiting practices.

We found that HB No. 1200, HD 2, was not needed to comply with the Higher Education Act of 1965, and other flaws in the bill did not warrant its enactment. For instance, a post-secondary education program

now exists within DCCA, whereas the bill proposed to place a commission there. More importantly, the bill did not specify a regulatory framework; that is, it did not state whether it would require licensure, certification, or registration for unaccredited degree granting institutions. We found the cost of regulation would be prohibitive, at nearly twice the fees for accredited institutions. These costs would likely translate to higher costs for consumers and restrict entry into the field for other unaccredited institutions. Complaints against unaccredited degree granting institutions declined considerably in recent years, from a peak of 239 in 2005 to one in 2013. Enforcement by DCCA’s Office of Consumer Protection against unaccredited degree granting institutions for violations of prohibited practices under existing laws provides sufficient consumer protection. All states, including Hawai‘i, have laws addressing unaccredited institutions. Hawai‘i’s law already covers online entities.

**Complaints against  
UDGIs in 2005: 239**

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**Complaints against  
UDGIs in 2013: 1**

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**OCP actions filed against  
UDGIs, 1997–2012: 51**

# Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Departments of Defense and Land and Natural Resources

Report No. 14-04, February 2014

*Section 23-12, HRS, requires the Auditor to review all existing special, revolving, and trust funds every five years. Reviews are scheduled so that each department's funds will be reviewed once every five years. This was our fifth review of the revolving funds, trust funds, and trust accounts of the Department of Land and Natural Resources. This was our first review of the Department of Defense and both departments' special funds, since Act 130, Session Laws of Hawai'i 2013, amended section 23-12, HRS, to require we review the Department of Defense's revolving and trust funds, and to include reviews of all special funds statewide.*

Special funds are used to account for revenues earmarked for particular purposes and from which expenditures are made for those purposes. Revolving funds, such as loan funds, are often established with an appropriation of seed money from the general fund, and must demonstrate the capacity to be self-sustaining. Trust funds, such as a pension fund, invoke the State's fiduciary responsibility to care for and use the assets held for the benefit for those with a vested interest in the assets. Trust accounts are typically separate holding or clearing accounts and are often used as accounting devices for crediting or charging state agencies or projects for payroll or other costs.

We reviewed 79 special funds, revolving funds, trust funds, and trust accounts; and reported on 51 of them (20 special funds, three revolving funds, 13 trust funds, and 15 trust accounts).

We used criteria developed by the Legislature as well as by our office from a review of public finance and accounting literature. For each fund, we presented a five-year financial summary, the purpose of the fund, and conclusions about its use. We did not audit the financial data, which was provided for informational purposes. We did not present

conclusions about the effectiveness of the program or its management, or whether the program should be continued. However, we found that 11 of the 51 funds and accounts did not meet applicable fund criteria.

We also noted inconsistent adherence to statutory reporting of financial transactions and balances, resulting in reports that are incomplete or not filed and that, although some funds had been repealed or were no longer active, their appropriation accounts had not been closed and balances remained. Accurate

and complete reporting, as well as timely closing of funds, will greatly improve the Legislature's oversight and control of these funds and provide increased budgetary flexibility.

We transmitted a draft of this review to the relevant departments. The Department of Defense concurred with our review. The Department of Land and Natural Resources agreed with

our review of three of its funds, but it disagreed with or provided clarifying information on seven special funds.

**We reported on 51 funds and accounts: 20 special funds, 3 revolving funds, 13 trust funds, and 15 trust accounts. We found that 11 of the 51 funds and accounts did not meet applicable fund criteria.**

# Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of Transportation

Report No. 14-05, March 2014

*Section 23-12, HRS, requires the Auditor to review all existing special, revolving, and trust funds every five years. This is our first review of the Department of Transportation since Act 130, Session Laws of Hawai'i 2013, amended Section 23-12, HRS, to require we review the department's funds.*

Special funds are used to account for revenues earmarked for particular purposes and from which expenditures are made for those purposes. Revolving funds, such as loan funds, are often established with an appropriation of seed money from the State's general fund, and must demonstrate the capacity to be self-sustaining. Trust funds, such as a pension fund, invoke the State's fiduciary responsibility to care for and use assets held for the benefit for those with a vested interest in the assets. Trust accounts are typically separate holding or clearing accounts and are often used as accounting devices for crediting or charging state agencies or projects for payroll or other costs.

We reviewed 60 special funds, revolving funds, trust funds, and trust accounts; and reported on 48 of them (16 special funds, 20 revolving funds, two trust funds, and ten trust accounts). We used criteria developed by the Legislature as well as by our office from a review of public finance and accounting literature. We determined that eight of the 48 funds and accounts did not meet applicable fund criteria.

For each fund, we presented a five-year financial summary, the purpose of the fund, and conclusions about its use. We did not audit the financial data, which was provided for informational purposes. We did not present conclusions about the effectiveness of the program or its management, or whether the program should be continued.

We noted inconsistent adherence by the department to statutory reporting of financial transactions and balances, resulting in reports that are incomplete or not filed. Although some funds had been repealed or were no longer active, their appropriation accounts had not been closed and balances remained. Accurate and complete reporting, as well as timely closing of funds, will greatly improve the Legislature's oversight and control of these funds and provide increased budgetary flexibility.

We also found instances where multiple funds were combined as a single fund in reports and did not include specific details of individual funds or accounts. When funds are combined and reported in aggregate, reports lack itemized information such as the purpose, sources of revenue, and program expenditures of each fund.

We transmitted a draft of this review to the department. The department agreed with our review of its funds, but disagreed with our conclusion on the Safe Routes to School Program Special Fund.

**We reported on 48 funds and accounts: 16 special funds, 20 revolving funds, two trust funds, and ten trust accounts. We found that eight funds and accounts did not meet criteria.**

# Report on the Implementation of State Auditor's 2011 Recommendations

Report No. 14-06, March 2014

*The 2008 Legislature amended the Auditor's governing statute to require follow-up reporting on recommendations made in various audit reports to ensure agencies adopt audit recommendations. The purpose of this change was to apprise the Legislature annually of recommendations not implemented by agencies, and to require such agencies to submit a written report not later than 30 days after issuance of our report explaining why the recommendation was not implemented and the estimated date of its implementation.*

Our review focused on entities' implementation of 25 audit recommendations made in calendar year 2011. This report detailed each recommendation, its status, and actions taken related to the recommendation. We made 12 recommendations in Report No. 11-01, *Management Audit of the Hawai'i Public Housing Authority*. The remaining 13 recommendations related to Report No. 11-03, *Performance Audit of the Hawai'i Public Charter School System*. Following the release of our report, the Legislature amended Hawai'i's public charter school law and overhauled the charter school system governance structure. Therefore, instead of revisiting Report No. 11-03's recommendations, we provided a brief overview of the new governance structure and accountability system with a focus on functions that address the report's concerns of lack of oversight.

## ***Management Audit of the Hawai'i Public Housing Authority, Report No. 11-01***

In Report No. 11-01, we found that the Hawai'i Public Housing Authority's (HPHA) monitoring of its housing project managers, both state and private, was sporadic and lacked robustness. In addition, both state- and privately-run housing projects had backlogs of repair and maintenance issues. Moreover, turnaround on vacant units was slow, adversely impacting families on the waiting list as well as rent collections. Inventory procedures also varied considerably between housing projects, and there was no uniform method for addressing tenant complaints.

Our follow-up review found that HPHA made progress implementing many of our recommendations in oversight and significantly improved occupancy rates. However, HPHA still lacked policies and procedures to ensure robust monitoring of Asset Management Project performance and the uniform addressing of complaints. In addition, HPHA lacked accurate work order data. We also experienced difficulty in obtaining documentation from HPHA and scheduling interviews with staff, which hindered our ability to evaluate and verify whether the authority had implemented the recommendations in Report No. 11-01.

## ***Performance Audit of the Hawai'i Public Charter School System, Report No. 11-03***

In Report No. 11-03, we found that the Charter School Review Panel misinterpreted state law and minimized its role in accountability. The panel, responsible for holding charter schools accountable for their performance, did not collect meaningful and reliable data, did not analyze the information it did receive, and offered little guidance to schools. As a result, Hawai'i's charter school system operated without any real outside oversight. Our follow-up found that Act 130, Session Laws of Hawai'i 2012, established a new governance structure that requires a newly established State Public Charter School Commission to play an integral and active role in overseeing charter schools. The commission's new accountability system, known as the Performance Framework, promises to provide real oversight of charter school performance.

# Follow-up Audit of the Management of Mauna Kea and the Mauna Kea Science Reserve

Report No. 14-07, August 2014

*In response to past concerns about the University of Hawai'i's (UH) and the Department of Land and Natural Resources' (DLNR) management of Mauna Kea and its science reserve, we conducted audits in 1998 and 2005. In this report, we found that UH and DLNR made progress on implementing many of our previous major recommendations but that some issues remained unresolved.*

Rising 30,000 feet above the sea floor, Mauna Kea is a sacred and unique place that is highly valued by the people of Hawai'i and by astronomers, many of whom consider it one of the premier sites for astronomical research in the world. The Mauna Kea Science Reserve includes a 525-acre astronomy precinct where 12 of the mountain's 13 astronomical telescopes are located. The reserve's remaining 10,763 acres are designated as a natural/cultural preservation area

Our prior audit recommended that UH obtain rulemaking authority for the science reserve. In our follow-up, we found that in 2009, the Legislature granted UH authority to adopt and enforce rules

governing public and commercial activities, such as access to sensitive resource areas, recreational activities, and commercial tour activities. However, UH does not expect to adopt rules until 2017, due in part to avoidable delays in the rulemaking process. In the absence of rules, UH relied on unauthorized permits and informal agreements to manage and assess fees on commercial tour activities, which totaled nearly \$2 million between FY2009 and FY2013. Until UH adopts rules, it cannot enforce controls for managing public access nor implement certain actions called for

in its management plans, thus hampering its ability to fulfill its responsibility to protect the mountain's resources and ensure public health and safety on the mountain. We urged UH to hasten its rulemaking efforts and obtain Board of Regents' approval for the conditions and fee schedule included in commercial tour use permits.

Our 2005 audit recommended that UH and DLNR create or revise key documents governing their



**Observatories in the Mauna Kea summit region**

Source: Mauna Kea Observatories Support Services

management of Mauna Kea lands to address confusing management plans and outdated leases and permits. In our follow-up, we found that UH implemented our recommendations by developing several management plans that provide a comprehensive framework for managing and

protecting Mauna Kea while balancing the competing interests of culture, conservation, scientific research, and recreation. We also found that contractual terms and other requirements currently preclude UH and DLNR from updating general leases, subleases, and permits; however, they have taken steps to ensure future agreements provide for adequate stewardship of the mountain and reflect current land management. UH and DLNR need to continue their joint efforts to establish and implement the foundation for improved stewardship of Mauna Kea lands.

# Study of Proposed Mandatory Health Insurance for Treatment of Orofacial Anomalies

Report No. 14-08, September 2014

*In House Concurrent Resolution No. 100, the 2014 Legislature asked the Auditor to assess the social and financial effects of mandating health insurance coverage for medically necessary orthodontic treatment of persons with orofacial anomalies, as proposed in House Bill (HB) No. 2522. Specifically, the bill would require each health insurance contract, plan, policy, or agreement issued or renewed after December 31, 2014, to include benefits for direct or consultative services provided by a licensed orthodontist for the correction of teeth that come together abnormally, preparation of patients for surgery, or correction of facial deformities in conjunction with surgery.*

**H**B No. 2522 defines orofacial anomalies as a “cleft lip or cleft palate and other birth defects of the face and mouth affecting functions such as eating, chewing, speech, and respiration.” In Hawai‘i, approximately one in 500 babies is born with an orofacial anomaly.

Our analysis on the social and financial impacts of mandating health insurance coverage for medically necessary orthodontic services of orofacial anomalies was based on survey responses, literature review, and interviews. In addition to the Department of Health’s (DOH) Children with Special Health Needs Branch of the Family Health Services Division and the Kapi‘olani Cleft Center, we sent surveys to four private health insurance companies: Hawai‘i Medical Service Association (HMSA); Kaiser Permanente Hawai‘i (Kaiser); University Health Alliance (UHA) and Hawai‘i Medical Assurance Association (HMAA).

The lack of insurance coverage for medically necessary orthodontic services for orofacial anomalies places a significant hardship on families that cannot receive grants or qualify for state assistance through the DOH’s Children with Special Health Needs Program

(CSHNP). Treatment cost estimates range from approximately \$5,700 to \$20,000 or more. In testimony to the 2014 Legislature, families facing such expenses said they pose a significant hardship, particularly for orthodontia treatment that is medically necessary to progress from one surgery to another procedure.

**Between 2007 and 2012, 61 babies with cleft lip or palate and 83 babies with cranio-facial defects were born at Kapi‘olani Medical Center for Women and Children alone.**

One such parent, a public school teacher, testified that the family simply could not afford to pay out of pocket and said it is unfair that the treatment would be covered by Med-QUEST, but not the family’s private insurer. The DOH says mandatory coverage would ease the financial burden and hardship facing 44 families enrolled in the CSHNP with commercial health plans.

Three insurers (HMAA, HMSA, Kaiser) could not say whether coverage will increase or decrease insurance premiums. UHA reported premiums and costs would increase but could not provide estimates. DOH cited reports from California and Massachusetts indicating that mandated insurance coverage for orofacial anomalies increased premiums by 2¢ to 4¢ per member, per month, or less; however, Hawai‘i’s insurance premium cost increases are unknown since HMAA, HMSA, and Kaiser were unable to provide any estimates without more detailed analysis.

# Study of the Civil Service Exemption Process

## Report No. 14-09, October 2014

*Act 199, Session Laws of Hawai'i 2014, required the State Auditor to review the current civil service exemption process and recommend procedures, guidelines, and criteria to ensure that it is used appropriately and only in extraordinary circumstances. The act asked the Auditor to determine the reasons state and county departments and agencies have used the civil service exemption process; and recommend modifications to streamline and update the process for modernizing and reconciling position descriptions within state and county departments and agencies to accurately reflect the duties that employees are expected to perform.*

As of July 1, 2014, the Department of Human Resources Development's (DHRD) jurisdiction consisted of 21,783 positions, of which 15,069 were civil service and 6,714 exempt. Of the 6,714 exempt positions, approximately two-thirds were vacant (4,512). In addition, DHRD has identified approximately 500 exempt positions for conversion to civil service positions over the next biennium. We found that new exempt positions are being established as existing ones are converted. But the number of these new exempt positions created annually has generally decreased over the last five years.

We also found that DHRD has delegated authority to departments to establish most exempt positions, as well as to assign exempt positions to a civil service class. Departments convert exempt positions to civil service positions as appropriate and permitted by law. DHRD provides guidance on these processes via policies and procedures, including procedures to appoint exempt employees to replacement civil service positions.

