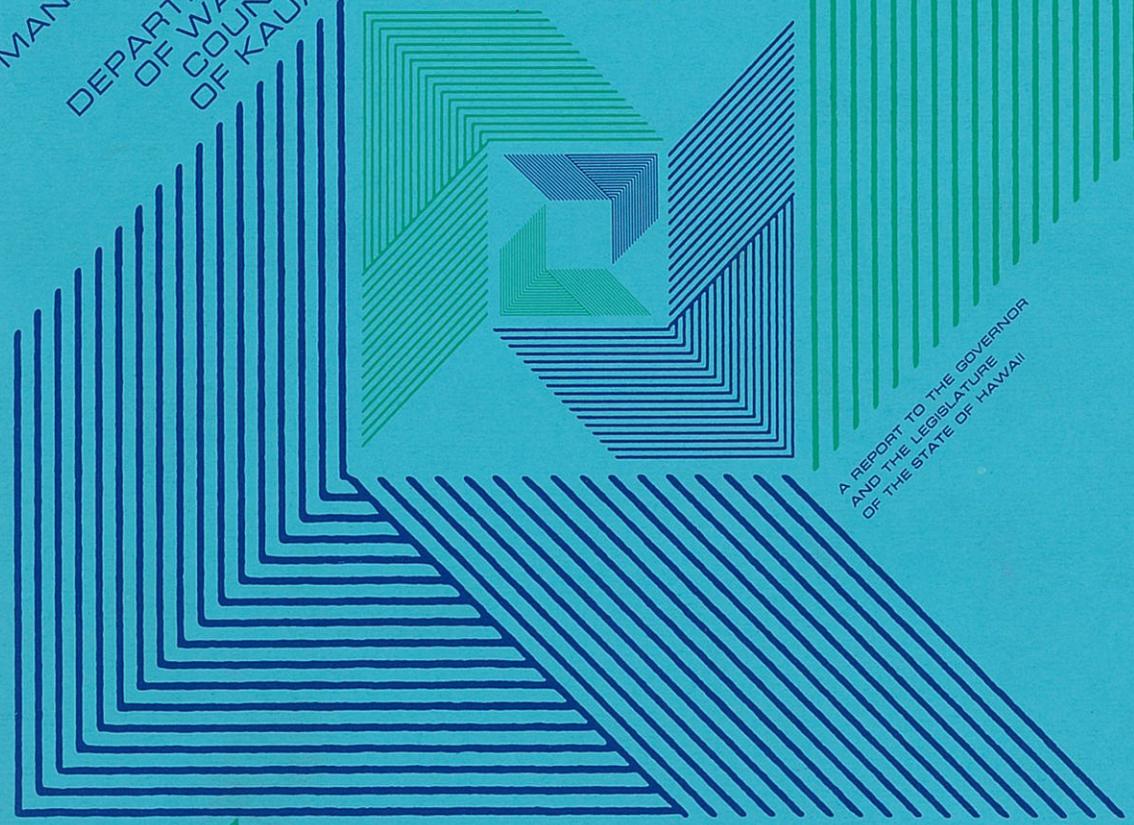


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AUDIT REPORT
NO. 70-1
JANUARY, 1970

MANAGEMENT
OF THE
DEPARTMENT
OF WATER
OF COUNTY
OF KAUAI



A REPORT TO THE GOVERNOR
AND THE LEGISLATURE
OF THE STATE OF HAWAII

**THE OFFICE
OF THE LEGISLATIVE AUDITOR**

ORIGINAL

The office of the legislative auditor is a public agency attached to the Hawaii State legislature. It is established by Article VI, Section 7, of the Constitution of the State of Hawaii. The expenses of the office are financed through appropriations made by the legislature.

The primary function of this office is to strengthen the legislature's capabilities in making rational decisions with respect to authorizing public programs, setting program levels, and establishing fiscal policies and in conducting an effective review and appraisal of the performance of public agencies.

The office of the legislative auditor endeavors to fulfill this responsibility by carrying on the following activities.

1. Conducting examinations and tests of state agencies' planning, programming, and budgeting processes to determine the quality of these processes and thus the pertinence of the actions requested of the legislature by these agencies.
2. Conducting examinations and tests of state agencies' implementation processes to determine whether the laws, policies, and programs of the State are being carried out in an effective, efficient and economical manner.
3. Conducting systematic and periodic examinations of all financial statements prepared by and for all state and county agencies to attest to their substantial accuracy and reliability.
4. Conducting tests of all internal control systems of state and local agencies to ensure that such systems are properly designed to safeguard the agencies' assets against loss from waste, fraud, error, etc.; to ensure the legality, accuracy and reliability of the agencies' financial transaction records and statements; to promote efficient operations; and to encourage adherence to prescribed management policies.
5. Conducting special studies and investigations as may be directed by the legislature.

Hawaii's laws provide the legislative auditor with broad powers to examine and inspect all books, records, statements, documents and all financial affairs of every state and local agency. However, the office exercises no control functions and is restricted to reviewing, evaluating, and reporting its findings and recommendations to the legislature and the governor. The independent, objective, and impartial manner in which the legislative auditor is required to conduct his examinations provides the basis for placing reliance on his findings and recommendations.



LEGISLATIVE AUDITOR
STATE CAPITOL
HONOLULU, HAWAII 96813

FOREWORD

This audit report is the result of our examination of the management practices of the department of water, county of Kauai, which was conducted pursuant to senate resolution no. 14, adopted during the regular legislative session, 1969.

It is our practice to request the agencies affected by our examination to submit in writing their comments on our findings and recommendations and to indicate what action they have taken or intend to take thereof. Such a request was made of the department of water, county of Kauai. Its response, together with our comments, are appended to this report in Part V, *Kauai Water Department's Response to Audit Findings*.

We wish to acknowledge the fine cooperation and assistance extended to our representatives by the management and staff of the department of water, county of Kauai.

Clinton T. Tanimura
Legislative Auditor

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PART I
INTRODUCTION AND BACKGROUND

Chapter 1

INTRODUCTION

This is a report on our examination of the department of water, county of Kauai, conducted pursuant to senate resolution no. 14, regular session, 1969.¹ The objectives and scope of the audit were as follows.

