

OVERVIEW

THE AUDITOR
STATE OF HAWAII

Management and Financial Audits of the Office of Hawaiian Affairs

Summary

The Office of Hawaiian Affairs (OHA) was created in 1978 to be the principal vehicle for the State to meet its trust responsibilities to native Hawaiians and Hawaiians. OHA now commands significant assets—more than \$160 million at June 30, 1993. To use these trust assets judiciously, OHA's Board of Trustees needs to exercise its fiduciary duties and provide for strong management. The board has fundamental fiduciary duties to the beneficiaries of the trust but does not have a full understanding of those responsibilities. Basic fiduciary duties include loyalty, prudence, and the marshaling of trust assets. OHA has vigorously pursued the marshaling of its resources. However, we found instances in which the loyalty or duty of the trustees to act solely in the interest of OHA beneficiaries could be questioned. We also found instances where trustees' actions may lack the prudence expected of fiduciaries. We believe this is due to insufficient training as well as insufficient guidance in OHA's bylaws, manuals, and guides on fiduciary responsibilities.

Some of the board's operations are not conducive to effective management. The operational orientation of some board standing committees has led trustees to advocate specific programs at the expense of the beneficiaries as a whole. The operational orientation also interferes with the board's policy-making functions and promotes unnecessary involvement of trustees with staff.

We found that OHA's revenues from the public land trust are treated inconsistently. Public land trust fund revenues should be classified as "trust funds," but OHA and the Legislature treat the funds as special funds. Special funds are subject to appropriation by the Legislature while trust funds are not.

We found OHA's management controls to be inadequate. The office's master and functional plans have not been updated. Policies and procedures manuals are incomplete and not compiled in a useful way, and internal communications are poor with no method of assuring that staff are kept informed.

A financial audit by Nishihama & Kishida, CPA's, Inc. found no material weaknesses in OHA's internal control structure and operations and that OHA had implemented most of the recommendations in our 1990 audit. However, several improvements in OHA's financial management are still needed. They include following statutory limits on paid leave, better controls over airline coupons, and complying with its own administrative and financial manual.

Recommendations and Response

We recommend that the OHA Board of Trustees develop a formal training program for trustees and staff on the role of a fiduciary. In addition, the board should develop and adopt materials appropriate to the trustees' fiduciary role. We also recommend that the board reorganize its standing committee structure and consider the feasibility of establishing a position within OHA's administration office to handle routine administrative activities of the board.

OHA's administration should update the master and functional plans, complete and organize the manuals into a single coherent working document, assure that OHA's funds are properly classified as trust funds, and take steps to improve internal communications. To assure fiscal control, OHA should complete its Administrative and Financial Manual of Guides, comply with the guide, and implement control procedures on vacation leave and compensatory time off, and interisland airline coupon practices.

We recommend that the Legislature recognize the trust status of OHA's revenue funds, amend Section 10-14.6, HRS to refrain from making appropriations from OHA's trust funds, and assure that these funds are properly identified during the budget appropriation process.

The chair of the Board of Trustees responded that the board respects and agrees with many of our recommendations. The board agrees that it will educate trustees on their fiduciary duties, establish additional bylaws and policies, and treat OHA's revenues as trust funds. It intends to implement our recommendations regarding policies and procedures for program management. The board does not agree that it should change from an operational to a functional committee orientation and says that this would result in even more fragmentation and confusion than the present system. The board says that it has been planning to update the OHA Master Plan but does not agree that the functional plans, developed in 1990, are outdated.

Finally, the board pointed to some inaccuracies in the draft that we have corrected. Based on other information supplied to us and a review of our supporting documentation, we also made additional changes to the draft.

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