Executive departments are responsible for preparing and updating position descriptions as necessary for

every authorized position. A new position description must be drafted when establishing a new position and updated when significant changes in work occur. A position description is the official written record of the major duties and responsibilities assigned to a position. We found that DHRD provides departments with guidance and tools to write position descriptions, as well as a position description template. Departmental staff we interviewed provide their divisions and programs with DHRD's workbook to use when creating position descriptions.

**Of the 6,714 exempt positions, 4,047 are casual exempt positions, which include Stadium Authority hires, student helpers, and work experience positions.**

Prior to recruiting and hiring staff, departments create and update position descriptions, as appropriate, and prepare the necessary documents. Department directors are delegated the authority to approve positions for hire except for excluded managerial compensation plan and general professional class positions. The departments we interviewed told us they update position descriptions for new hires and do not use old position descriptions.

# Study of Proposed Mandatory Health Insurance for Hearing Aids

Report No. 14-10, October 2014

*In Senate Concurrent Resolution No. 34, Senate Draft 1, the 2014 Legislature asked the Auditor to assess the social and financial effects of mandating health insurance coverage for hearing aids, as proposed in Senate Bill No. 309, Senate Draft 1 (SB No. 309, SD 1), of the 2014 Regular Session. The bill defined hearing aids as “any wearable instrument or device and any parts, attachments, or accessories, including earmold, but excluding batteries and cords, designed or offered for the purpose of aiding or compensating impaired human hearing.”*

**H**earing aids may be used to treat several types of hearing loss. In Hawai‘i, approximately 55 infants with hearing loss are born annually. Because SB No. 309, SD 1, would not change the status quo concerning coverage for hearing aids, we recommend the Legislature not pass the measure.

Our analysis on the social and financial impacts of mandating health insurance coverage for hearing aids is based on survey responses, literature review, and interviews. In addition to the Children with Special Health Needs Branch of the Department of Health’s (DOH) Family Health Services Division and the American Academy of Audiology, we sent surveys to four private health insurance companies: Hawai‘i Medical Service Association (HMSA), Kaiser Permanente Hawai‘i (Kaiser), University Health Alliance (UHA), and Hawai‘i Medical Assurance Association (HMAA). HMSA, UHA, and HMAA now provide coverage for hearing aids, and Kaiser plans to begin covering hearing aids in January 2015.

Although coverage may be inadequate to cover the full cost of hearing aids, which may place a financial hardship on some patients needing treatment, SB No. 309, SD 1, would not require insurers to cover

full costs of hearing aids. Because insurers already provide coverage or plan to start providing coverage in 2015, the measure is likely to have minimal effect on insurance premium costs.

SB No. 309, SD 1, has no limits on coverage, such as age, frequency for replacing, or costs covered by insurers, which other states have identified. Without such coverage parameters, the measure merely

requires that insurers provide for the costs of hearing aids, subject to deductibles, copayments and maximum payment limits set by insurers.

As of August 2014, 20 states had laws requiring that private health insurers provide coverage for hearing aids. Of those, every state had at least one coverage limitation based on at least one of three factors: the age of the

beneficiary, the frequency at which insurers must provide hearing aids to beneficiaries, or the dollar cost the insurer must cover. Hawai‘i would have none of these.

**Compared with the 20 other states that mandate insurance coverage for hearing aids, only Hawai‘i would have no parameters on age, costs covered, or frequency at which hearing aids must be provided.**

# Audit of the Hawai‘i State Foundation on Culture and the Arts

Report No. 14-11, November 2014

*This audit of the State Foundation on Culture and the Arts was conducted pursuant to Act 138, Session Laws of Hawai‘i Session Laws of Hawai‘i 2014, which required the Auditor to conduct a financial and management audit of the foundation that included gathering data on the Works of Art Special Fund, art acquisition and inventory methods, acquisition and expenditure costs, and best management practices.*

**T**wo of the State Foundation on Culture and the Arts’ (SFCA) primary resources for fulfilling its mission are the Works of Art Special Fund and a collection of nearly 6,300 pieces of artwork. We found that the foundation cannot assure that it receives all moneys due to it by law or whether it maximizes public access to its growing collection of art. Our findings in the areas of planning, oversight, and public art accessibility are troublesome, since we found similar problems in both our 1976 and 1999 audits of the foundation.



**Photo of SFCA relocatable works of art storage facility**

Source: Office of the Auditor

Although the foundation has since adopted a strategic plan and a rotation policy for increasing the accessibility of its collection of art, its commission still devotes a majority of time on acquiring and displaying art. The lack of regular budget and strategic planning discussions caused the commission to adopt a strategic plan that does not set expectations for foundation performance. Instead, the foundation’s success is gauged on whether activities are conducted, rather than goals accomplished. As a result, the foundation cannot demonstrate its effective and efficient use of state resources to promote arts and culture, nor can it adequately develop and implement improvements in strategy to effectively channel foundation activities and programs. In addition, the

foundation’s strategic plan is based on a \$75,000 consultant report that contained an unrealistic proposal for filling fund-raising and marketing needs and that

did not address how to utilize \$3 million in surplus public arts funds. The commission also failed to comply with sunshine law, disregarding the public’s right to know, and has not proposed legislative actions to preserve and further arts and culture, as required by law.

We also found that the state comptroller’s outdated and unclear guidance for complying with Works of Art Special Fund

requirements has led to both underpayments and overpayments for the arts. The foundation was unable to identify and remedy such inaccurate payments because it took a passive approach to monitoring compliance with the Works of Art Special Fund assessment on Capital Improvement Projects appropriations. The foundation also lacked information necessary to identify optimal sites for displaying and maximizing public accessibility to the State’s art collection. Lastly, the foundation had not implemented safeguards to protect artists’ rights, which increases the potential for copyright infringement, betrays the trust of artists, and increases foundation liability.

# Sunrise Analysis: Regulation of Medical Marijuana Dispensaries

Report No. 14-12, December 2014

*In House Concurrent Resolution No. 74, the 2014 Legislature asked the Auditor to conduct a sunrise review of the establishment of a system of registered dispensaries within the Department of Health to dispense medical marijuana as proposed in House Bill No. 1587 (HB No. 1587) of the 2014 Regular Session.*

In 2000, the Legislature enacted the *Medical Use of Marijuana* law, which has been codified as Part IX of Chapter 329, HRS, the *Uniform Controlled Substances Act*. The law allows for the medical use of marijuana by qualifying individuals under certain conditions and includes registration requirements for medical marijuana patients and their caregivers, administered by the Department of Public Safety. However, the law does not provide a legal method of obtaining marijuana. Patients or their caregivers may grow their own plants but otherwise have no legal way of obtaining marijuana.

Because the sale of marijuana is illegal under state law, there is no place within Hawai'i to legally obtain medical marijuana, which forces qualifying patients to either grow their own medical marijuana or seek out black market products. We found that regulation of medical marijuana dispensaries is necessary to protect the health, safety, and welfare of qualifying patients in Hawai'i. Without regulated dispensaries, patients' health is jeopardized because a product's strength, strain, and lack of contaminants cannot be verified. Regulation could also mitigate fears that dispensaries would introduce a criminal element into surrounding

neighborhoods by stipulating where and how many dispensaries may operate. Regulation would also satisfy most other criteria in Hawai'i's "sunrise" law, Chapter 26H, HRS: it would not unreasonably restrict potential operators' ability to join the field, fees would likely cover administrative costs of the program, and viable alternatives to protect the public have not been identified. In addition, most other states with medical marijuana programs regulate dispensaries.



**Different strains of medical marijuana**

Source: Harborside Health Center, San Jose, California

The proposed regulatory vehicle, HB No. 1587, had several flaws. First, licensure would be more appropriate than registration for dispensaries. Second, the bill did not specify a funding mechanism for the new regulatory program. No seed moneys were provided, and the existing Medical Marijuana Registry Special Fund statute did not contemplate use of the

fund for overseeing a dispensary regulatory program. In addition, various duties in the bill were unclear or inappropriately assigned to the entity to be regulated (dispensaries) rather than the regulating authority (the Department of Health). Finally, the bill needed several technical changes in order to be effectively implemented.

# Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Departments of the Attorney General and Business, Economic Development and Tourism

Report No. 14-13, December 2014

*Section 23-12, HRS, requires the Auditor to review all existing special, revolving, and trust funds every five years. Reviews are scheduled so that each department's funds will be reviewed once every five years.*

Special funds are used to account for revenues earmarked for particular purposes and from which expenditures are made for those purposes. Revolving funds, such as loan funds, are often established with an appropriation of seed money from the general fund, and must demonstrate the capacity to be self-sustaining. Trust funds, such as a pension fund, invoke the State's fiduciary responsibility to care for and use the assets held for the benefit for those with a vested interest in the assets. Trust accounts are typically separate holding or clearing accounts and are often used as accounting devices for crediting or charging state agencies or projects for payroll or other costs.

Our review of special, revolving, and trust funds and trust accounts of the departments of the Attorney General (ATG) and Business, Economic Development and Tourism (DBEDT) found 19 of the 74 funds and accounts did not meet criteria for their respective fund or account type. At the Department of the Attorney General, 10 percent (2 of 20) of the funds and accounts reviewed failed to meet at least one of the criteria. Thirty-one percent (17 of 54) of DBEDT's fund and accounts did not meet at least one criterion.

We used criteria developed by the Legislature as well as by our office from a review of public finance and accounting literature. For each fund, we presented a five-year financial summary, the purpose of the fund, and conclusion about its use. We did not audit the financial data, which was provided for informational purposes.

We did not present conclusions about the effectiveness of the program or its management, or whether the program should be continued.

We also noted inconsistent adherence by departments when filing statutorily required reports for non-general funds and for administratively created funds and accounts. Accurate and complete reporting, as well as timely closing of funds, will greatly improve the Legislature's oversight and control of these funds and provide increased budgetary flexibility.

We transmitted a draft of this review to the relevant departments. ATG agreed with most of our review but disagreed on our conclusion to reclassify the Antitrust Trust Fund to a special fund; however, we stand by our conclusion. DBEDT concurred with our review for the most part, and like the ATG, will review procedures to ensure compliance with reporting requirements. DBEDT disagreed with our conclusions to repeal four funds; however we stand by our conclusions. We agreed with DBEDT to reclassify the Rental Housing Trust Fund as a revolving fund instead of a special fund.

**Ten percent of ATG's funds and accounts reviewed failed to meet at least one of the criteria. Thirty-one percent of DBEDT's funds and accounts did not meet the criteria.**

# Sunrise Analysis: Regulation of Herbal Therapists

Report No. 14-14, December 2014

*This report responded to Senate Concurrent Resolution No. 31, Senate Draft 1 of the 2014 Legislature, which requested the Auditor to conduct a sunrise review of the licensure and regulation of herbal therapists as proposed in Senate Bill No. 2439, Regular Session of 2014.*

The purpose of the bill was to establish licensing requirements for contemporary herbal healers from all ancestries and for the benefit of the public as a whole. Licensing requirements would apply to any person who practices, offers to practice, or advertises the practice of herbal therapy, except those covered under Act 162, Session Laws of Hawai'i 1998, *Relating to the Practice of Medicine*. The bill also proposed a five-member board of herbal therapy to establish exam qualification requirements, issue licenses, establish fees and fines, and carry out disciplinary actions, among other powers and duties.

Under current law, traditional Native Hawaiian healers who have been recognized by a kūpuna council convened by Papa Ola Lokahi, a Native Hawaiian health board, are exempt from all provisions under chapter 453, HRS, *Medicine and Surgery*. The intent of this law was to allow traditional Native Hawaiian healers to provide medical care for patients and place the traditional Hawaiian healing community (rather than the state) in charge of certifying healers. SB No. 2439 sought to reverse this law by making the government, through a board of herbal therapy, responsible for determining who is qualified to engage in traditional Native Hawaiian healing. Furthermore, in addition to

minor technical flaws in the bill, SB No. 2439 placed the burden of establishing standards for qualification on the board, which may prove an extremely difficult task.

The *Hawai'i Regulatory Licensing Reform Act*, Chapter 26H, HRS, limits regulation of certain professions and vocations to situations in which it is reasonably necessary to protect the health, safety, and welfare of consumers. Proponents of regulation could not provide evidence that herbal therapy presents a clear and present danger to consumers. Moreover, the reason

behind the proposed regulation is proponents' attempt to seek licensing in order to practice traditional Native Hawaiian medicine without going through the kūpuna council recognition process provided in existing law. If SB No. 2439 were enacted, Hawai'i would become the first state in the nation to regulate herbal therapists. The cost of regulation would likely be prohibitive since it would be spread among a small number of herbal therapist licensees; and existing alternatives to regulation—specifically, state and federal agencies—provide an adequate degree of protection for consumers.



Chinese Herbal medicine shop in Downtown Honolulu

Source: Institute for Clinical Acupuncture and Oriental Medicine

# Sunrise Analysis: Regulation of Veterinary Technicians

Report No. 14-15, December 2014

*This sunrise analysis was prepared in response to House Concurrent Resolution No. 66 of the 2014 Legislature, which asked the Auditor to examine the regulation of veterinary technicians and the practice of veterinary technology proposed in Senate Bill No. 2502, Senate Draft 1 (SB NO. 2502, SD 1) of the 2014 legislative session. The bill would have required veterinary technicians to register with the Board of Veterinary Examiners, limited the use of certain titles related to the practice of veterinary technology, and incorporated veterinary technicians into existing disciplinary measures in chapter 471, Hawai'i Revised Statutes.*

In clinics, veterinary technicians act as veterinarians' nurses, laboratory technicians, radiology technicians, anesthetists, pharmacy technicians, dental hygienists, surgical nurses, and client educators. Veterinary technicians provide support in all aspects of animal care, including administering anesthesia; assisting in surgery; collecting samples and performing laboratory tests; taking and developing x-rays; and administering medication, vaccines, and treatments prescribed by a veterinarian. While veterinary technicians provide a wide range of technical support, they cannot diagnose animals, perform surgery, or prescribe medication.

Statutory criteria for evaluating whether a profession or vocation merits state regulation require that proponents of regulation provide evidence supporting this need to engage the state's police powers. We found no evidence of abuses by veterinary technicians to merit regulation. Other than anecdotal risks of harm, we did not find any evidence to support a need to protect consumers' health, safety, or welfare from the activities of veterinary technicians. Furthermore, these risks are satisfactorily mitigated by existing requirements that veterinary technicians work under the direct supervision of a veterinarian.

**We did not find any evidence to support a need to protect consumers' health, safety, or welfare from the activities of veterinary technicians.**

We found that the current proposal was motivated primarily by an industry effort to establish national professional standards. We also found that the proposed regulation would restrict certain qualified individuals from entering the field of veterinary technology, and that the effect of regulation on cost to consumers is unknown. On balance, there was no demonstrable need for the State to regulate veterinary technicians in Hawai'i.

SB No. 2502, SD 1, contained several flaws that would undermine a successful regulatory program. Specifically, the practice definition for veterinary technology was overly broad, making it difficult to enforce the proposed regulation. The bill's educational qualifications for successful registration as a veterinary technician were too narrow and did not provide any alternative avenues for qualification. In addition, the proposed regulation did not address interstate reciprocity and failed to provide veterinary technicians with a representative on their own regulating body. The bill also called for registration but essentially described a level of regulation akin to licensure, the strictest form of regulation.