Objective of the Audit

Senate resolution no. 14 was adopted amid allegations of impropriety and irregularity in the control and use of the department's property, the procedures by which billing and collections were being effectuated, and generally the practices being followed by the department in its operations and finances. Thus our audit had the following objectives:

1. To examine and assess the legality and propriety of the management practices of the department of water, county of Kauai, particularly those practices related to operations and finances.

¹See appendix, *infra*, for the complete text of senate resolution no. 14.

2. To recommend specific actions as appropriate to correct deficiencies in management practices as may exist and to promote effective management of the department.

Scope of Audit

The audit generally concentrated on the 1968-69 fiscal year. However, as necessary, practices of prior fiscal years were also examined. Excluded from the audit were the practices of private agencies which, in addition to the Kauai county department of water, also provide consumer water services on the island of Kauai.

Organization of the Report

This report is organized into three parts. Part I consists of this introduction (chapter 1) and some background on the department of water, county of Kauai (chapter 2).

Part II (chapters 3 through 8) contains our findings and recommendations regarding the department's management practices.

Part III contains a summary of our findings and recommendations.

Definition of Terms

Certain terms are used frequently throughout this report. These terms, unless clearly stated otherwise, are defined as follows:

Department means the department of water, county of Kauai.

Board means the board of water supply, county of Kauai.

Manager means the manager and chief engineer of the department of water, county of Kauai.

County means the county of Kauai.

Chapter 2

SOME BACKGROUND: THE KAUAI WATER DEPARTMENT

The public water system managed and operated by the Kauai water department was originally many separate systems developed, owned and operated by private citizens and the plantations. Over the years, many of these

private systems were taken over by the county government and they form the present public water system. A brief description of the Kauai water department's legal status, organization, services, funding and extra-agency relationship is as follows.

Legal Basis

Up until 1951, the county water system was managed by a bureau within the county government, and the responsibility for determining the system's policies rested with the county board of supervisors. However, since 1951, by various statutory enactments, the policy-making responsibility for the water system has shifted from time to time between the county board of supervisors and a semi-independent water board, to wit:

- . Act 152, SLH 1951, placed the responsibility in a waterworks board.
- . Act 201, SLH 1955, re-transferred the responsibility back to the county board of supervisors.
- . Act 155, SLH 1961, again transferred the responsibility to a water board.¹

¹Act 155, SLH 1961, was enacted when Act 20, SLH 1960, which attempted to accomplish the same result, was ruled constitutionally invalid by the attorney general in opinion no. 61-36, March 17, 1961, on the ground that Act 20 applied only to the county of Kauai and was thus a special legislation. Act 155 was enacted to conform to the attorney general's opinion.

As of January 2, 1969, under a new charter for the county of Kauai, the policy-making responsibility for the water system is retained in a board of water supply. The board, however, is specifically stated to be a department of the county government and the mayor of the county is empowered to exercise direct supervision over all county departments. To the extent that they are not in conflict with the provisions of the charter, laws governing the county water supply which were in existence at the time of the enactment of the charter are continued in effect.

Organization and Functions

The board of water supply is composed of seven members, five of whom are appointed by the mayor with the approval of the county council. The other two members are the State district engineer of the department of transportation and the county engineer. The five appointed members serve five-year terms on a staggered basis. The board is required to meet monthly and to adopt rules for the conduct of its business.

The powers and functions of the board assigned by the county charter closely parallel those previously assigned by law.² Under such authority, the board is empowered, among other things, to:

- collect, receive and expend money derived from waterworks operations or from other sources provided for the use or benefit of such waterworks; provided, that the board shall maintain accounts to show its complete financial status and the results of management and operation;
- promulgate rules and regulations having the force and effect of law relating to the management, control, operation, preservation and protection of the waterworks;
- issue revenue bonds, arrange for the repayment of such bonds, and provide for a reserve fund;
- set rates and charges and acquire property; and
- appoint the manager of the water department and prescribe his duties and powers.³

The operational jurisdiction of the board extends to all county-owned water transmission, distribution and storage facilities except (1) the Wailua golf course well, which is operated by the county public works department; and (2) the Wailua irrigation system, which is placed under the direct control of the county board of supervisors (now county council) by statute, including the fixing of rates for the use thereof.⁴

³Summarized from article XVII, "Department of Water," of the county charter.

²Chapter 54, HRS, generally applies to the boards of water supply created under authority of Act 155, SLH 1961.

⁴Section 65-2, HRS.

The Kauai water system managed by the board of water supply consists of 14 separate subsystems.⁵ For administrative and operational purposes, the subsystems are grouped into five service districts.⁶ The largest subsystem, in terms of meters in service as of June 30, 1969, serves the Kapaa-Wailua area with about 1700 meters; the smallest is the Kalihiwai system with 19 meters. At the close of fiscal year 1969, approximately 6200 meters were in service throughout the county.

The department is organized into three operating divisions whose basic functions are described below.⁷

Engineering division: performs engineering work related to the planning, design, construction and maintenance of waterworks projects and facilities; prepares project cost estimates and assists in ordering of materials; maintains water system maps.

Field division: constructs, repairs and maintains waterworks installations and equipment, including pipelines, storage facilities, hydrants and meters; operates the department's radio-telephone system and central baseyard;

⁵By a subsystem, we mean an independent water service area served by a common, inter-connected network of water intake and distribution facilities.

⁶The five water service districts are Waimea, Koloa, Lihue, Kawaihau and Hanalei.

⁷Summarized from the position descriptions of supervisory personnel.

provides customer services through five district field stations; maintains the department's motor vehicles.

Fiscal division: maintains the department's financial and property records; performs billing and collection functions, including meter reading and consumer recordkeeping; processes departmental bills for payment; prepares employee payrolls; prepares departmental budgets and financial reports.

On June 30, 1969, the department had in its employ 34 full-time employees; 1 part-time employee and 5 contractual engineering student interns. Except for the manager and contractual employees, all personnel of the department are governed by civil service laws, rules and regulations.⁸

Finances

The operations and improvement of the county waterworks are financed from three primary sources: (1) water sales and related consumer services, (2) State capital improvements appropriations and (3) State and county bond funds.

⁸Under provisions of section 54-14, HRS, all regular employees of the department, excepting the manager, are subject to the civil service and compensation laws of the State. The manager is civil service exempt but is covered by State compensation laws.