# Audit of the Department of Health's Glass Advance Disposal Fee Program

Report No. 14-16, December 2014

*Senate Concurrent Resolution No. 74, Senate Draft 1, House Draft 1, of the 2014 Legislature asked the Auditor to perform an audit of the Department of Health's glass advance disposal fee (ADF) program. It also requested that we examine local alternatives to shipping glass containers out of state for recycling.*

**W**e found the State's solid waste disposal goals are outdated and the glass ADF program lacked performance goals that are tied to a clear mission. As a result, it was unclear what the glass ADF program is supposed to accomplish and how to measure its progress. The department has contributed to these ambiguities by not establishing ADF program goals or adopting additional ADF program guidance through rule-making—basic administrative responsibilities. Without a clear baseline from which to judge the ADF program's performance, the Legislature cannot make an accurate assessment of the appropriateness of the ADF rate.

By law, the ADF is to provide funding for county glass recovery programs and contribute to the achievement of the State's solid waste reduction goals. However, the law is unclear and outdated, and administrative rules to clarify this discrepancy are missing. The basis for establishing the original ADF rate is unknown; the original statutory goals for the ADF program were later removed from statute, and the department has not adopted administrative rules to fill the gap. To make informed decisions about whether to amend the glass ADF law or adjust the ADF rate, the Legislature needs accurate and complete information about the glass ADF program's performance. To properly plan and budget for their annual glass recycling programs, counties need accurate and consistent estimates of their annual ADF allocations. The department has not provided either of these things.

We also found the department viewed its role for the glass ADF as limited to collecting funds and passing them along to counties. This approach may explain a number of shortcomings we found in the department's administration of the glass ADF. For instance, the department did not verify costs, was unaware of the use of some of its ADF funds, allowed counties to overspend their allocations, and has not dedicated resources to administering the program. The department also circumvented key ADF laws by allowing counties to retain unspent ADF funds, and is providing funds to one county despite its having no buyback program as required by law.

The department did not verify or require supporting documentation for the costs claimed by counties and recyclers, so was unable to determine why incentive rates to recyclers vary from county to county. Lack of documentation identifying and verifying costs also limited the department's ability to assess whether the ADF rate adequately covers costs for county glass recycling programs or whether the rate should be adjusted. The department knowingly did not enforce the ADF law and, in fact, took actions to avoid compliance with it. Some counties were permitted to use unspent ADF moneys instead of following the law by returning unused funds to the State. The department also changed its method of payment to the counties to avoid compliance with this statutory provision.

**“...the State's role under the law is basically limited to collecting funds and then pass [sic] them along to the counties.”**

**—Deputy Director of Environmental Health, Department of Health**

# A Study to Identify Local Alternatives to Shipping Non-Deposit Glass Out of the State of Hawai‘i

Report No. 14-17, December 2014

*Senate Concurrent Resolution No. 74 of the 2014 Legislature asked the Auditor to examine local alternatives to shipping non-deposit glass containers out of the State for recycling. We contracted with Oceanit Laboratories, Inc., to conduct the study.*

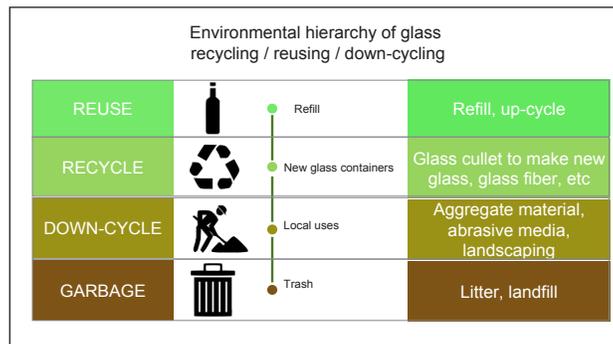
The study identified several opportunities for large volume down-cycling uses in Hawai‘i. Downcycling is the process of converting waste glass into new materials or products of lesser quality and reduced functionality. Recycling means to melt the glass containers and make them into another glass product. Using criteria such as cost, potential demand, health and safety, environmental impacts, and industry or public resistance, the study identified and assessed nearly a dozen alternative local uses of down-cycling glass. These options include using glass for non-structural backfill, agricultural soil amendment and ground cover, traction and mud abatement, and filtration media. The study also categorized alternatives by those that would be the simplest to implement; those that represent the highest value; and those that would produce the best long-term results. The report noted that a combination of these down-cycling alternatives is necessary to produce notable results due to industrial and market fluctuations.

The study found the interaction between the advance disposal fee (ADF) and the deposit beverage container (DBC) programs creates inefficiencies in the recycling or down-cycling of glass. Both programs involve the same commodity but create two categories of glass that are subject to different rules and policies. This also increases costs as the glass must be sepa-

rated manually to identify glass that falls under each program. Further, space is limited for recyclers, so it is more efficient for some counties and recyclers to treat both DBC and ADF glass the same and ship it all to the mainland for recycling.

The study also found that current laws are ambiguous on whether the State prefers to down-cycle or recycle. For example, the Department of Health promulgated a draft policy to help regulate the recycling of DBC and ADF glass. However, the department contends the policy does not necessarily apply to ADF glass,

which creates confusion for the counties and recyclers. Further, the study states while counties and recyclers believe they are not allowed to stockpile glass due to onerous regulatory restrictions, the department claims its glass policy does not restrict glass stockpiling.



In order to provide clarity to stakeholders regarding what is permissible regarding both DBC and ADF glass, the study suggests the department update and finalize its 2008 policy on glass recycling. The study recommended the policy, which currently encourages recycling over down-cycling, should equally emphasize both methods. Other areas in which policy should be updated include glass stockpiling, listing approved down-cycling options, and increasing the recovery rate for ADF glass containers to roughly the same redemption rate achieved by the DBC program.

# Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the University of Hawai‘i

Report No. 14-18, December 2014

*Section 23-12, HRS, requires the Auditor to review all existing special, revolving, and trust funds every five years. Reviews are scheduled so that each department’s funds will be reviewed once every five years. This is our fifth review of the revolving funds, trust funds, and trust accounts of UH. It is our first review of UH special funds, since enactment of Act 130, Session Laws of Hawai‘i 2013, amended section 23-12, HRS, to include reviews of all special funds statewide.*

Special funds are used to account for revenues earmarked for particular purposes and from which expenditures are made for those purposes. Revolving funds, such as loan funds, are often established with an appropriation of seed money from the general fund, and must demonstrate the capacity to be self-sustaining. Trust funds, such as a pension fund, invoke the State’s fiduciary responsibility to care for and use the assets held for the benefit for those with a vested interest in the assets. Trust accounts are typically separate holding or clearing accounts and are often used as accounting devices for crediting or charging state agencies or projects for payroll or other costs.

Our review of special, revolving, and trust funds and trust accounts of the University of Hawai‘i (UH) found 17 of the 65 funds and accounts (26 percent) did not meet at least one of the criteria for their respective fund or account type.

We used criteria developed by the Legislature as well as criteria developed by our office from a review of public finance and accounting literature. For each fund, we presented a five-year financial summary, the purpose of the fund, and conclusions about its use. We did not audit the financial data, which was provided for informational purposes. We did not present conclusions about the effective-

ness of the program or its management, or whether the program should be continued.

We also noted inconsistent adherence to statutorily required reports for non-general funds and for administratively created funds and accounts. Accurate and complete reporting will greatly improve the Legislature’s oversight and control of these funds and provide increased budgetary flexibility. We did not review revolving fund accounts maintained by the Research Corporation of the University of Hawai‘i, a state agency attached to UH for administrative purposes, because it was outside the scope of this review. We also observed UH received general fund appropriations for programs that were also supported by special and revolving funds.

We transmitted a draft of this review to UH. UH agreed with our review for the most part and said it would take appropriate action to ensure compliance

with reporting requirements; however, it disagreed with our conclusions to repeal six funds.

**We reported on 65 funds and accounts: 30 special funds, 22 revolving funds, and 13 trust funds and trust accounts. We found that 26 percent of the funds and accounts did not meet applicable fund criteria.**

# Summary of 2013 Financial Audits

# Summary of 2013 Financial Audits

*To attest to the fairness of the financial statements of agencies, the Office of the Auditor examines the adequacy of the financial records and accounting and internal controls, and determines the legality and propriety of expenditures. We also analyze proposed special and revolving funds to determine whether such funds meet legislative and financial criteria. In 2014, we performed 37 quick reviews of proposed special and revolving funds, and administered 29 financial statement audits, including the State's Comprehensive Annual Financial Report and Single Audit Report.*

## **Department of the Attorney General— June 30, 2013, Financial Statements and Single Audit Report**

The department reported total revenues of \$91.7 million and total expenses of \$90.2 million. The department received an unmodified opinion on its financial statements. The auditors from Akamine, Oyadomari & Kosaki, CPAs, Inc., reported no material weakness in internal control over financial reporting; however, they did identify one significant deficiency.

## **Department of Education—June 30, 2013, Financial Statements and Single Audit Report**

The department reported total revenues of \$2.40 billion and total expenditures of \$2.35 billion. Net transfers of approximately \$41 million contributed to a gain of approximately \$90 million. The department received an unmodified opinion on its financial statements. The auditors from N&K CPAs, Inc., reported no material weaknesses in internal control over financial reporting and found no instances of noncompliance or other matters required to be reported under *Government Auditing Standards*. However, they found three deficiencies in internal controls over compliance that were considered to be significant deficiencies.

## **Department of Hawaiian Home Lands— June 30, 2013, Financial Statements and Single Audit Report**

The department's total expenditures exceeded total revenues (before transfers) by \$16.3 million. Total revenues were \$34.4 million (program revenues of \$33 million and State appropriations of \$1.4 million)

before transfers, and expenses totaled \$50.7 million. The department received an unmodified opinion on its financial statements. The auditors from Accuity LLP reported no material weaknesses in internal control over financial reporting and found no instances of noncompliance or other matters required to be reported under *Government Auditing Standards*.

## **Department of Health—June 30, 2013, Financial Statements and Single Audit Report**

The department reported total revenues of approximately \$702 million and total expenses of \$659 million, resulting in excess revenues of \$43 million before transfers. The department received an unmodified opinion on its financial statements. The auditors from Accuity LLP reported two significant deficiencies and no material weaknesses in internal control over financial reporting and no instances noncompliance or other matters that are required to be reported under *Government Auditing Standards*. For instance, the Deposit Beverage Container Special Fund is highly susceptible to fraud because of an overreliance on self-reporting. For internal control over compliance, the auditors identified two material weaknesses and one significant deficiency.

## **Department of Human Services—June 30, 2013, Financial Statements and Single Audit Report**

The department reported total revenues and total expenses of approximately \$2.8 billion. The department received an unmodified opinion on its financial statements. The auditors from KMH LLP reported 13 material weaknesses and three significant deficiencies

# Summary of 2013 Financial Audits

(cont.)

over compliance and internal controls over financial reporting and major federal programs. For instance, the department under-reported liabilities by approximately \$70 million when preparing its financial statements.

**Department of Human Services, Hawai'i Public Housing Authority—June 30, 2013, Financial Statements and Single Audit Report**

The authority reported total revenues of \$198.3 million and total expenditures of \$125.9 million, resulting in an excess of \$72.4 million. The authority also reported nearly \$7.8 million in capital contributions. The authority received an unmodified opinion on its financial statements. The auditors from KMH LLP identified four material weaknesses in internal control over compliance and two significant deficiencies in internal controls over financial reporting.

**State of Hawai'i Comprehensive Annual Financial Report and Single Audit Report — June 30, 2013**

For the fiscal year ended June 30, 2013, total revenues were \$10.2 billion and total expenses were \$9.9 billion, resulting in an increase in net assets of \$300 million. Approximately 56 percent of the State's total revenues came from taxes (\$5.7 billion), 27 percent from grants and contributions (\$2.8 billion), and 16 percent from charges for various goods and services (\$1.7 billion). The largest expenses were for higher and lower education at 33 percent (\$3.3 billion), welfare at 28 percent (\$2.8 billion), health at 8 percent (\$800 million), and general government at 5 percent (\$500 million).

The auditors from Deloitte & Touche LLP reported no material weaknesses and four significant deficiencies in internal control over financial reporting. They also reported seven material weaknesses and 46 significant deficiencies in compliance and internal control over major federal programs.

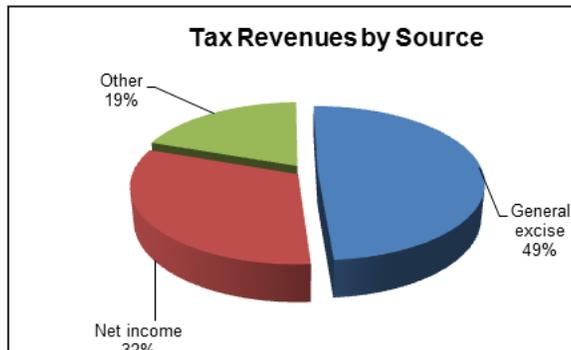
For the past two years, the Government Finance Officers Association has awarded the State of Hawai'i a Certificate of Achievement for Excellence in Financial Reporting for its CAFR. The award recognizes state and local governments that "go beyond the minimum requirements of generally accepted accounting principles to prepare comprehensive annual financial reports that evidence the spirit of transparency and full disclosure."

**Department of Transportation, Administration Division—June 30, 2013, Financial Statements and Single Audit Report**

The division reported total revenues of approximately \$27.3 million and total expenses of \$23.1 million, resulting in excess revenues of \$3.1 million. The division received an unmodified opinion on its financial statements. The auditors from CW Associates, a Hawai'i CPA Corporation, reported no material weaknesses in internal control over financial reporting and found no instances of noncompliance or other matters required to be reported under *Government Auditing Standards*.

**Department of Transportation, Airports Division—June 30, 2013, Financial Statements and Single Audit Report**

The division reported total revenues of approximately \$464 million and total expenses of approximately \$367 million, resulting in a gain of \$97 million. The division received an unmodified



fied opinion on its financial statements. The auditors from KPMG LLP reported no material weaknesses in internal control over financial reporting and found no instances of noncompliance or other matters required to be reported under *Government Auditing Standards*. However, the auditors recommended that the division enhance internal controls over the cash reimbursement process to ensure that invoice are paid prior to submitting the reimbursement request to the federal government. The division agreed to enforce an action plan to ensure implementaion.

**Department of Transportation, Harbors Division—June 30, 2013, Financial Statements and Single Audit Report**

The division reported revenues of \$113.5 million and expenses of \$90.5 million. The division received an unmodified opinion on its financial statements. The auditors from Kobayashi, Kanetoku, Doi, Lum & Yasuda CPAs LLC reported no material weaknesses in internal control over financial reporting. However, they found two significant deficiencies in internal controls over compliance.

**Department of Transportation, Highways Division—June 30, 2013, Financial Statements and Single Audit Report**

The division reported total revenues of approximately \$460 million and total expenses of \$501 million, resulting in a deficiency of \$41 million. The division received an unmodified opinion on its financial statements. The auditors from Kobayashi, Kanetoku, Doi, Lum & Yoshida CPAs LLC reported no material weaknesses but three significant deficiencies in internal controls over financial reporting. They also found six significant deficiencies in internal control over compliance.

**Department of Transportation, O’ahu Metropolitan Planning Organization—June 30, 2013, Financial Statements and Single Audit Report**

The division reported total revenues of \$2.1 mil-

lion and total expenses of \$2.1 million. The division received an unmodified opinion on its financial statements. The auditors from Gilford Sato & Associates, CPAs, Inc. reported no material weaknesses in internal control over financial reporting and found no instances of noncompliance or other matters required to be reported under *Government Auditing Standards*.

**Financial Audit of the Employees’ Retirement System of the State of Hawai’i—June 30, 2013, Financial Statements**

The system reported additions of approximately \$2.1 billion. Additions consisted primarily of \$767 million from contributions and \$1.3 billion from investing activities. The system received an unmodified opinion on its financial statements. The auditors from KPMG LLP reported no deficiencies in internal control over financial reporting that were considered to be material weaknesses and no instances of noncompliance or other matters required to be reported under *Government Auditing Standards*.

**Hawai’i Community Development Authority—June 30, 2013, Financial Statements**

The authority’s total expenditures exceeded total revenues by \$19 million. Total revenues were \$13 million, and expenses totaled \$32 million. Revenues consisted of leasing and management of \$3 million, community redevelopment of \$500,000, and State appropriations net of lapses of \$9.5 million. The authority received an unmodified opinion on its financial statements. The auditors from Ohata Chun Yuen LLP reported no material weaknesses in internal control over financial reporting and found no instances of noncompliance or other matters required to be reported under *Government Auditing Standards*.

**Hawai’i Housing Finance and Development Corporation—June 30, 2013, Financial Statements and Single Audit Report**

The corporation reported total revenues of \$62 million and total expenses of \$53 million. The corpora-

# Summary of 2013 Financial Audits

## (cont.)

tion received an unmodified opinion on its financial statements. The auditors from Accuity LLP reported no material weaknesses in internal control over financial reporting and found no instances of noncompliance or other matters required to be reported under *Government Auditing Standards*. However, they did report that one prior audit finding is still considered a significant deficiency and remains unresolved.

### **Hawai'i Employer-Union Health Benefits Trust Fund—June 30, 2013, Financial Statements**

The trust fund has three types of funds: an enterprise fund, an agency fund, and an Other Post-Employment Benefits (OPEB) trust fund. The enterprise fund is used to account for the assets, liabilities, revenues, expenses, and net assets for active employee health-care benefits. The agency fund is used to account for the assets and liabilities for retiree healthcare benefits. The OPEB trust fund is used to account for the employer pre-funding contributions and related net investment earnings. For the enterprise fund, operating revenues totaled \$96.4 million with operating expenses at \$53.4 million, resulting in operating income of \$43 million. The agency fund held \$186 million in assets. The OPEB trust fund held \$315 million in assets. The trust fund received an unmodified opinion on its financial statements. The auditors from PKF Pacific Hawaii LLP reported two material weaknesses in internal control over financial reporting and one significant deficiency.

### **Hawai'i Tourism Authority—June 30, 2013, Financial Statements**

The authority reported total revenues of approximately \$113 million and total expenses of approximately \$106 million. Transfers in the amount of \$1 million were made to other state departments. Revenues consisted of \$104 million from transient accommodations tax, \$9.5 million from services, and \$400,000 in interest income but experienced a \$700,000 net decrease in the fair value of investments. The authority received an unmodified opinion on its financial statements.

The auditors from KPMG, LLP reported no material weaknesses in internal control over financial reporting and found no instances of noncompliance or other matters required to be reported under *Government Auditing Standards*.

### **Stadium Authority—June 30, 2013, Financial Statements**

The authority reported total operating revenues of \$6.8 million and total operating expenses of \$13.8 million, resulting in an operating loss of \$7 million. The authority received an unmodified opinion on its financial statements. The auditors from Kobayashi, Kanetoku, Doi, Lum, & Yasuda CPAs LLC reported no material weaknesses in internal control over financial reporting and found no instances of noncompliance or other matters required to be reported under *Government Auditing Standards*.

### **State Motor Pool Revolving Fund—June 30, 2013, Financial Statements**

The fund reported total operating revenues of \$2.5 million and total operating expenses of \$2.4 million. The fund received an unmodified opinion on its financial statements. The auditors from Egami & Ichikawa CPAs, Inc., reported no material weaknesses in internal control over financial reporting and found no instances of noncompliance or other matters required to be reported under *Government Auditing Standards*.

### **State Parking Revolving Fund—June 30, 2013, Financial Statements**

The fund reported operating revenues of \$3.7 million and operating expenses of \$4 million. The fund received an unmodified opinion on its financial statements. The auditors from Egami Ichikawa CPAs, Inc., reported no material weaknesses in internal control over financial reporting and found no instances of noncompliance or other matters required to be reported under *Government Auditing Standards*.

# Affected Agency Responses to Previous Recommendations

# Management Audit of the Department of Agriculture’s Measurement Standards Branch

Report No. 13-01

## Recommendation

## Affected Agency’s Response

1. The Department of Agriculture’s Measurement Standards Branch should:
  - a. Temporarily appoint a Commodities Branch manager to free the Quality Assurance Division action administrator of those responsibilities.
2. The Quality Assurance Division acting administrator should:
  - a. Recruit to fill the two vacant inspector positions;
  - b. Establish and recruit to fill the program manager position;
  - c. Establish and recruit to fill the three new inspector positions;
  - d. Use the *NIST Weights and Measures Program Requirements: A Handbook for the Weights and Measures Administrator 2011* to:
    - i. Develop a strategic plan for the Measurement Standards Branch, which includes a description of what is needed to maintain and improve a weights and measures program, the problems and obstacles that exist to achieve success, the strategies and resources needed to make progress, and the intermediate milestones that can be used to measure progress toward the objectives;
    - ii. Develop a training program. The handbook outlines components

### Measurement Standards Branch

The branch did not respond to our request for an update on recommendation implementation.

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## Recommendation

## Affected Agency's Response

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on what a training program for inspectors is encouraged to have. Training material is also available on the NIST Weights and Measures Division website; and

- iii. Develop plans, policies and procedures for oversight of registered service agencies and persons with follow-up inspections, including a review of placed-in-service reports to ensure service companies are using correct test procedures and standards, and achieving the quality of work that they report. As part of the planning process, the acting administrator should explore and identify alternative approaches to effectively monitoring the commercial measurement system with fewer resources. The NIST suggests a program that incorporates the work done by service companies with government follow-up inspections and extensive testing in the marketplace. The branch may find that managing an oversight program may be more effective and cost considerably less than having branch inspectors conduct random inspections.

# Audit of the Department of Hawaiian Home Lands' Homestead Services Division

Report No. 13-02

## Recommendation

## Affected Agency's Response

1. The Hawaiian Homes Commission should:
  - a. Fulfill its role as fiduciary by acknowledging and mitigating loan risk. Specifically, the commission should:
    - i. Adopt and communicate a risk management plan. This includes developing an appropriate risk appetite that can support a sustainable direct loan program. Risk appetite should be considered when approving all loan requests;
    - ii. Adopt and disseminate guidance in the form of policies, procedures, and performance goals relating to direct loan issuance,

### Hawaiian Homes Commission

On May 20, 2013, the Hawaiian Homes Commission (HHC) adopted a resolution in response to the State Auditor's report. The Commission resolved that the Hawaiian Homes Commission appreciates the findings of the Auditor, agrees with the responses to the audit, concurs with the efforts to educate the Commission and staff on pertinent issues relating to risks and management of the loan programs, and recommends review of current policy and approves of steps taken to update the reporting requirements.

Within Volume 1 of the Department of Hawaiian Home Lands (DHHL) Loan Manual, a new chapter was created for Direct Loan Underwriting. This new chapter covers applicant eligibility, income, credit history, credit score, maximum loan amount, interest rate, maximum loan term, and lien position. Also, the Fiscal Office has created a report that will be submitted to the HHC on a quarterly basis. This report contains all the loans that are either in the contested case hearing process and/or delinquent (30, 60, 90 and 120 days). Additional fields have been added to the report to identify the status of the Contested Case Hearing (CCH) as well as the risk exposure. (The risk exposure is calculated using 100% of the assessed value.)

Following the audit report, the DHHL Loan Manual was revised and split into two volumes. Volume 1 covers DHHL direct loans, insured loans, loan guarantees, loan process-

## Recommendation

delinquent loan collections, and monitoring contested case hearing orders;

iii. Comply with administrative rules requiring “the exercise of such care and skill as a person of ordinary prudence would exercise in dealing with one’s own property in the management of Hawaiian home lands.” This includes cancelling leases where loans are not in compliance with commission orders.

2. The Department of Hawaiian Home Lands should:
  - a. Adopt and implement reporting methods that bring loan delinquency issues to the attention of the commission. Specifically, the department should:
    - i. Adopt and communicate a risk management plan. This includes developing an appropriate risk appetite that can support a sustainable direct loan program. Risk appetite should be considered when approving all loan requests;

## Affected Agency’s Response

ing procedures (DHHL Direct Loans, Loan Guarantees, Insured Loans, and Housing and Urban Development (HUD) 184A), direct loan underwriting, loan collection procedures, and Federal Housing Administration (FHA) insured loan collection procedures. Volume 2 covers the Contested Case Hearing, Eviction, Lease Cancellation and Reward Procedures.

The Commission’s position is to “explore alternatives to assist lessees on re-establishing themselves financially thereby reducing the risk of default, and enlisting financial services for the lessee to honestly review personal data to reach an agreeable solution” (May 20, 2013 Hawaiian Homes Commission Resolution).

### Department of Hawaiian Home Lands

The Fiscal Office created a report that will be submitted to the HHC on a quarterly basis. This report contains all the loans that are either in the contested case hearing process and/or delinquent (30, 60, 90 and 120 days). Additional fields have been added to the report to identify the status of the Contested Case Hearing as well as the risk exposure. The risk exposure is calculated using 100% of the assessed value. This is different for the calculation of the loan allowance for doubtful accounts, where DHHL uses 70 percent of the assessed value. Moreover, the Loans Services Branch and the Fiscal Office accountants meet regularly to discuss improvements to the reports for the commissions and the staff. The combined staff formulate new procedures and modifications to ensure that the reporting is complete, accurate and timely.

## Recommendation

- ii. Require the Fiscal Office and Homestead Services Division to create a more effective report that would allow commissioners to quickly understand the true position of the department's direct loans. More financial information should be provided so that commissioners have a more complete picture of the status of delinquencies in the contested case process, including the status of each contested case.
- b. Develop policies and procedures outlining the contested case hearing process, including procedures on how the department carries out the commission's orders to ensure lessees comply with their terms and conditions.
- c. Require the Homestead Services Division's Loan Services Branch to:
- i. Equip loan officers to properly administer loans by:
    1. Adopting a manual that provides firm criteria for reviewing and approving loan applications, including policies and procedures requiring a risk rating and credit counseling for each loan applicant;
    2. Establishing policies, procedures, and enforcement action for chronically delinquent lessees;

## Affected Agency's Response

As mentioned above, DHHL developed a report that lists all the loans that are in the contested case hearing process, identifying the loan delinquency and the contested case hearing status. The report also includes all the delinquent accounts that may have to go to the contested case hearing process and identifies the delinquent accounts that will not go to the contested case hearing process because the delinquency and exposure are immaterial (i.e. less than \$10,000. Immaterial debts are not forgiven. Priority efforts in debt collection will go to larger debts/exposure first).

Following the audit report, the DHHL Loan Manual was revised and split into two volumes. Volume 1 covers loan procedures (including loan underwriting and loan collections). Volume 2 covers the Contested Case Hearing, Eviction, Lease Cancellation and Reward Procedures. Volume 2 states, once the Commission has rendered its Decision and Order (D&O), compliance staff monitors the account according to the D&O. At any time as deemed necessary by the department, compliance staff conducts fieldwork to monitor the D&O. Violations of the terms and conditions of the D&O are redressed to the Hawaiian Homes Commission for final determination.

Following the Audit Report, the DHHL Loan Manual was revised and split into two volumes. Within Volume 1, a new chapter was created for Direct Loan Underwriting. This new chapter covers applicant eligibility, income, credit history, credit score, maximum loan amount, interest rate, maximum loan term, and lien position. The manual is already being updated to include formal procedures for risk rating and credit counseling for "new" home buyers. At any time, any direct loan recipient may be referred to a credit counseling agency.

## Recommendations

## Affected Agency's Response

3. Clearly outlining the responsibilities of branch staff in collecting on delinquent loan-related contested cases; and
4. Re-instituting clear written collection procedures for each phase of delinquency in order to avoid inconsistent practices among collection staff.

On August 19, 2013, the Hawaiian Homes Commission approved the DHHL Loan Refinancing Product which provides a mechanism for chronically delinquent borrowers who make consistent payments but can never seem to bring their account current. Loan collection procedures are outlined in the DHHL Loan Manual. The DHHL Loan Manual loan collection chapter covers loans that are delinquent for 120 or more days. It states that the Loan Service Branch and/or the neighbor island District Offices request the Hawaiian Home Commission to authorize the scheduling of a Contested Case Hearing. Moreover, DHHL staff created a new tracking system to monitor each delinquent lessee through the process of loan delinquency, the Contested Case Hearing process, through to lease cancellation or loan debt workout.

Loan staff meetings are held on a minimum, once a month with all loan officers regarding the collection and efforts of their delinquent accounts in addition to the contested case hearing accounts. Once an account is issued a Decision and Order by the HHC, loan staff monitors payments. Loan staff also works closely with any assigned Foreclosure and Lease Cancellation Prevention service provider.

Volume 1 of the DHHL Loan Manual includes a chapter covering the loan collection process. This chapter covers the trial balance, standard repayment, identified a loan when it first becomes delinquent (less than 30 days), after a loan becomes 30 days past due, after a loan becomes 60 days past due, after a loan becomes 90 days past due, and after a loan becomes 120 past due. Step-by-step procedures are stated in each aforementioned section.

## Recommendation

- ii. Ensure that loan officers adhere to trust responsibilities by adequately analyzing applications and only recommending loans for applicants who are financially capable;
  
- iii. Adopt a system of internal controls relating to:
  1. Documenting standards and objectives with respect to delinquent loan collections;
  2. Requiring complete and accurate documentation of all collection activity. Loan officers should properly file and maintain loan files in accordance with best practices; and
  3. Periodically reviewing policies that govern income analysis and interest rates to determine whether they meet program goals.