Funds received from the sale of water, the installation of meters and other service charges are generally used to finance the day-to-day operations of the department and the maintenance, repair and rehabilitation of water distribution systems and installations. During fiscal 1969, revenue from these sources totaled \$586,423. Of this amount, \$466,863 was derived from water sales and \$119,560 from service charges.

State capital improvements appropriations for major improvements to the county water system, such as water source development and the construction of major transmission mains and water storage facilities, are sometimes made to the county to be expended by the board of water supply. In other instances, the State's department of land and natural resources is designated the expending agency.

The last bond issue was in 1959; it is currently being retired. However, the department is planning to issue new revenue bonds totaling \$700,000 to finance capital rehabilitation projects over a six-year period. A major item to be financed from this issue is the construction of an office building and baseyard complex which is now in the planning stage.

Extra-Agency Relationships

State government. The water department maintains regular operational ties with the State government in two functional areas—water quality inspection and water resource

development. The first, water quality inspection, is provided routinely each month by the State health department which conducts bacteriological examinations of water samples and reports its findings to the water department. In the latter area, water resource development, State and water department relationships are substantial. The water department does not usually engage in extensive water development studies but, rather, relies heavily on the State department of land and natural resources to provide this research support. The financing and construction of water sources has also been predominately a State activity. As a general practice, ownership title to installations developed by the State for the improvement of the public water system is turned over to the water department upon completion and is thereafter operated and maintained by the water department.

Private. Besides the county-owned water system, there are approximately nine private water systems serving Kauai residents.⁹ These private water sources are owned and operated by seven sugar plantations. Some of these systems are inter-connected with the county water system. This allows the county water department and the private water systems to draw upon the water supply of each other in times of need.

⁹In addition, the State department of land and natural resources maintains separate water supplies to service several of its park-recreational areas. Also, as previously noted, the county of Kauai operates a water well to irrigate the Wailua golf course.

**PART II
FINDINGS AND RECOMMENDATIONS**

Chapter 3

**INTRODUCTION AND FINDINGS,
GENERALLY**

Generally, our examination revealed that the department has been lax in the management of its operations. Deficiencies were found in various areas which we have categorized as general, operational, financial, property and personnel. Specific deficiencies in each of the above areas are discussed in the subsequent chapters.

At the legislative committee hearing on senate resolution no. 14, regular session of 1969, numerous allegations were made regarding the operations of the Kauai department of water supply. Generally, these allegations involved: (1) violations of the board's rules and regulations, (2) questionable loan practices of departmental property, and (3) irregularities in billing and collection procedures.

Our audit considered all of these allegations. Some could not be substantiated for various reasons, such as the lack of records and the absence of the parties directly involved. Others were found to be without merit. Our findings with respect to those allegations having some substance are included in the chapters which

follow. Included also are our findings with respect to other aspects of the department's operations which came to our attention during the course of the audit.

Chapter 4

GENERAL MANAGEMENT

This chapter is concerned with the management of the Kauai water department in general. Our examination revealed that (1) the administrative authority of the water department under the charter requires clarification and (2) the departmental rules and rule-making process are deficient when measured against the Hawaii Administrative Procedure Act of 1961, as amended.

Delineation of Administrative Powers

At various times in the past, the responsibility for determining the water system's policies fluctuated between the county governing board and a water board. Just prior to the effectuation of the county charter in January 1969, the policy-making responsibility resided in a water

board. Except to specify that the chairman of the county board of supervisors shall nominate and, by and with the advice and consent of the board of supervisors, appoint the members of the water board, the statute then controlling was silent regarding the power of either the chairman or the board of supervisors to control the administration of the water system by the water board.¹ Under such circumstances, the water board operated somewhat independently of both the chairman and the board of supervisors; it assumed virtually full authority to manage, control and administer the county waterworks and all properties and resources thereof.

The 1969 charter creates a water board and grants to it substantially the same powers and duties exercised by the statutorily created water board prior to the charter. At the same time, however, the charter expressly makes the water department a department of the county, separates the county legislative and executive functions (which were both previously performed by the board of supervisors), assigns the executive functions to the executive branch of government, names the mayor as the chief executive officer, and stipulates that "except as otherwise provided," the mayor shall "exercise direct supervision over all departments and coordinate all administrative activities and see that they are honestly, efficiently and lawfully conducted."² These charter provisions have

¹Act 155, SLH 1961.

²Article VII, section 7.05A, charter, county of Kauai.

raised questions as to the extent of the mayor's power over, and the relationship of the water board to other county executive agencies regarding the administrative aspects of the water department. The nature and degree of uncertainty as to the meaning of these charter provisions are epitomized by the following event which recently occurred.

In April 1969, the water department reported to the county attorney that certain administrative policies (relating to travel and the use of government-owned vehicles) then proposed by the mayor (and subsequently adopted) were in conflict with the administrative policies already adopted or being considered for adoption by the board of water supply.³ It inquired as to which policies—the mayor's or the board's—should prevail within the water department. To date, the water board has received no definitive reply.

The power of the mayor to prescribe administrative policies binding upon the water board is not the only question raised by the charter provisions. Other issues involve the relationship of the water board to other county agencies on such matters as finance, personnel and property controls. For example, to what extent is the water board required to adhere to fiscal procedures and personnel policies promulgated by the county departments of finance and personnel?

³Letter, water department manager to the county attorney, dated April 11, 1969.

We note that these questions regarding the extent of the mayor's administrative authority over the water department and the water board's relationship to other county agencies constitute a point of considerable disagreement and debate among the members of the mayor's cabinet. The delay in resolving these issues may be partly attributable to the fact that the proceedings of the charter commission were not available for review, until recently, to determine the intent of the charter commission in structuring the county government.⁴ Nonetheless, the present uncertain delineation of powers is potentially hazardous to governmental efficiency and should be clarified for all parties concerned as soon as possible. Absent a clear direction as to the scope of the administrative powers of the water department, the county charter will be subject to varied and even opposing interpretations and implementing actions, the results of which could adversely affect inter-agency relationships.