## Affected Agency's Response

In Volume 1 of the DHHL Loan Manual, a new chapter was created for Direct Loan Underwriting. This new chapter covers applicant eligibility, income, credit history, credit score, maximum loan amount, interest rate, maximum loan term, and lien position. Loan Officers must follow these loan underwriting procedures when creating new loans. Loans originating outside of the department follow their program guidelines.

Step-by-step procedures are stated in Vol. 1 of the DHHL Loan Manual-loan collection process. This chapter covers the trial balance, standard repayment, identifies a loan when it first becomes DQ (less than 30 days), after a loan becomes 30 days past due, after a loan becomes 60 days past due, after a loan becomes 90 days past due, and after a loan becomes 120 past due. Employee Performance Appraisals for the Mortgage Loan Specialists (MLS) and the Loan Collection Specialist (LCS) are conducted on an annual basis by the Loans Services Branch Manager and includes delinquency rate goals.

MLS and the LCS adhere to this finding. The loan officers are required to document all collection efforts. Also, the DHHL Loan Manual has been revised to include a flowchart of what documents should be collected/recorded at each step of the collection process.

On November 12, 2012, the HHC approved the Loan Interest Rate Policy. This action reduces the interest rate of new DHHL direct loans from 6 percent to 4.5 percent. Loans staff monitor the interest rate annually and will generate a submittal for HHC action should the rate need to be adjusted.

## Recommendation

## Affected Agency's Response

- iv. Address delinquent loans in a timely manner, recognizing that loans of last resort are inherently risky. This should include:
  - 1. Redefining how delinquent loans are characterized as 30, 60, 90, and 120 days delinquent; and loans are characterized as 30, 60, 90, and 120 days delinquent; and
  - 2. Customizing automated delinquency reports to ensure management and the commission receives critical information necessary for identifying deficiencies and weaknesses in delinquent loan collections and to take prompt action to remedy them.
  
- v. Adopt strategies or plans to address chronically delinquent accounts. Specifically, the Home-  
stead Services Branch should:
  - 1. Formalize current unwritten payment plans and use salary assignments and garnishments; and
  - 2. Consider debt restructurings when repayment under current terms and conditions is doubtful. Concessions could include: reducing the interest rate on the original loan, extending the loan's maturity date and re-amortization, and/or reducing accrued interest.
  
- d. Require the Office of the Chairman's Compliance and Community Rela-

Upon review of their procedures, DHHL will follow the industry practice and use the number of installments to characterize the days delinquent.

DHHL developed a summary report for the delinquent accounts and contested case hearing cases to identify deficiencies and weaknesses in the delinquent loans collections that require a timely response to eliminate the weaknesses and to strengthen the internal controls. These reports are still done manually due to limited resources.

MLS and the LCS started to formalize unwritten payment plans via written correspondence with the borrower(s). Salary assignments are limited to State of Hawai'i employees only and used when applicable. The State of Hawai'i's Department of Accounting and General Services is not able to receive Automated Clearing House (ACH) payments. Staff is still in discussion with the Department of the Attorney General regarding garnishments as they will need to pursue legal actions with their limited resources.

On August 19, 2013, the Hawaiian Homes Commission approved the DHHL Loan Refinancing Product. This action includes a product for interest rate reduction. In addition, the remedies listed are being utilized through the Contested Case Hearing process.

Vol. 2 of the DHHL Loan Manual covers the Contested Case Hearing, Eviction,

## Recommendation

## Affected Agency's Response

tions Section's Enforcement Team to:

- i. Clearly outline the responsibilities of the Enforcement Team in the monitoring of delinquent loan-related contested cases; and
  
- ii. Ensure that information needed to obtain the status of each contested case is available and readily obtainable.

Lease Cancellation and Re-award Procedures. Vol. 2 states that once the Commission renders its Decision and Order, compliance staff monitors the account according to the Decision and Order. At any time as deemed necessary by the department, compliance staff conducts fieldwork to monitor the Decision and Order. Violations of the terms and conditions of the Decision and Order are redressed to the Hawaiian Homes Commission for final determination. Moreover, DHHL staff created a new tracking system to monitor each delinquent lessee through the loan delinquency process, the Contested Case Hearing process, to lease cancellation or loan debt workout.

On-demand information on a CCH may be obtained through the aforementioned tracking system created by the Department. This system shows where the lessee is in the CCH procedure pursuant to Chapter 5, Hawai'i Administrative Rules (HAR). The paper file is housed with the Commission secretary and can also be provided on demand to authorized DHHL staff, the HHC, the affected lessee (pursuant to Chapter 5, HAR), or the general public (pursuant to Chapter 92F, Hawai'i Revised Statutes).

# Procurement Examination of the Department of Transportation

Report No. 13-04

## Recommendation

## Affected Agency's Response

Department of Transportation leadership should assume a stronger role in ensuring proper procurement practices and addressing violations across departmental divisions. The department must emphasize the importance of compliance with procurement laws and rules, particularly with its Airports Division, and assist all divisions in strengthening their procurement control environment.

1. With respect to the Airports Division Terminal Modernization Program and related program management contract, the department should:
  - a. Review the department's and Airports' construction management policies and procedures to ensure there is sufficient oversight of contractors performing management services;

The Department of Transportation's management reviewed the recommendations in the 13-04 audit report and made improvements to emphasize the importance of compliance to procurement laws and rules.

The Airports Division implemented UNIFI-FIER (formerly known as Skire), a computerized system currently being used for contract administration, which has step-by-step electronic workflows requiring a review and approval for each request to include usage of the appropriate forms and format in accordance with existing policies and procedures.

Airports Division reviewed its construction management policies and procedures. In addition, it established a new policy entitled, "Oversight of Consultants," which documents any decisions involving obligations, negotiations, approval of funds or changes in the scope that must be reviewed and approved by state personnel. This policy has been implemented as of May 1, 2013, and published in its Engineering Policy, Procedures and Standard Documents database (AIR-E PPT Library).

In ensuring there is sufficient oversight of contractors performing management services, the Highways Division has implemented its "Procedures for Open Ended Construction Management and Construction Support Services" since January 2004.

In 2012, the Harbors Division developed its "Construction Management Procedures Manual." The Construction Management

## Recommendation

## Affected Agency's Response

- b. Provide training to all divisions regarding the use of contractors for program, project, and construction management services;
  
- c. Ensure personnel in all divisions, particularly in Airports, are performing and documenting cost-benefit analyses when deciding to use contractors for management services-type contracts, especially for multi-year and multimillion dollar contracts;
  
- d. Review the terms of the consultant program manager contract and determine if providing the consultant with free rent and allowing it to charge the maximum allowable labor multiplier is fair and in the best interest of the State;

Procedures Manual is currently in final draft form. The Harbors Division plans to implement upon the director's approval.

The Department's Contracts Office Manager has met with the Airports and Harbors Divisions' engineers in 2014 to review the correct method and techniques on contract program management and to address questions. Training will continue in 2015 with the Highways Division.

For the Airports Division, an ongoing training curriculum is in place to ensure that correct methods are followed on how to manage a contract in accordance with existing policies and procedures. Records are kept of the training conducted.

For the Airports Division, after the need for use of a contractor (consultant) is established, negotiations on contract scope and amount are compared with industry standards to ensure a proper value is achieved. Approval of the negotiated amount can only be approved by the director and is documented by the fee acceptance letter.

The Airports Division established a policy entitled, "Consultants Use of Airport Office Space or Field Trailers," which requires consultant pay rent on Airports space used unless their audited multiplier shows a reduction in overhead to accommodate for the cost of the rent, and then no rent will be charged. In either case, the use of space must be under a revocable permit.

The policy implemented May 6, 2013, and published in its Engineering Policy, Proce-

## Recommendation

## Affected Agency's Response

- e. Seek to amend the contract with the consultant program manager to allow review and audit of the application of the labor multiplier;

- f. Ensure Airports personnel adequately review task orders and invoices under the program management contract to ensure costs are reasonable and allowable and that proper support documentation is included;

- g. Ensure Airports personnel properly review and approve changes to contracts before related work is performed; and

dures and Standards Documents database.

To determine the “multiplier,” the Airports Division auditors perform an independent fiscal analysis of the costs comparison to justify the multiplier, which must be in the best interest of the State. It must be approved by the Director and made part of the contract package.

An independent fiscal analysis has historically always been conducted for multipliers through a memo request by the Engineering Branch to the Fiscal Section, Staff Services. During fee negotiation, consultants are required to provide an overhead presentation with their fee proposal. Audit results from 2012 and 2013 are available for review.

Prior to any consultant task order work being done, a proposal and delivery order must be approved by a state employee. A baseline set of workflows in UNIFIER has been implemented for the CIP comprising the important processes necessary for fiscal management which meet the goals of review and approval processes in accordance with existing policies and procedures. There are ongoing upgrades of the system to provide other beneficial workflows including a delivery order workflow.

The Airports Division has established a policy in the Engineering Policy, Procedures and Standard Documents entitled, “Oversight of Consultants,” which documents that any decision involving obligations, negotiations or approval of funds or changes in the scope must be approved by state personnel. Change orders must be approved by a state employee before any work is done that is a modification or addition to the original contract.

## Recommendation

- h. For future contracts involving program, project, or construction management responsibilities, ensure Airports properly procures contracts in accordance with Section 103D-304, HRS, and SPO Procurement Circular No. 2009-06, which state that procurement must be for a specified professional class, and that the contract requires the professional to perform a substantial portion of the scope of work. Airports should consult with the departmental Contracts Office and SPO if there is any uncertainty.
2. With respect to other violations and procurement concerns identified in the Airports Division, the department should:
  - a. Review the department's and Airports' construction management policies and procedures to ensure there is sufficient oversight of contractors performing management services;

## Affected Agency's Response

The Contracts Office advertises all Professional Service Solicitations. Before the DOT 2015 Annual Ad to solicit professional services was developed, the Contracts Office polled the divisions to find out which specified professional classes were needed in 2015. The professional classes solicited for the DOT 2015 Annual Ad were based on the divisions' response.

The Contracts Office ensures all professional service procurement is done according to 103D-304 based on the professional classifications that were included in the 2015 DOT Annual Ad.

Under the mandate and approval of TSA, each district must designate an individual as an Airport Security Coordinator, who is responsible for ensuring that all security concerns are in compliance with TSA directives. The District Security Managers are designated as the Airport Security Coordinators. They are responsible for establishing security posts and directing the manning for the contract security services. Therefore, the review and approval of the security expenditures incurred are handled at the district level. The Division Airport Certification, Security and Safety Specialist is the "Program Manager," who develops and puts the contract to bid. The Program Manager provides general guidance and contract interpretations to the District Security Managers. The Program Manager also conducts periodic reviews of security expenditures to ensure that they are reasonable and in accordance with the terms and condition of the contract.

Analysis and ongoing review of the security expenditures are conducted by various levels of authority beginning with the District Security Manager, Business Services Officer and the Airport District Manager of the

## Recommendation

## Affected Agency's Response

- b. Examine Airports' use of pre-engineered kit homes to provide field offices for construction managers and evaluate the cost-benefits of constructing such homes versus buying or renting mobile offices; also examine the practice of bundling its kit home construction with large construction projects rather than procuring via a separate competitive procurement process;
  - c. Seek guidance from the State Procurement Office in determining what actions can and should be taken against Ted's Wiring Service to recover any damages for the extensive delays in completing the AVI project and to prevent such situations from recurring; and
3. To address procurement non-compliance identified at the various divisions, the department should:
    - a. Ensure personnel with procurement authority attend required procurement training, and that the Contracts Office centrally monitors their attendance at procurement training activities; and

respective airport, and then by the Program Manager. The Program Budget Analyst determines that funding is available for the security services being requested.

Since mid-2013, state-purchased kit homes and mobile offices are no longer used for field offices even if it is more cost-effective. To properly allocate costs to each project, going forward, all field offices are rented.

The State of Hawai'i is currently in litigation with Ted's Wiring Service, and on the advice of the Department of the Attorney General, until a legal determination is rendered, the agency is unable to provide any statements. A trial date of April 6, 2015, has been set for this case.

The Administration's internal auditors reviewed and reconciled all of the DOT's Procurement Delegation Forms SPO-036 to the 2013 SPO training attendance reports to ensure that all employees completed the required procurement training. For those that did not complete the proper training, their procurement authority was revised. All requests for procurement delegation authority are reviewed first by the respective division and then by the Administration's internal auditors. If all training is complete, recommendation for approval is made to the Director. A database was developed to

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## Recommendation

## Affected Agency's Response

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- b. Develop a process to ensure contract awards are posted timely, which may involve having the individual(s) responsible for issuing award letters also be responsible for posting awards publicly, including having access and authority to post to SPO's website.

track all procurement authority given to each employee.

On October 24, 2014, a Procurement Training Policy was developed and implemented for DOT which addresses refresher training and procurement violations. Refresher training is required when one of the following circumstances arises: 1) when there is a change in the procurement code or policy, 2) every five years or sooner for core classes, or 3) when an employee has a procurement violation.

In 2014, the Administration's internal auditors reviewed all of the DOT's employees procurement training and identified those required to take a refresher. This information was provided to management and respective employees were notified. The auditors will conduct another review in 2015. The auditors also monitor the refresher training required when a procurement violation occurs.

Effective October 1, 2013, the Contracts Office began posting all awards for the following methods of procurement: Competitive Sealed Bids, Competitive Sealed Proposals and Professional Service. Procedures were developed for posting all the awards listed above.

# Feasibility Study of Removing Amateur Boxing From the Jurisdiction of the State Boxing Commission

*Report No. 13-05*

## Recommendation

## Affected Agency's Response

1. The Legislature should remove amateur boxing from the jurisdiction of the State Boxing Commission of Hawai'i.
2. If the State continues to regulate amateur boxing, the boxing commission should:
  - a. Execute a formal agreement delegating control and supervision of amateur boxing to USA Boxing;
  - b. Require participants to sign the amateur boxing waiver form releasing the State from liability;
  - c. Amend its administrative rules to delete provisions for amateur boxing and instead make reference to USA Boxing rules; and
  - d. Eliminate the \$5,000 surety bond requirement for USA Boxing.

### **State Boxing Commission of Hawai'i**

The commission has not taken action on these recommendations.

# Audit of the Kaho‘olawe Rehabilitation Trust Fund

Report No. 13-06

## Recommendation

## Affected Agency’s Response

The Kaho‘olawe Island Reserve Commission (KIRC) should:

1. More precisely define what its vision for a rehabilitated Kaho‘olawe entails, including funding requirements and timelines. Specifically, KIRC should create a comprehensive and measurable restoration plan for the island that includes areas to be restored, scope of work, estimated costs and timeframes for completion; and
  
2. Align its fundraising and spending plans to accommodate that restoration plan. The commission should increase its fundraising and/or decrease its

### **Kaho‘olawe Island Reserve Commission**

The KIRC completed the first phase of determining the overall plans for the restoration of Kaho‘olawe through the development of a community-wide planning document entitled, “I OLA KANALOA!” During the first year of this two-year effort, the KIRC, in partnership with community organizations and OHA conducted a series of state-wide community gatherings to solicit and document the public’s input regarding the future of Kaho‘olawe. After compiling, reviewing, and categorizing fourteen community meetings held on every island, a draft plan was developed for a second round of meetings to foster community review and discussion. The plan is in final review with plans to publish the document by mid-spring 2015. The current draft and more information on this plan can be found at [www.iolakanaloa.org](http://www.iolakanaloa.org).