Recommendation. A formal, legal interpretation and clarification of the county charter should be sought as quickly as possible for the guidance of all on at least the following questions:

⁴Chapter 50, HRS, relating to charter commissions, makes no provision regarding disposition of charter commission records. Our inquiry in June 1969, revealed that the charter commission minutes were still in the possession of the former commission secretary. At our request, the mayor's office sought to obtain these records. In late August, we were informed that most of the charter commission minutes were transferred to the mayor's office.

(1) To what extent is the department of water subject to, or removed from, the administrative control of the mayor?

(2) To what extent is the department of water subject to the fiscal controls, financial procedures, personnel policies and performance review of county executive agencies?

Rule-Making and Interpretative Policies

The water department is empowered to promulgate rules and regulations having the force and effect of law. As such, its rule-making activities are governed by the Hawaii Administrative Procedure Act (chapter 91, HRS), as amended, hereinafter abbreviated as the "APA".⁵ The following focuses upon the current rules and rule-making practices of the department in the light of the substantive and procedural requirements of the APA.

The APA in brief. The APA, which became effective on January 2, 1962, prescribes common administrative procedures which all State and county agencies, except those in the legislative and judicial branches, are required to

⁵Enacted as Act 103, SLH 1961.

follow in making rules and in adjudicating contested cases.⁶ Its principal features are threefold:⁷

First, the act prescribes uniform standards for the conduct of rule-making and adjudicatory proceedings, thereby minimizing the variations in practices and procedures then extant among public agencies.

Second, the act imposes certain requirements upon subject agencies to facilitate public review of agency procedures, functions and rules, and to promote public participation in the rule-making process.

Third, the act prescribes procedural safeguards to assure due process and to protect the rights of individuals subject to rule-making and adjudicatory proceedings.

With respect to rule-making, the APA provides explicit guidelines relative to the content of rules; the procedure for adopting, amending or repealing rules, including the right of petition; the requirements for publication, documentation and filing of rules; appellate procedures for the redress of grievances; and the requirement for periodic updating of rules.

⁶As provided in section I of the APA, the act applies to "each State or county board, commission, department, or office authorized by law to make rules and to adjudicate contested cases, except those in the legislative and judiciary branches."

⁷Summarized from house standing committee report no. 8, first State legislature, regular session of 1961.

Deficiencies in the water department rules. The current rules and regulations of the water department were originally adopted on October 22, 1952, when the responsibility for policy-making was first transferred from the county board of supervisors to a water board. They were re-adopted intact, without any changes, when the policy-making responsibility was again transferred from the county board of supervisors to a water board by Act 155, SLH 1961.⁸ The rules, as the formal rules of the department, have never been amended since their original adoption in 1952. In 1967, a special committee was formed by the board of water supply to review the rules and recommend changes to update them. However, although the review has been substantially completed, no formal action has been yet taken to amend the rules.

Our review of the department's current rules and regulations revealed a number of deficiencies, both in content and in the rule-making process. In brief, the deficiencies are as follows:

Rules relating to procedures by which the public may secure information and petition the water board have not been adopted as required by the APA.

⁸As noted in chapter 1, the policy-making responsibility had been re-transferred from the first water board (Act 152, SLH 1951) to the county board of supervisors in 1955 per Act 201, SLH 1955.

- . Certain policies on matters which fall within the meaning of "rule", as defined by the APA, have been adopted in a manner contrary to the procedures set forth in the APA.
- . Existing rules have been modified without conforming to the requirements of the APA.
- . Certain policies of the water board have not been sufficiently documented and made available for public inspection as required by the APA.
- . Copies of the formally adopted rules of the water board have not been filed with the proper offices as required by the APA.

Each deficiency is more fully explained below.

1. *Failure to adopt rules:* The APA specifically requires the adoption of rules prescribing the manner in which the public may secure information, participate in the rule-making process and seek redress of grievances.

For example, section 91-2 of the APA states, in part, that

"... in addition to other rule making requirements imposed by law, each shall:

"(1) Adopt as a rule a description of the methods whereby the public may obtain

information or make submittals or requests.

"(2) Adopt rules of practice, setting forth the nature and requirements of all formal and informal procedures available, and including a description of all forms and instructions used by the agency."

Further examples are found in sections 91-6 and 91-8, as follows:

"Section 91-6. Petition for adoption, amendment or repeal of rules. Any interested person may petition an agency requesting the adoption, amendment, or repeal of any rule stating reasons therefor. Each agency shall adopt rules prescribing the form for the petitions and the procedure for their submission, consideration, and disposition"

"Section 91-8. Declaratory rulings by agencies. Any interested person may petition an agency for a declaratory order to the applicability of any statutory provision or of any rule or order of an agency. Each agency shall adopt rules prescribing the form of the petitions and the procedure for their submission, consideration, and prompt disposition"

None of the foregoing kinds of rules has been adopted by the department. Consequently, the public is denied information it is entitled to have by law, and individuals who petition for action by the department have no assurance that they

will be treated fairly and equally. At best, such public requests and petitions can, at the present time, only be handled informally and, as such, they may not be made a matter of record for official disposition.⁹

It was reported that revised, updated rules now being considered by the board of water supply would contain rules as required above. However, there is no indication as to when adoption of these rules can be expected.

2. *Adoption of rules by means other than those prescribed by the APA:* The APA defines "rule" in section 91-1 to mean

"each agency statement of general or particular applicability and future effect that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any agency. The term does not include regulations concerning only the internal management of an agency and not affecting private rights of or procedures available to the public, nor does the term include declaratory rulings issued pursuant to Section 91-8, nor intra-agency memoranda."

⁹A review of rules filed with the office of the lieutenant governor by the various county boards of water supply indicates that Kauai is the only one which has not promulgated and filed rules covering public access to procedural information and rules of practice.

The relevant phrases in the definition of "rule" are

- . a statement
- . of general or particular applicability
- . of future effect
- . that implements, interprets or prescribes law or policy
- . affecting public rights of or procedures available to the public.

Whenever a declaration contains all of these elements, it can be reasonably assumed that the rule-making requirements and procedures of the APA will apply.¹⁰

Our review of the various operating policies and practices of the water department revealed that certain of the interpretative or administrative policies which currently are in effect and which fall within the legal definition of "rule" were not promulgated in the manner prescribed by the APA. The following are such examples.

¹⁰For a general discussion of the Hawaii Administrative Procedure Act (APA) and its applicability to public agencies, see the legislative reference bureau report no. 3, entitled, *Compliance of County Agencies with the Hawaii Administrative Procedure Act*, February 1968.

a. A policy effective May 1, 1961, authorizes the water department to make an adjustment downward of an abnormal meter reading when such abnormal reading is due to an unsuspected underground leak in the consumer's property. Such adjustments are limited to one per service connection. An adjustment is authorized upon condition that the consumer repair the leak within one week after gaining knowledge of such leak. At the time the policy was adopted, the prevailing rule allowed adjustments to water bills only for meter inaccuracies. This policy of allowing adjustments in cases of underground leaks is not now a part of the formal rules and regulations of the water department. However, since this policy affects the obligations of consumers, it ought to be promulgated in the manner prescribed in the APA.

b. A policy adopted by the department on March 27, 1963, relates to the criteria to be used in evaluating subdivision applications when the availability of adequate water service for fire protection purposes is in question. This policy also was adopted without regard to the requirements of the APA, although it is of general application and affects the rights of individuals.

3. *Improper modifications of rules.* From time to time, the Kauai water department has modified existing formal rules without following the rule-making procedures prescribed by the APA. Existing formal rules have been modified either by general practice or by the adoption of policies without formal public notice and hearings as required by the APA. The following

are examples of these informal and improper modifications of rules.

a. Rule II, paragraph 1, of the water department's official rules and regulations requires, among other things, that adequate water pressure conditions exist before a prospective customer is granted water services. This rule attempts to assure and protect the water service needs of existing consumers. However, in practice, the department has deviated from this rule and has allowed the addition of new customers (even though such addition has been to the detriment of those already being served) in those instances where the land parcel of the customer requesting the service has remained unsubdivided and unserved since the installation of the distribution main serving the area. In other words, the rule has been modified by the application of the principle that each such unserved parcel is entitled to one water service irrespective of the effects such installation might have on the adequacy of water service to consumers already connected to the water main.

b. Rule VI, paragraph 2, of the formal rules and regulations requires that cash deposits (minimum of \$25) be deposited by applicants for service connections. In practice, from business firms, the water department accepts purchase orders of unspecified amounts in lieu of cash deposits.¹¹

¹¹ A purchase order is a document issued by a customer to a vendor authorizing the latter to deliver specified goods or to render certain services and to charge for such goods or services.

c. Rule VI, paragraph 2, of the water department's formal rules and regulations provides that applicants for service laterals and service connections shall be charged the actual costs of connection. Rule I, paragraph 5, defines "costs of service connections" to mean "the sum of the cost of the labor, materials, transportation, equipment, and repair, if any, and other incidental charges necessary for the complete installation of a service connection, but excluding the cost of the meter and meter box." In April 1967, the water department adopted (without complying with the requirements of the APA) a standard operating procedure (SOP) which authorizes the charging of flat rates rather than the actual installation costs for service laterals and service connections not exceeding 40 feet. This SOP is in conflict with and modifies rule VI and rule I, and, as an involuntary levy, is a policy of general applicability which affects the private rights of individuals. As such, its adoption required compliance with the procedures set forth in the APA.

d. Rule VI, paragraph 11, requires that the cost of lowering or elevating any part of the existing public water system be borne by the applicant. A policy adopted by the department in August 1968 provides that the cost of lowering pipelines made necessary by the construction of private driveways will be assumed by the department.

e. Rule VII of the current formal rules and regulations specifies that water bills shall be

rendered monthly. In November 1960, the department adopted a policy for bi-monthly billings. At that time, Rule VII as it now exists was a part of the department's formal rules and regulations. When the water system policy-making responsibility was transferred from the county board of supervisors to the water board in 1961, pursuant to Act 155, SLH 1961, the water board adopted the then existing formal rules and regulations as the rules of the board. The modifying policy was not then a part of the formal rules and hence the rules as adopted called for monthly billings. When the APA became effective in January 1962, monthly and not bi-monthly billings was still the official rule. Nonetheless, even after the takeover of the water system by the water board and continuing after the effective date of the APA, the Kauai water department has continued to follow the practice of issuing bi-monthly rather than monthly billings.

In some of the foregoing cases (e.g., bi-monthly billings instead of monthly billings), the department departed from the existing rules on the basis that compliance with the rules was administratively impracticable. However, instead of formally amending the rules, the department sought to achieve amendatory effects through means other than that required by the APA. Of course, none of these amendments currently has the force and effect of law, since the only rules having the force and effect of law under the APA are those which were included within the formal set of rules at the time of the effective date of the APA and those subsequently adopted in accordance with legal procedure.

4. *Inadequate documentation:* Section 91-2 of the APA provides, in part, that

“ . . . each agency shall make available for public inspection all rules and written statements of policies or interpretation formulated, adopted, or used by the agency in the discharge of its functions.”

The Kauai water department has not systematically compiled and documented its written, interpretative policies such as to enable ready public access to all such policies. Some policies adopted by the department are extracted and documented as standard operating procedures for staff guidance only; other policy statements remain unextracted in the minutes of the board or in the reports of its committees or, in the case of interpretative statements adopted by the county board of supervisors when the department was under the direct supervision of the county governing board, in the records of the county board. Thus, not all of the department's interpretive policies are readily accessible to public review; nor is there any assurance that what is made available is complete.

5. *Filing deficiencies:* Section 91-4(a) of the APA requires that

“Each agency adopting, amending or repealing a rule . . . shall file forthwith certified copies thereof with the lieutenant governor in the case of the State, or with the clerk of the county in the case of a county. In addition, the clerks of all of the

counties shall file forthwith certified copies thereof with the lieutenant governor. A permanent register of the rules, open to public inspection, shall be kept by the lieutenant governor and the clerks of the counties.”

A review of files of the office of the lieutenant governor and inquiries made of the office of the Kauai county clerk disclosed that neither office has the rules and regulations of the Kauai water department on file. This deficiency, though merely a procedural one, was brought to public attention as recently as February 1968 but has yet to be corrected.¹²

Recommendations. A thorough reassessment of the department's approach to rule-making appears to be in order. Underlying such a re-examination is the need for department policy-makers to become more familiar with the purposes, intent and requirements of the Hawaii Administrative Procedure Act, which generally governs the exercise of rule-making powers.