The second phase of this planning process is to develop the action plans associated with each program and project listed. This will include the necessary funding requirements and timeline. The KIRC is currently developing the action plan for the first three years of I OLA KANALOA implementation and will continue expanding its development through the rest of 2015.

KIRC has been awarded a number of significant grants since the audit was completed. A summary of grant awards executed in FY2014 can be found in KIRC’s

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## Recommendation

## Affected Agency's Response

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spending if it intends to preserve the trust.

FY2014 annual report at <http://kahoolawe.hawaii.gov/plans/KIRCYIR2014.pdf>.

An update of FY2015 grants can be found at <http://kahoolawe.hawaii.gov/plans/June%20to%20Dec%202014%20Update.pdf>.

Additionally, general funding is being considered in the 2015 legislative session. KIRC also pursuing sustainable funding through the introduction of a slate of funding bills relating to the Kaho`olawe Island Reserve. To encourage the public to support our legislative initiatives, KIRC developed the "ALOHA KAHO`OLAWÉ" campaign to generate testimony in support of our bills.

More information on KIRC's legislative initiatives for 2015 can be found at <http://kahoolawe.hawaii.gov/leg-updates.shtml>.

Should these legislative initiatives prove unsuccessful this session, KIRC is making plans to possibly secure public access to Kaho`olawe and terminate base camp operations as soon as June 2015. KIRC will also retrieve any sellable materials, supplies and equipment with proceeds going back to the trust fund. KIRC is contemplating releasing the majority of the staff by December 2015 and moving the Commission headquarters back to Honolulu to take on a more advisory and less active role managing the Kaho`olawe Island Reserve and thereby preserving some portion of the trust for the future.

# Audit of the Office of Hawaiian Affairs and Report on the Implementation of State Auditor’s 2009 OHA Recommendations

Report No. 13-07

Recommendation	Affected Agency’s Response
<p>1. The Office of Hawaiian Affairs Board of Trustees should:</p> <ul style="list-style-type: none"> <li>a. Follow through on its real estate vision, mission, and strategy by ensuring that supporting policies are developed and adopted, including:                             <ul style="list-style-type: none"> <li>i. A robust real estate investment policy that includes a spending policy, ethics code, general objectives, long-term return goals, asset category definitions, forms of ownership, prohibited investments, and portfolio reporting requirements;</li> <li>ii. Asset allocation guidelines outlining an optimal mix of legacy, programmatic, corporate, and investment properties, along with return expectations for each asset class;</li> <li>iii. A business plan for the Land Management Division that elevates the program to its own line of business with support commensurate to OHA’s level of land ownership responsibilities, including an adequate number of qualified personnel to manage its growing real estate portfolio.</li> </ul> </li> </ul>	<p><b>Office of Hawaiian Affairs Board of Trustees</b></p> <p>The OHA Board of Trustees (BOT) approved of a new Land and Property (LAP) Committee on 2/6/14. On 9/25/14 the LAP Committee held a workshop and reviewed a draft Real Estate Investment Policy. The Real Estate Investment Policy will be reviewed again by the LAP Committee in January 2015.</p> <p>The Real Estate Investment Policy reviewed by the LAP Committee includes asset allocation guidelines and return expectations for each asset class.</p> <p>The Real Estate Investment Policy addresses the goal of having revenues from all landholdings exceed expenses.</p> <p>The LAP Committee approved a reorganization within the Resource Management line of business creating a separate line of business for Land and Property Management and creating a new Land and Property Director position to oversee the new line of business. Another position within OHA was reclassified to an Executive Assistant position and assigned to the LAP Director. The Commercial Property Management staff</p>

## Recommendation

## Affected Agency's Response

- b. Request information from the Transitional Assistance Program staff on grant outcomes and evidence of program success and evaluate grant performance to ensure grants generate their intended activities, results, and outcomes.
2. The Office of Hawaiian Affairs chief executive officer should take steps to ensure stability within the Land Management Division's staff.

was also consolidated into the new Land and Property line of business.

Grants staff provided the following presentations to the BOT:

- OHA's grant-making process presentation including updates to State Audit recommendations March 20, 2014.
- Status update on current grants and timeline for next round of grants: August 27, 2014. In addition, each year, OHA publishes its activities and financial performance in its Annual Report. This year, OHA included an OHA Report Card on pages six and seven of that report highlighting how its funding impacts Native Hawaiians.

Finally, OHA's Program Improvement Program submitted evaluations of the following grants to the BOT:

- Queen's Medical Center (Health)
- I Ola Lahui, Inc. (Health)
- Council for Native Hawaiian Advancement (Economic, Self-Sufficiency)
- University of Hawai'i (Health)
- Native Hawaiian Education Association (Health)

### **OHA Chief Executive Officer**

The LAP Committee approved of the creation of a separate line of business for Land and Property Management and also approved of a new Land and Property Director position. Another position was re-classified to an Executive Assistant position and assigned to the LAP Director.

The LAP Director currently oversees all of the LAP staff and is responsible for the training and development of the LAP staff. The new director position dedicated to the

## Recommendation

## Affected Agency's Response

3. The Land Management Division should:
- a. Implement best practices in its real estate acquisition and management operations; and

- b. Develop, implement, and communicate to the board real estate reports that detail the status of properties and track their historical costs, ongoing stewardship expenses, and forecast liabilities.

full-time management and oversight of the LAP Division will help ensure stability of the Division.

### The Land Management Division

The following is an update on policies and procedures establishing best practices in the management of OHA's Land and Property:

- Real Estate Vision, Mission, and Strategy (REVMS)—Approved by BOT June 6, 2007
- Kaka'ako Makai Policy—Approved by BOT on September 20, 2012
- Land and Property Committee Policy Approved by the BOT on July 3, 2014
- Real Estate Investment Policy—Draft policy reviewed by LAP Committee on September 25, 2014

OHA is also moving forward with master planning for its land holdings and has awarded a contract to a consortium to assist in the development of a conceptual master plan for Kaka'ako Makai and is in the process of developing an request for proposals to develop a comprehensive management plan for Wao Kele O Puna.

In addition, OHA contracted global real estate firms CBRE and Colliers International to assist in the management of its Kaka'ako Makai and Na Lama Kukui properties.

LAP staff provided the following workshops and presentations to the LAP Committee:

- Kaka'ako Makai workshop: 2/24/14
- Planning and Development of Kaka'ako Makai: 3/12/14
- Overview of Land Holdings: 3/27/14
- Update on OHA Properties: 9/11/14

## Recommendation

## Affected Agency's Response

4. The Transactional Assistance Program should improve its administration of OHA grants by:
  - a. Developing, and providing to the Board of Trustees for adoption, a manual that describes criteria, policies, and procedures for monitoring compliance with grant terms and conditions. The manual should include procedures and requirements for:
    - i. Ensuring grantee reports are reviewed for completeness, accuracy, and adequacy regarding deliverables specified in grant contracts;
    - ii. Ensuring all instances of non-compliance are properly documented and grantees remedy reporting deficiencies;
    - iii. On site reviewing of grantee financial systems;

LAP staff is reporting monthly to the LAP Committee regarding Kaka'ako Makai effective January 2015.

LAP staff will continue to provide regular updates to the LAP Committee on OHA's landholdings including costs, expenses, stewardship activities, and forecast liabilities.

Standard Operating Procedures (SOP) were developed by Grants staff in 2013 which incorporates the recommendations described herein. The SOP is used by Grants staff for ongoing grants management. The latest round of grant solicitations were released in late 2014 with contract execution expected July 1, 2015.

Grants staff developed an assessment form that is required when a Grantee report is submitted. The form is submitted to the Grants Manager for review and approval upon completion.

Grants staff ensures that all correspondence related to non-compliance is documented in the file. In addition, the grants assessment form includes a section for identifying deficiencies and nay follow-up action required.

Grants staff implemented 100 percent desktop and on-site monitoring for all programmatic community grants starting in FY2013. In conjunction with OHA's Accounting unit, Grants staff is developing fiscal monitoring procedures to prepare staff for a more in depth review of grantee financial systems while on-site. These procedures will be in place beginning July 1, 2015 and apply to OHA's FB 16/17 granting cycle.

## Recommendation

## Affected Agency's Response

<p>iv. Randomly reviewing of grantee expenditure reports and supporting documentation;</p>	<p>Fiscal monitoring procedures will be implemented on a pilot basis by OHA Accounting staff beginning in 2015. In addition, Grants staff will be cross-trained and seek professional development training in consideration of this recommendation.</p>
<p>v. Inspecting programs of completed projects to assure that grantees complied with contract items and conditions not otherwise monitored; and</p>	<p>All completed projects are subject to compliance review by grants staff. Specific projects are forwarded to Program Improvement Program for more in depth evaluation. Insights gained from the in depth evaluation will allow grants to improve future programs.</p>
<p>vi. Ensuring grant files are complete and accurately reflect monitoring activities.</p>	<p>Grants staff developed a file checklist that is used in creating and maintaining all grants files.</p>
<p>b. Requiring more specificity in grantees' expenditure reporting, to provide grant monitors a better understanding of how grant funds are expended;</p>	<p>Grants staff developed an expenditure report form that includes cost categories similar to the Cost Principles in Purchases of Health and Human Services, Chapter 103F, Hawai'i Revised Statutes. Solicitation requires adequate financial management systems. Standardize terms and conditions in contracts.</p>
<p>c. Adopting an information system to track grant status and project deliverables that:</p>	<p>OHA established an internal electronic database to assist in managing and storing information for the FY 2012 and FY 2013 grants cycle. This database was enhance for the FY 2014 - FY 2015 grants cycle to:</p>
<p>i. Retains copies of e-mails, correspondence, performance reports, and evaluations, and alerts monitoring staff when reports are due;</p>	<p>1. Capture grantee performance and deliverables data to assist in evaluating and future grant decisionmaking; and</p>
<p>ii. Can monitor grant staff performance;</p>	<p>2. Assist with grant administration including: storing grant status information, tracking on-site monitoring status, and tracking payment history.</p>
<p>iii. Assists grants management staff in tracking delinquent annual and final reports to ensure grant deliverables are received; and</p>	<p>OHA will continue to work at enhancing the internal electronic database to assist in</p>
<p>iv. Flags approval of new awards to grantees that miss a deliverable.</p>	

## Recommendation

## Affected Agency's Response

<p>d. Developing, and providing to the Board of Trustees for adoption, a manual that describes criteria, policies, and procedures for monitoring compliance with grant terms and conditions. The manual should include procedures and requirements for:</p> <p>e. Ensuring that awards are made only to applicants whose outputs and outcomes are consistent with OHA's strategic goals;</p> <p>f. Modifying future grantees' contract terms and conditions to require grantees to include expected outputs and outcomes in their applications and report progress in achieving those outputs and outcomes; and</p> <p>g. Increasing reporting of grant outcomes to the Board of Trustees by providing evidence of program success.</p>	<p>monitoring grant staff performance, flagging the approval of new awards to grantees that miss a deliverable, and maintaining copies of correspondence;</p> <p>Increasing site visits and reviews of financial and progress reports for accuracy, completeness, and alignment with project goals, particularly for new grantees and grantees with problems managing their grants;</p> <p>All OHA grant solicitations and subsequent grant awards are specifically aligned to OHA's strategic goals through the inclusion of standard and specific minimum and required performance measures (outputs and outcomes). Standardized performance measures based on actual data developed with OHA's Research Division were implemented in FY 2013.</p> <p>Performance measures with target numbers of outputs and outcomes have been included in all contracts since FY2012.</p> <p>OHA Administration is in the process of finalizing a BOT reporting calendar which focuses on the frequency of reporting. This calendar includes all organizational reporting requirements including updates on its strategic plan, federal and non-federal programs, federal and state public policy, legacy lands, commercial properties, fiscal, investments, etc. The reporting on grant outcomes will be incorporated into this calendar to ensure efficient frequency of reporting to the BOT.</p>
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# Management and Financial Audit of the Deposit Beverage Container Program, June 30, 2012

Report No. 13-08

## Recommendation

## Affected Agency's Response

The DBC Program management should:

1. Combine the deposit redemption reimbursement request and handling fee request to streamline the payment process by moving beyond the multi-year assessment and adopting and implementing a back-end payment system. Review and adopt administrative rules to implement a back-end payment system;

### Deposit Beverage Container Program

The Department of Health (DOH) held a series of internal meetings with Deposit Beverage Container (DBC) Program staff to evaluate how a potential back-end payment system could be implemented. The meetings revealed that the major impediment to implementing such a payment system was the duration of time it would take before the DBC Program could make reimbursements and payments to the Certified Redemption Center (CRC) operators for the deposit fees and handling fees respectively.

Although state law provides the DBC Program 30 days to make reimbursements, many CRC operators cannot financially support operations for a period beyond ten days. This fact was made evident by the closures of CRCs when the DBC Program took up to nine days to make payments to the CRC operator. During FY2014, CRC operators paid consumers approximately \$37 million dollars in deposit reimbursements. This is a huge financial liability for CRC operators to incur. In addition, CRC operators must also fund operating costs and the activities associated with recycling the used beverage containers.