In terms of specific corrective action, the following are recommended for effectuation by the water department.

(1) Adopt rules of administrative procedures and practices to comply with sections 91-2,

¹²In the legislative reference bureau report no. 8, cited earlier, the state of compliance or noncompliance of county agencies with the APA was reported. Included therein were references to the noncompliance status of the Kauai water department. (pp. 19-20)

91-6 and 91-8, HRS, without further delay. The adoption of rules covering public access to information and procedures for public petitioning should be accorded priority treatment in view of the fact that they are required by law and are long overdue.

(2) With the assistance of the county attorney, critically evaluate current administrative policies to determine if any should be promulgated as rules.

(3) Review the operating practices of the department and take steps as necessary to conform deviating practices to current rules, or proceed to amend the rules in the manner prescribed by the APA.

(4) Devise a system of documenting the policies and procedures of the water department in a more concise fashion so as to insure public accessibility.

(5) Immediately file copies of present rules and regulations with the county clerk and the lieutenant governor so as to be in conformance with section 91-4(a) of the Administrative Procedure Act.

Chapter 5

OPERATIONAL MANAGEMENT

This chapter reports our findings and recommendations on the Kauai water

department's field service operations. In summary, our findings are: (1) the department has on occasions violated its own rules; (2) the department's practice with respect to new subdivision water systems appears to be at variance from county ordinance; (3) certain operating practices are not in conformance with established, standard procedures; (4) security measures to safeguard departmental records are deficient; (5) the procedures followed in field meter maintenance are inadequate; and (6) an informational reporting system is lacking. The details follow.

Violation of Rules and Regulations

The department's rule VI, paragraph 3, provides that "the consumer's supply pipe shall at all times remain the sole property of the consumer, who shall be responsible for its maintenance and repair." Water fixtures attached thereto are similarly treated under rule XVII, paragraph 1, which states, in part, that "the consumer shall at his own risk and expense furnish, install, and keep in good and safe condition all equipment that may be necessary for receiving, controlling, applying and utilizing water . . ." In general, these rules specify the private nature of certain water service equipment over which the department assumes no liability or maintenance responsibility.

During the course of our examination, several alleged violations of the foregoing rules were brought to our attention. We cite two such instances which we verified. In one case, in

1963, emergency repairs were made to stop leakage and excessive water loss from the water supply pipes of a consumer, an elderly woman. In the other instance, the time of the occurrence of which we could not definitely establish, a consumer's water faucet was replaced upon the consumer's claim that the faucet became defective because of excessive water pressure, even though the rules relieve the department of any liability for damages caused by pressure conditions. In neither case was the consumer charged for the repair services.

Although the above actions may have occurred some time ago and may have been but isolated incidents, they clearly violated the intent of the departmental rules which, in essence, restrict the employment of departmental resources in effecting repairs to department-owned water fixtures. We believe that the water department should observe to the fullest extent the distinction made in the rules between public and private responsibility for water equipment maintenance. Otherwise, the department can be justly criticized for arbitrary and preferential treatment of its consumers and for misuse of its resources.

Violation of County Subdivision Ordinance

Subdivision developments in the county of Kauai are governed by ordinance no. 94,

commonly called the "subdivision ordinance."¹ This measure prescribes, among other things, the general requirements, standards and procedures under which water may be provided to subdivided lands. One such requirement stipulates that

"No water service shall be approved, excepting a service for subdivision construction purposes, until the subdivision water system has been completed and accepted by the Board."²

As conditions precedent to the connecting of any subdivision water system to the public water system, the ordinance further requires that (1) the subdivider convey the subdivision water system to the county, and (2) the subdivider deliver to the county perpetual easements for all portions of the subdivision water system installed in other than publicly-owned property.³

¹Ordinance no. 94, as adopted on May 2, 1956, is officially entitled *An Ordinance Establishing Standards for the Subdivision of Land in the County of Kauai, the Preparation and Recording of Maps, the Procedure for Approval Thereof and Providing for Penalties for Violation Thereof.*

²Appears as section 8, paragraph J, in the ordinance. The word *Board*, as used in the ordinance, means the then county board of supervisors.

³See section 8, paragraph K, of the ordinance.

These requirements, if strictly applied, prohibit the department from providing water services to individual consumers in subdivisions where the subdivision water systems have yet to be conveyed to the county. Notwithstanding this prohibition, however, it has been the practice of the water department to install consumer meters in subdivisions even before the subdivision water system has been accepted by the county as long as the pipelines and roadways have been completed. A sampling of work orders for meter installations showed, for instance, that in December 1968, a total of 23 meters were installed in subdivisions which were still pending completion or final inspection. As late as June 1969, the water systems of these subdivisions were yet to be accepted by the county. This practice of installing consumer meters before county acceptance of the water system further appears to technically violate the rules of the department regulating work on private property inasmuch as, without a conveyance of the water system and an easement to the county, the pipelines to which meters are attached and the roadways used are still the property of the subdivision developer.

We recognize that as a matter of practicality, new homes in a developing subdivision are often sold and occupancy permitted by the developer even before the subdivision is completed. The purchasers, of course, require water services upon occupancy. This suggests that perhaps the requirements of the ordinance are impractical and thus should be changed. However, given the ordinance as it currently stands, a violation of the ordinance by installing consumer meters

prior to the formal acceptance of the water system raises this serious legal question: does installation of consumer meters by the water department constitute an implied acceptance of the subdivision water system by the county? (Bound up in this question is a further question, can the water department, by its independent action, bind the county?) The seriousness of this question is evident when we note that acceptance implies a complete assumption by the county and the water department of responsibility for the water system—a responsibility which might be difficult to discharge without a legal easement over private property and which might be onerous if the system is not constructed according to acceptable standards.

We suggested earlier that perhaps the current ordinance is impractical and thus should be changed. Any change in the requirements of the ordinance, however, raises the issue of whether such change can be made by the water department through its rules and regulations or whether it requires action by the county council. It should be noted that the current ordinance was adopted in 1956 at the time when the Kauai water department was under the direct supervision of the county board of supervisors. Since 1961, by statute, and more recently by the enactment and effectuation of the county charter, the power to regulate the services of the public water system has been vested in a board of water supply. Subdivision requirements, however, have continued to be within the jurisdiction of the county governing board. Thus the charter in article XIV, section

14.09, recognizes that the regulations of the water department shall govern "the extent to which water mains and all necessary appurtenances shall be installed to and within subdivisions," but expressly provides that "the council shall enact an ordinance governing the subdivision . . . of land." The question is, is the matter of accepting subdivision water systems properly a subject of the water department's rules and regulations or of county ordinance?

Recommendation. We recommend that the water department seek clarification from the county attorney on the following: (1) the consequences of the water department's present practice of installing consumer meters in subdivisions before acceptance of the subdivision water systems by proper authorities; (2) possible remedies to accommodate consumers requiring water services in incrementally developed subdivisions; and (3) if any changes to the requirements of the current ordinance regarding acceptance of subdivision water systems are contemplated, whether such changes can be made through the rules and regulations of the water department or whether they must be made through an ordinance.

Violations of Departmental Standard Procedures

In many organizations, standard operating procedures (SOP) are used as a means of standardizing work processes and issuing common instructions of continuing effect to the

workforce. The water department, since 1962, has generally followed this approach to formalize and convey operating instructions to the staff. Of 19 such SOP's issued to date, 17 are currently in effect. Many SOP's are derived directly from policy statements adopted by the board of water supply.

Our review of departmental practices pursuant to the SOP's which are still in force disclosed a number of instances where operating practices are not conforming to the established standard instructions. Three such instances, which relate to the conduct of water service operations, are discussed here.

1. *SOP no. 5, relating to work order forms:* This SOP was issued in July 1962 to establish a uniform system for handling work orders. It specifies the use of two different sets of pre-printed, multi-copy forms for the reporting, among other things, of specific costs and results.

Our review revealed that the instructions issued under this SOP have been deviated from so much that it is virtually obsolete. For example, only one of the two original form sets is still in use; work orders are no longer prepared by field personnel; the use of the forms no longer conforms to original intentions; reporting requirements have changed. Moreover, a sampling of work orders disclosed instances where the form was used as an inter-office memo in transmitting to field personnel instructions having continuing effect for an unspecified duration.

We note further that many changes to the original instructions were informally instituted by staff personnel. Presumably, these changes were made to simplify or otherwise improve the system. However, no apparent effort was made along the way to update the basic guidelines contained in the SOP, thus rendering the SOP useless for staff instruction purposes.

2. *SOP no. 7, relating to removal of meters:* This SOP sets forth the department's policy with respect to the removal of meters upon the discontinuance of service. In general, it provides that meters be removed as soon as possible upon service discontinuance except when information is on hand indicating that the consumer will request the restoration of service within 30 days. If, however, service is not restored after 30 days, the meter shall be removed and returned to the baseyard.

This policy is primarily intended to prevent, or at least make difficult, the unauthorized use of water when a service is officially discontinued. Otherwise, it would be extremely easy for someone to turn on the water at the meter connection and restore water service, without the knowledge of the department. Although the removal of the meter in itself does not guarantee absolute water security, its removal is believed to have a deterrent effect.

Our examination into the implementation of this policy indicates that the SOP is not being complied with. Note the following data compiled as of June 26, 1969.

Meters discontinued and not removed 38

Duration of discontinuance:

Less than 30 days	9
31 to 60 days	7
More than 60 days	22

The above data show that of 38 meters in discontinued status on June 26, three-fourths or 29 had been in such status for more than 30 days and should have been removed under the policy standard set by SOP no. 7. Of particular significance is the fact that 22 of the 38 meters were out of service for more than 60 days. Permitting discontinued meters to remain intact for this long a period seems to defeat the purpose of the departmental policy. A more diligent effort in carrying out the instructions of the SOP appears warranted.

3. *SOP no. 17, relating to consumer complaints:* In August 1968, a special form was prescribed to record and refer for action all consumer complaints and water emergencies reported by the public. We find the use of this form deficient in two respects. First, since its prescription, it has not been used "to gather statistics for pinpointing problem areas," as originally intended. Secondly, it does not provide a complete record of complaints received by the department. Consumer complaints, as a general practice, are also reported on the daily time sheets prepared by district water servicemen, which normally are not reviewed by management. The true extent of consumer complaints and the problem areas thus remain unknown to management.

These practices again point out the need for closer examination by management of the manner and extent to which their instructions are being executed.

Recommendation: We recommend that management of the water department review the department's standard operating procedures and delete or amend those which are now inapplicable or out of date and take steps to insure compliance with those which are applicable.

Security of Operational Records

Except for certain accounting records and documents which are kept nightly in a fire-proof safe, all the pertinent documents and files are exposed to potential destruction should a fire sweep the old wooden frame building which now serves as the central office of the department. The water system maps in particular, on which are plotted all of the water mains and distribution lines of the public water system in the county, and of which only the originals exist, should be somehow safeguarded from potential loss, or some means of their reconstruction should be provided in the event of their loss.

We understand that the proposed new office building for the department, to be financed from bond funds, will provide for a fire-proof vault to store all valuable documents, including maps. However, this facility is only in the

planning stage and interim security measures are appropriate.

Recommendation. We recommend that the department review security measures, present and necessary, for the safeguarding of valuable departmental records, documents and files and provide suitable means by which they may be protected from destruction by fire.

Consumer Meter Maintenance

Consumer meters are integral equipment in Kauai's public water system. They are the primary means by which the department determines water usage for purposes of billing its customers. In view of this, the department reportedly accords a relatively high priority to the job of maintaining its consumer meters in an operable and accurate condition. From the consumer's standpoint, too, a properly maintained meter gives some assurance that water charges owed by him are fairly and equitably derived.

Our review of the department's consumer meter maintenance program leads us to believe that, despite the purported emphasis given to this phase of operations, the actual conduct of field meter maintenance services suffers from procedural deficiencies which detract from the effectiveness of the program. We note, specifically, that significant delays are encountered in reporting and correcting meters which are known or suspected to be faulty.

Of 61 "defective meters reports" (DMR)⁴ issued by meter readers during the 1968-1969 fiscal year involving some 726 meters, roughly one-half were acted upon within five working days after instructions were issued to maintenance personnel; but for about one-third,

inspection and repair work did not commence until six working days or more after issuance. In some extreme cases, reportedly defective meters were not attended to for as much as three weeks or more. Table 5.1 summarizes this data.