In a back-end payment system, CRC operators would float all of these liabilities until the used beverage containers reach their end market. CRC operators may also incur additional delays if their end user fails to provide all the necessary supporting documentation to submit a claim to the DBC Program. This process could take a month or longer. No CRC operator could float this huge monetary liability. In fact, during the CRC closures, the largest CRC operator ex-

## Recommendation

## Affected Agency's Response

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|--|--|
| <p>2. Establish a systematic process for verifying the contents of reports submitted by distributors and redemption centers to mitigate the risk of fraud (underpayments by distributors and overpayments to redemption centers);</p>  | <p>pressed to the DBC Program that they had reached their credit limit within a period of less than 10 days. The current approach by the DBC Program is to continue improvements on the current system by increasing internal auditing capacity.</p> <p>The DOH has already taken action towards a solution that will eventually provide a systemic process for verifying the contents of reports and claims submitted by distributors and CRCs respectively. Three new accounting staff positions were authorized for the Office of Solid Waste Management (OSWM) under Act 122/SLH 2014 that includes two accountants and one account clerk. The OSWM intends to utilize these positions to support an internal auditing program to verify the contents of reports and claims submitted to the DBC Program. A solicitation to procure an auditing firm to assist in the development of an auditing program is currently being developed. Temporary position numbers have been assigned to these positions; however, DOH's Administrative Services Office (ASO) is requiring a reorganization of the OSWM before these positions can be filled.</p> |
| <p>3. Consult with the attorney general to determine whether any action can be taken against certified redemptions centers and recyclers who had significant differences in the quantity of materials shipped to end-user recyclers versus the amounts they claimed to have received from customers (such as RRR Recycling). If the attorney general agrees action can be taken, including levying fines or receiving reimbursements, the program should initiate these actions as soon as possible;</p> | <p>The DOH consulted with the Office of the Attorney General (OAG) to determine whether any action could be taken against CRCs and recyclers who had significant differences in the quantity of materials shipped to the end-user markets versus the amounts they claimed to have received from customers. At this time, the OAG determined there is an insufficient basis for any DBC Program action to recover any alleged overpayments due to the lack of solid evidence and provable facts regarding the differences in quantities of materials shipped by end-user recyclers versus the amount claimed to be received from customers. The lack of documentation and evidence makes it</p>   |

## Recommendation

## Affected Agency's Response

4. Define program requirements for each inspection type. Define the program for inspecting redemption centers, distributors, retailers, and exempt commercial passenger vessels and related activities. Establish expectations, targets, and goals for each inspection type and monitor/evaluate staff to hold them accountable for the results. The program should publish audit results to serve as a deterrent to other companies;
5. Perform planning to define the resources and strategies required to achieve program goals and to operate efficiently and effectively. Planning should serve as the foundation for other management functions—organizing, staffing, leading and controlling—by providing direction for the program and increasing the program's potential for success in accomplishing its goals. This should allow management to become more proactive in its management style and avoid a crisis management style;
6. Re-evaluate and update the environmental health specialist III position descriptions to ensure that minimum qualifications (skills, knowledge, abilities, and education) accurately reflect a realistic appraisal of the duties required to inspect and audit distributors and certified redemption centers on a regu-

extremely difficult, if not impossible, for the DBC Program to retrieve, via legal action, the overpayments once they have been made, especially many years after the fact.

A DBC Program Operations Manual has been developed and is used to successfully train newly hired employees. The manual clearly defines inspection targets and goals for CRCs, retailers, and commercial passenger vessels. Inspections transitioned to an electronic paperless system utilizing electronic tablets, custom software and cloud storage. Inspectors submit all inspection reports to the OSWM Coordinator for review, comments and possible corrective actions. All completed administrative enforcement actions are forwarded to the OSWM Webmaster and the DOH Public Information Officer for website and media publication respectively.

The OSWM is simultaneously defining the resources and strategies required to achieve program goals to operate efficiently and effectively as corrective actions are being taken to address the concerns derived from within the OSWM and the audits. The responses to the past audits recommendations show that there have been significant improvements to the DBC Program within a short period of twelve months since the publication of the last audit. The continued improvements to the DBC Program will eventually result in a more proactive management style.

Prior to the audit, the OSWM determined that the Environmental Health Specialist (EHS) III minimum qualifications as determined by the Department of Human Resources Development (DHRD) adequately reflected a realistic appraisal of the duties required to inspect OSWM facilities. However, the OSWM realized that it was

## Recommendation

## Affected Agency's Response

lar, systematic basis to achieve program goals by performing the following:

- a. Ensure compliance with annual marketing plan requirements contained in its functional statements and in the job description of its vice president for brand management;
  - b. Identify the knowledge, experience, skills (competencies) that are useful for someone to have in performing these job duties; and
  - c. Based on the analysis performed, prepare new positions descriptions that outline the job's goals, responsibilities, and duties; the minimum knowledge, skills and abilities required; and reporting structure for this job.
7. Fill vacant positions to provide sufficient time and resources to perform inspection and enforcement responsibilities over distributors and certified redemption centers to substantiate proper transactions and to detect and prevent improper ones;
8. Review the knowledge and skills required by the program's inspectors to ensure its existing staff has the appropriate skills to inspect and audit distributors and certified redemption centers on a regular, systematic basis. Establish and conduct training necessary to give staff skills required to inspect and audit distributors and certified redemption centers;

unrealistic to expect an EHS to also meet the minimum qualifications of an Accountant and possess the skills to perform an audit of distributors and CRCs. For these reasons, a conversion of one of the EHS positions to an Accountant, a request to temporarily assign an Accountant to the OSWM and the request for additional accounting positions for the OSWM were pursued by the Solid and Hazardous Waste Branch (SHWB).

Filling vacant positions is a very high priority for the OSWM. The Recycling Coordinator is dedicated and performs all of the recruiting duties in the OSWM as part of her daily duties. As soon as an employee submits a resignation letter, a request to fill the vacant position is immediately submitted. Lists of qualified candidates are always processed with haste by the Recycling Coordinator. Whether a potential candidate accepts an offer or stays with the OSWM for any length of time is beyond the control of the OSWM. Multiple candidates have turned down job offers in lieu of higher paying positions.

See the response to recommendation number six. Additionally, the OSWM has always provided the resources and training opportunities for staff through third-party contractors, national conferences and non-government organizations.

## Recommendation

## Affected Agency's Response

9. Expedite the hiring of an accountant III to alleviate the burden that has been placed on the accountant IV. In the meantime, department administrators, such as the Solid Waste Management coordinator and recycling coordinator, should be trained and authorized to approve and issue payments in order to ensure the program does not stop operating when the accountant IV is not at work;
10. Perform an industry study, including an examination of what handling fee rates for various recycled materials should be to determine what changes can be implemented to balance the business interests of the entities involved in the recycling process with the fiscal feasibility of the DBC Fund. The study should also consider market costs for the shipping and processing of recycled materials as well as the value of end product recycled materials;
11. Implement controls to identify uncertified redemption centers and ensure deposit redemption reimbursements and handling fee requests are paid only to redemption center operators for beverage containers redeemed at certified redemption centers;
12. Regularly evaluate the segregated rates used to convert the weight of deposit beverage containers redeemed into

The DOH has taken steps to alleviate the burden that has been placed on the Accountant IV by temporarily assigning a vacant Accountant III position from the Environmental Resources Office to the OSWM. On January 16, 2014 the OSWM filled this position at the Accountant I level. The training of the Accountant I to achieve the level of an Accountant III has taken longer than expected and will likely take another year to get this individual up to a supportive (Accountant III) level. In addition, three new accounting positions were authorized under Act 122/SLH 2014 that included two accountants and one account clerk. These additional accounting positions will also alleviate the burden on the Accountant IV. The OSWM is awaiting approval from the Human Resources Office to fill these positions.

The OSWM will work on drafting a request for proposals (RFP) to hire a contractor to perform an industry study after the newly hired Planner is trained and has successfully implemented the segregated rate study. The industry study will take into consideration market costs for shipping and processing of recycled materials in addition to the value of the end product recycled materials.

The DBC Program pays deposit redemption reimbursements and handling fee request to only CRCs. Several controls including the issuance of annual contracts, tracking of expiration of certifications and the inspection of each CRC's posted certification signs are controls that assure payments are only made to CRCs.

The OSWM is cognizant that the segregated rate should be updated on a regular basis. However, the Planner IV position that is

## Recommendation

## Affected Agency's Response

container equivalents to ensure rates approximate hand counts; and

13. Ensure that significant estimates such as the deposit beverage container liability and unredeemed deposits revenue are regularly reviewed, including retrospective reviews to determine if previous estimates were accurate or require adjustment.

responsible for the evaluation and update of the segregated rates has been vacant since July 5, 2013. In addition, this position has been chronically vacant. Multiple candidates selected by OSWM for this position have declined acceptance in lieu of higher paying positions. However, after six rounds of interviews, a Planner was selected and is anticipated to start on January 20, 2015. Regardless of this vacancy, the OSWM is developing a draft RFP to conduct a segregated rate study that includes the development of a sampling plan. Finalizing, soliciting and implementing this RFP will be the highest priority for the newly hired Planner.

The DBC liability and unredeemed deposit revenue is reviewed and reconciled by the DBC Program three months after the close of each fiscal year therefore, no adjustments would be necessary. The DBC Program requires the additional three months beyond the end of the fiscal year because the deposit liability balance and unredeemed deposit revenue recognized is based on the amount of deposits reimbursed to CRCs in the first three months of the subsequent fiscal year related to deposits collected in the prior fiscal year.

# Audit of Major Contracts and Agreements of the Hawai'i Tourism Authority

Report No. 13-09

## Recommendation

## Affected Agency's Response

1. The Hawai'i Tourism Authority Board of Directors should:

a. Ensure compliance with annual marketing plan requirements contained in its functional statements and in the job description of its vice president for brand management;

b. Adopt and implement policies to ensure compliance with sections 201B-6(a) and -6(b), HRS;

### **Hawai'i Tourism Authority Board of Directors**

Recommended statutory changes to 201B-6, HRS, was drafted in January 2014 for legislative consideration and passed. The bill, therefore, requires the authority to prepare a marketing plan as a single comprehensive document, including in the plan its brand management efforts and program, targeted markets, performance goals and targets, and guidelines for programs implemented through contracts with destination marketing organizations. Other amendments were made for clarity and organization of the chapter, including: replacing "marketing and promotion" with "brand management" where appropriate, consistent with the discussion above. The authority has found that the state is best served by focusing on strengthening the Hawai'i brand with marketing and development of the product and experience. Therefore, the authority prepares a brand management plan rather than a marketing plan. The brand management plan includes the plan for brand marketing as well as brand maintenance and brand experience. The amendments to section 201B-6, HRS, proposed in the bill, conform to this practice and makes clarifying amendments. This also conforms with the job description of its vice president for brand management.

The amendment to section 201B-6, HRS, proposed in the bill conform to this practice and makes clarifying amendments.

INTERNAL AUDIT: An internal audit was completed to ensure that a marketing plan

## Recommendation

## Affected Agency's Response

- c. Ensure that the authority's measures of effectiveness align with its strategic goals;
  
- d. Establish and periodically review the appropriateness of HTA's strategic plan targets and benchmarks; and
  
- e. Develop and implement policies governing marketing contract monitoring to ensure tourism brand managers are consistent in performing reviews of annual marketing plans and that all contract files contain key deliverables.

was presented as a single comprehensive document (referred to as the "HTA Brand Management Plan").

COMMITTEE: The Strategic Plan Investigative Committee (which is comprised of 5 current HTA board members) has been meeting on an on-going basis to update the 2005-2015 Hawai'i Tourism Strategic Plan. The HTA staff updated the charter of the Strategic Planning Investigative Committee to ensure the audit concerns are addressed. At the March 14, 2014, Strategic Planning Investigative Committee, the committee accepted the charter update. The Committee will present the new strategic plan to the rest of the board in May 2015 for approval by June 2015.

COMMITTEE: The new strategic plan update will aim to clarify terminology and proper usage of various metrics (such as goals, objectives, targets, KPIs, measures, research indicators).

INTERNAL AUDIT: An internal audit of active contracts is currently underway by the Quality Assurance Specialist which entails the following: 1) review of the contract Scope of Services; 2) review of the hardcopies in the contract folders and comparing the documents to what has already been scanned to Office365 (softcopies); 3) scanning and uploading missing documents; 4) organizing the documents and filing them into the appropriate sections of the contract folder; and 5) providing a summary of the reviewed files to the administrative assistants overseeing them.

QUALITY ASSURANCE: The HTA established a formal quality assurance policy and process (policy #100-23) with resources that include the following; training, policies and procedures updates, and the establishment of a new position to specifically oversee quality

## Recommendation

## Affected Agency's Response

2. The HTA administrators should:
  - a. Ensure that documentation of progress of the authority's tourism marketing plan is consolidated and includes analysis of whether strategic goals were achieved;
  - b. Evaluate whether Section 201B-6, HRS, should be amended, and if so, propose such amendments to the Legislature;

assurance. This employee started work on July 1, 2014.

**RECORD KEEPING SYSTEM:** The HTA has established an electronic recordkeeping system. Two components comprise the system: 1) medium for budget management of programs and storage of contracts, related transactions and contract checklists evidencing deliverables; and 2) repository for procurement plans, correspondence and other contract files. All contracts that have been internally audited have been scanned in to the Office365 system. The Administrative Assistants track progress via contract log and the quality assurance specialist monitors the upkeep of these files.

### **HTA Administrators**

**RESEARCH:** Progress has been made to improve capabilities of the research division, and assign specific duties for evaluating the HTA's performance. The HTA filled a Tourism Research Manager position (as of July 2014) and had updated the Research Director's job description to specify analysis and reporting on the HTA's performance against strategic goals and 201B-6, HRS. There has also been an evaluation as to whether the in-house personnel and contractors provide enough resources to fulfill data collection, analysis and evaluation requirements. A Request for Proposals was issued December 2014 to contract service for assistance in developing an evaluation and monitoring plan for the HTA.

**STATUTE:** Recommended statutory changes to 201B-6, HRS was drafted in January 2014 for legislative consideration and passed. The bill, therefore, requires the authority to prepare a marketing plan as a single comprehensive document, including in the plan its brand management efforts and program, tar-

## Recommendation

## Affected Agency's Response

	<p>geted markets, performance goals and targets, and guidelines for programs implemented through contracts with destination marketing organizations. Defines “Hawaii brand” as the programs that collectively differentiate the Hawaii experience from other destinations. Other amendments were made for clarity and organization of the chapter, including: replacing “marketing and promotion” with “brand management” consistent with the discussion above.</p>
<p>c. Develop and implement procedures to ensure compliance with Sections 201B-6(a) and -6(b), HRS;</p>	<p>POLICY REVIEW: The HTA’s objective was to review all contract and planning policies and procedures to implement audit recommendations. In doing so, new internal contract procedures (400 series) were implemented. These procedures entail the following: 1) contract monitoring procedures, 2) contract deliverables procedure, 3) contract closeout procedure, 4) contract amendment procedure, 5) contract enforcement procedure, and 6) marketing contract file management procedure.</p> <p>TRAINING: Brand managers and administrative assistants have been trained on the above contract procedures.</p>
<p>d. Develop and implement procedures for monitoring marketing contracts to ensure tourism brand managers are consistent in performing reviews of annual marketing plans and that all contract files contain key deliverables;</p>	<p>INTERNAL AUDIT: An internal audit of active contracts is currently underway by the Quality Assurance Specialist which entails the following: 1) review of the contract scope of services, 2) review of the hardcopies in the contract folders and comparing the documents to what has already been scanned to Office 365 (softcopies), 3) scanning and uploading missing documents, 4) organizing the documents and filing them into the appropriate sections of the contract folder, and 5) providing a summary of the reviewed files to the administrative assistants overseeing them.</p>

## Recommendation

## Affected Agency's Response

- e. Adopt formal training procedures for tourism brand managers, and
- f. For Access and Signature Events contracts, ensure that brand managers:
  - i. Use a checklist to document all deliverables, contract payments, and final reports for all Access and Signature Events contracts;

**QUALITY ASSURANCE:** The HTA established a formal quality assurance policy and process (policy #100-23) with resources that include the following; training, policies and procedures updates, and the establishment of a new position to specifically oversee quality assurance. This employee started work on July 1, 2014.

**RECORD KEEPING SYSTEM:** The HTA has established an electronic recordkeeping system. Two components comprise the system: 1) medium for budget management of programs and storage of contracts, related transactions and contract checklists evidencing deliverables; and 2) repository for procurement plans, correspondence and other contract files. All contracts that have been internally audited have been scanned in to the Office365 system. The administrative assistants track progress via Contract log and the quality assurance specialist monitors the upkeep of these files.

**PERFORMANCE BASED ACQUISITION:** A procurement planning worksheet has been modified to encourage early planning. The HTA has also implemented new policies and procedures to increase the rigor in procurement planning process, including revising the contract documents to include a contract deliverables list and performance based criteria.

**TRAINING:** Brand managers and administrative assistants have been trained on the established contract procedures.

**INTERNAL AUDIT:** An internal audit of active contracts is currently underway by the Quality Assurance Specialist which entails the following: 1) review of the contract scope of services, 2) review of the hardcopies in the contract folders and comparing the documents to what has already been scanned to Office365 (softcopies), 3) scanning and up-

## Recommendation

## Affected Agency's Response

- ii. Establish a quality assurance process for reviewing final reports to ensure all deliverables stated in contract proposals are addressed and reported to management. If final reports fail to address measures of success or other evaluation criteria, they should be returned to contractors for correction;
- iii. Withhold a portion of the final payment to major market area contractors for co-op agreements pending submission of a complete final report, and

loading missing documents, 4) organizing the documents and filing them into the appropriate sections of the contract folder, and 5) providing a summary of the reviewed files to the administrative assistants overseeing them.

**RECORD KEEPING SYSTEM:** The HTA has established an electronic recordkeeping system. Two components comprise the system: 1) medium for budget management of programs and storage of contracts, related transactions and contract checklists evidencing deliverables; and 2) repository for procurement plans, correspondence and other contract files. All contracts that have been internally audited have been scanned in to the Office365 system. The Administrative Assistants track progress via Contract log and the quality assurance specialist monitors the upkeep of these files.

**PERFORMANCE BASED ACQUISITION:** A procurement planning worksheet has been modified to encourage early planning. The HTA has also implemented new policies and procedures to increase the rigor in procurement planning process, including revising the contract documents to include a Contract Deliverables list and performance based criteria.

**QUALITY ASSURANCE:** The HTA established a formal quality assurance policy and process (policy #100-23) with resources that include the following; training, policies and procedures updates, and the establishment of a new position to specifically oversee quality assurance. This employee started work on July 1, 2014.

**PERFORMANCE BASED ACQUISITION:** The contract deliverables list and performance based criteria are tools to allow the staff to monitor contract progress to ensure that all final reports are submitted prior to issuing final payment.

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**Recommendation**
**Affected Agency's Response**


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- iv. Prepare a final evaluation for all Access and Signature Events program contracts for potential use as an evaluation element when deciding future contract awards.
3. The Legislature should consider:
- a. Clarifying the intent and requirements of Ssection 201B-6(a) and -6(b), HRS; and
  - b. Requiring HTA to report on the progress of its marketing plan in achieving its strategic plan goals in the authority's annual report requested under section 201B-16, HRS.

**HTA**

**STATUTE:** Recommended statutory changes to 201B-6, HRS was drafted in January 2014 for legislative consideration and passed. The bill, therefore, requires the authority to prepare a marketing plan as a single comprehensive document, including in the plan its brand management efforts and program, targeted markets, performance goals and targets, and guidelines for programs implemented through contracts with destination marketing organizations. Defines "Hawai'i brand" as the programs that collectively differentiate the Hawai'i experience from other destinations. Other amendments were made for clarity and organization of the chapter, including: replacing "marketing and promotion" with "brand management" consistent with the discussion above.

**ANNUAL REPORT:** The HTA Annual Report (policy #100-24) was completed in June 2014 to allow the report to be reformatted in a way that reports on the progress against HTA's strategic plan and Act 100 requirements. Revisions were made accordingly to the 2014 Annual Report which was submitted to the legislature in December 2014.

# A Report on Methodology for the Department of Labor and Industrial Relations' Workers' Compensation Medical Fee Schedule

Report No. 13-10

## Recommendation

## Affected Agency's Response

1. The Department of Labor and Industrial Relations should adopt the methodology described in this report by:
  - a. Collecting transacted CPT code data for workers' compensation cases from the National Council on Compensation Insurance, the Department of Education, the Department of Human Resources Development, the University of Hawai'i, and the City and County of Honolulu on an annual basis;
  - b. Pursuing memoranda of understanding with these data providers to ensure CPT code data is provided annually in a prescribed way and according to an agreed time schedule. Inclusion of dental codes is pending the policy decision of the director of labor; and
  - c. Developing a written procedures manual for the fee schedule review and rule-making process that includes:

### Department of Labor and Industrial Relations

It is an excellent way to improve the Medical Fee Supplemental Schedule (Exhibit A) by implementing the collection of Workers' Compensation (WC) frequently transacted Current Procedural Terminology (CPT) and Code on Dental Procedures and Nomenclature (formerly Current Dental Terminology) (CDT) codes. Department of Labor and Industrial Relations (DLIR) is collecting data annually from these 5 agencies according to an agreed time schedule.

DLIR did not draft or send any memoranda of understanding to the data providers because the bills (HB 1974 & SB 2923) did not pass in 2014 and the National Council on Compensation Insurance (NCCI) said that it is not necessary. Staff will need to get approval from the new director if we are going to adopt the auditor's methodology. (Note: DLIR got 2014 data from all 5 providers.) The DLIR Director decided to survey the dental codes for the (Exhibit A).

Unable to develop a written procedures manual for the Medical Fee Supplemental Schedule due to lack of staff. Since the bills did not pass, DLIR does not have the funding to hire an additional staff to fully implement the recommendation.

## Recommendation

## Affected Agency's Response

- i. Incorporating scheduled CPT code data delivery dates for each data provider;
- ii. Incorporating purchase order request dates for data media from the American Medical Association;
- iii. Using transacted CPT code data to guide decision-making when third-party requests to adjust fees for specific codes are received;
- iv. Recalculating annually the maximum allowable fee ceiling for eligible evaluation and management (E/M) codes;
- v. Performing a survey of stakeholders every three years to identify which E/M codes listed in the most current CPT code book are applicable to workers' compensation cases;
- vi. Stating on the Workers' Compensation Supplemental Medical Fee Schedule (Exhibit A) that certain E/M codes are not eligible after a survey of stakeholders deemed them not applicable to workers' compensation cases. List the medical service categories that cover these codes in the current American Medical Association CPT code book;

Even though DLIR is collecting data, the agency is not incorporating the data until the next Exhibit A in 2016 (once every 3 years). We need to use the most current American Medical Association (AMA) CPT code book to integrate the data.

DCD has been buying AMA CPT (includes CD of codes and descriptions) and CDT manuals for R&S.

A third party can submit a request to DLIR either throughout the year or at the small business hearing and public hearing. WC frequently transacted CPT code data is useful to guide decision-making when third party requests to adjust fees for specific codes are received.

Recalculating annually the maximum allowable fee ceiling for eligible Evaluation and Management (E/M) is not applicable to be incorporated in the process because the legislators didn't pass the bills.

The two bills that include the second ceiling for E/M did not pass.

DLIP did not adopt it, because we are not convinced that we should say that a certain E/M procedure is not applicable for WC injury.

## Recommendation

## Affected Agency's Response

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| <p>vii. Stating on the fee schedule the methodology used to identify the CPT codes under review for possible fee adjustment, including the three-year period of data collection and transaction consistency (at least two of three years); Stating on the fee schedule the methodology used to identify the CPT codes under review for possible fee adjustment, including the three-year period of data collection and transaction consistency (at least two of three years);</p> <p>viii. Listing maximum fee rates on the fee schedule in dollars and cents and eliminating the conversion to “unit values;” and</p> <p>ix. Using the CPT code equivalents for U.S. Department of Labor codes 20560, 20561, and 97545A that are listed on the fee schedule and retaining department-created codes 99456A and 99456B.</p> <p>d. Working with the Legislature to amend Section 386-21(c), HRS, as needed to adopt the fee schedule review methodology; thereafter, amending its administrative rules accordingly to implement the law;</p> | <p>DLIR didn't state the methodology on the fee schedule; however, we stated that on the memorandum for the small business hearing and public hearing.</p> <p>DLIR adopted the recommendation by listing maximum fee rates on the fee schedule in dollars and cents in the Proposed 2015 Medical Fee Supplemental Schedule.</p> <p>DLIR adopted the recommendation by using the AMA CPT codes equivalent for three DLIR created codes and retaining two DLIR created codes.</p> <p>HB 1974 and SB 2923 (2014 Legislature) proposed to amend Section 386-21(c), Hawai'i Revised Statutes (HRS), to carry out the recommendations of the auditor's Report No. 13-10, <i>A Report on Methodology for the Department of Labor and Industrial Relations' Workers' Compensation Medical Fee Schedule</i>, pursuant to Act 97, Session Laws of Hawai'i 2013. Act 97 required the state auditor to assist the director of labor and industrial relations in administratively adjusting the workers' compensation medical fee schedule. The DLIR supported these measures to follow the auditor's recommendations. However, HB 1974 HD 2 SD 1 did not pass out of Conference Committee. The</p> |
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## Recommendation

- e. Preparing position descriptions for a new research statistician III and a new office assistant IV position needed for the department to implement the methodology and perform the fee schedule review and adjustment process and rule-making process annually; and
  - f. Ensuring resources are available for the Research and Statistics Office to purchase data media from the American Medical Association to more efficiently implement the methodology.
2. The director of labor should:
    - a. Approve the methodology for reviewing and updating the medical fee schedule described in this report and our recommendation to establish a separate maximum allowable fee ceiling for E/M codes; and
    - b. Decide whether to retain or remove dental codes from the fee schedule.
3. The Legislature should consider:
    - a. Amending section 386-21(c), HRS, to
      - i. Empower the director of labor to establish a maximum allowable fee ceiling annually for eligible E/M codes;
      - ii. Include a sunset date of at least five years hence to provide the department sufficient time to assess the methodology's impact on cost and access to medical treatment

## Affected Agency's Response

DLIR is unable to implement the proposed measures without the amendment to Chapter 386, HRS.

Conducting the 2014 Medical Fee Supplemental Schedule survey took precedence over writing of the job description. Since HB1974 and SB2923 of the 2014 legislature did not pass, the issue is moot at this time.

See 1 c, ii.

### Director of Labor

DLIR followed the Auditor's methodology except the separate maximum allowable fee second ceiling for E/M codes.

The director decided to retain the dental codes on the Medical Fee Supplemental Schedule.

HB 1974 and SB 2923 (2014 Legislature) proposed the following:

1. Require the director to update the medical fee schedule annually instead of every three years;
2. Allow the annual establishment of a maximum allowable fee ceiling higher than one hundred ten percent of Medicare for evaluation and management codes;

## Recommendation

- for workers' compensation cases; and
- iii. Request the department assess the impact on access by performing a trend analysis that includes data prior to and after implementation of the methodology. The analysis should be submitted to the Legislature with sufficient time prior to the sunset date to enable policymakers to review the report and engage in discussions with stakeholders on whether to continue, discontinue, or adjust the methodology.
  - b. Funding departmental personnel resources in order to implement the methodology described in this report; and
  - c. Providing sufficient resources to the department to hire one or more contractors to perform an on-going trend analysis of the impact the methodology may have on access.

## Affected Agency's Response

3. Appropriate funding for 2 full-time positions to include one research statistician III and one office assistant IV position to support the annual fee schedule rule-making process;
4. Conduct a trend analysis of this Act's impact on workers' compensation claimants' access to appropriate treatment and appropriate funding to conduct the trend analysis; and
5. Repeal this measure on June 30, 2019 and reenact Section 386-21(c), HRS, to the form in which it existed on June 30, 2014.

The DLIR supported these measures to follow the auditor's recommendations. However, HB 1974 HD 2 SD 1 did not pass out of Conference Committee. The DLIR is unable to implement the proposed measures without the amendment to Chapter 386, HRS.

## Office of the Auditor Appropriations and Expenditures on a Budgetary Basis for the Fiscal Year Ended June 30, 2014

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### Appropriations

Act 5, SLH 2013 (operations)	\$2,673,849
Act 5, SLH 2013 (special studies)	150,000
Act 5, SLH 2013 (Audit Revolving Fund)	2,550,828
Act 138, SLH 2013 (Public Employment Cost Items)	75,300
Act 97, SLH 2013 (Workers' Compensation Medical Fee Schedule)	150,000
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	\$5,599,977

### Expenditures

Staff salaries	\$2,153,576
Contractual services (operational)	247,062
Other expenses	168,294
Special studies	—
Contractual services (Audit Revolving Fund)	2,550,828
Contractual services (Act 97)	—
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	\$5,119,760

### Excess of Appropriation over Expenditures

Act 5, SLH 2013 (operations)	\$481,966
Act 5, SLH 2013 (special studies)	150,000
Act 5, SLH 2013 (Audit Revolving Fund)	—
Act 97, SLH 2013 (Workers' Compensation Medical Fee Schedule)	150,000
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	\$480,217

# The Office of the Auditor

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Hawai'i's laws provide the Auditor with broad powers to examine all books, records, files, papers, and documents and all financial affairs of every agency. The Auditor also has the authority to summon persons to produce records and to question persons under oath. However, the Office of the Auditor exercises no control function, and its authority is limited to reviewing, evaluating, and reporting on its findings and recommendations to the Legislature and the governor.

To carry out its mission, the office conducts the following types of examinations:

1. **Financial audits** attest to the fairness of the financial statements of agencies. They examine the adequacy of the financial records and accounting and internal controls, and they determine the legality and propriety of expenditures.
2. **Management audits**, also referred to as performance audits, examine the effectiveness of programs or the efficiency of agencies or both. These audits are also called **program audits** when they focus on whether programs are attaining the objectives and results expected of them, and **operations audits** when they examine how well agencies are organized and managed and how efficiently they acquire and utilize resources.
3. **Sunrise analyses** evaluate unregulated professions or occupations to determine whether they should be regulated by the State. Before a new professional or vocational licensing program can be enacted, statute requires that a specific measure be analyzed by the Office of the Auditor as to whether regulation is necessary and its probable effects.
4. **Sunset evaluations** are similar to sunrise analyses, but apply to existing rather than proposed regulatory programs. They evaluate whether a program should be terminated, continued, or modified, in accordance with statutory criteria.
5. **Health insurance analyses** examine bills that propose to mandate certain health insurance benefits. Such bills cannot be enacted unless they are referred to the Office of the Auditor for an assessment of the social and financial impact of the proposed measure.
6. **Analyses of proposed special and revolving funds** determine if proposals to establish these funds meet legislative criteria.
7. **Analyses of existing special, revolving, and trust funds** determine if such funds meet legislative and financial criteria.
8. **Annual follow-up reports** validate claims made by departments regarding implemented audit recommendations and inform the Legislature of recommendations that have not been implemented.
9. **Procurement reports** include studies and audits relating to the State's procurement of goods, services, and construction.
10. **Special studies** respond to requests from both houses of the Legislature. Studies usually address specific problems for which the Legislature is seeking solutions.

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