Table 5.1
DEFECTIVE METER REPAIR REACTION TIME
(For Defective Meters Reported from July 1968 through June 1969)

	No. of DMR	% of Total DMR	No. of Meters Involved
Period within which inspection and repair work commenced after defective meters reports (DMR) were issued to district water servicemen:			
Within 5 working days	34	55.7	454
From 6 to 10 working days	12	19.7	128
From 11 to 15 working days	2	3.3	26
Over 15 working days	6	9.8	57
Unknown	<u>7</u>	<u>11.5</u>	<u>61</u>
Total	<u>61</u>	<u>100.0</u>	<u>726</u>

- Notes: (1) Weekends and holidays were excluded in calculating "working days."
(2) The "unknown" shown above are DMR for which no action dates were reported.

⁴The "defective meters report" referred to here is a standard departmental form which meter readers use to record known or suspected defective meters as they make their rounds. Up to 17 meters can be listed on one form. This report is turned over to

the water serviceman of the respective districts, who, in turn, corrects the meter deficiencies. His actions are also reported on this form. When all meters are corrected, the form is returned to the central office to update consumer meter records as necessary.

Actually, the delay in commencing inspection and repairs is longer than that indicated in Table 5.1 because, under the practice now followed by meter readers, defective meters are not reported as they are found. The defective meters report form which is used by meter readers to report suspected defective meters has a space for the listing of 17 meters. The meter readers generally wait until the form is filled up before turning it over to the appropriate maintenance personnel.

Delays are encountered, however, not only in the reporting of defective meters, but also during repairs. Even after work is commenced on defective meters, time lags of up to two and three weeks occur in some cases before all deficiencies are corrected.

Recommendation. Although there are no specific standards established by the department to which its performance can be compared, we believe that its conduct of consumer meter maintenance activities should be closely evaluated in view of the notable delays it has experienced in responding to correct meter deficiencies. We suggest, in particular, that attention be given to an analysis of the procedures and operating practices which impede the timely flow of defective meter information and of the effects of workload cycle and volume upon the capabilities of the field maintenance staff to correct the deficiencies within a reasonable time.

The prolonged continuance of a defective consumer meter is neither desirable nor

warranted in view of the important function it serves in the public water system. To the extent practicable, more efficient and systematic procedures should be devised to assure the continual serviceable condition of these meters.

Operational Reporting

One of the requisites imposed upon the department by the charter as well as by prior legislation, is the requirement that proper accounts be maintained "to show its complete financial status and the *results of management operations*."⁵ [Emphasis added.] Although this proviso does not define the kinds of records which ought to be kept, it does suggest the need to maintain cumulative program data which are reflective of the operational activities and accomplishments of the department.

Our review of the department's informational reporting and recordkeeping system indicates that, while substantial attention is given to financial records, there is no systematic reporting of operational performance data. Consequently, work-related statistics are not readily available for public review or otherwise.⁶

⁵Article XVII, section 17.03-A, Kauai county charter. A similar requirement is contained in section 54-20, Hawaii Revised Statutes.

⁶Publication of annual reports of departmental operations was reportedly discontinued in 1956, because it was not legally required. Up to that time, at least, operational performance data were regularly kept and reported.

In our opinion, the failure to maintain adequate records reflecting the "results of operations" is contrary to the implied purpose of the recordkeeping requirement cited above; namely, to provide some means by which the operational services of the department may be reviewed and evaluated.

In light of the new charter requirement for annual reports from each county agency, it is particularly opportune at this time for the department to devise an operational reporting system which can serve both public information and management purposes. With respect to the latter, it appears that the board's recently declared intent to function more as a "policy making" body than as a "managing board" places greater emphasis on the need for a systematic management reporting system.⁷ The ability of the board to make independent and objective review of departmental operations depends to a large extent on the kind of information it receives.

Recommendation. We recommend that the department devise a system for selecting, accumulating, reporting and recording operational performance information to meet its

⁷As reported in the minutes of the special meeting held by the Kauai board of water supply on August 25, 1969, the board adopted the position that it be a policy-making body leaving management matters to the manager and chief engineer of the department. In a related discussion, the board was advised by the county attorney that, while the manager may be delegated administrative duties, certain discretionary and policy-making powers cannot be delegated by the board.

public information commitment and management review needs. In this connection, we suggest the following basic steps.

(1) Survey the role, functions and legal obligations of the department and determine the objectives or expectations being pursued.

(2) Identify the criteria, both quantitative and qualitative, which best relate to the defined objectives and which can serve as "yardsticks" to measure progress toward accomplishment of departmental objectives.

(3) Prescribe a plan for selectively accumulating and reporting the results of operations incorporating the evaluation criteria as determined above.

Chapter 6

FINANCIAL MANAGEMENT

Our examination of the department's financial management practices revealed deficiencies in: financial management generally; collections; charges for services; and expenditures. Some of the shortcomings violate not only good accounting practices but also applicable statutes and the department's rules and regulations.

Financial Management, Generally

Banking. The department maintains several bank accounts, one of which is used to bank deposits made by customers for service connections and construction plans and for the customer's share of the cost of capital improvements. The deposits are kept in this account until the services, for which the deposits were made, have been performed. Upon performance of the services, that portion of the deposits properly chargeable to the customers is transferred into the county treasury and that portion refundable is paid out by the water department to the customers. Some deposits are kept in the bank account for periods exceeding six months.

These practices of the department of holding receipts for long periods of time in its own bank account before transferring them to the county treasury and of disbursing funds directly from the bank account to private individuals violate the following sections of the Hawaii Revised Statutes (HRS). Section 54-24, provides:

"All receipts of the board of water supply other than from the sale of bonds shall be deposited daily in a bank by the board and the sums so deposited shall be accounted for and be paid into the county treasury at the end of each month and maintained in a special fund . . ."

Section 54-25, states:

"The county treasurer^[1] shall disburse all monies of the board of water supply only upon warrants issued by the county auditor^[2] on vouchers signed by the chairman or acting chairman of the board."

The purpose of the above statutes is to provide fiscal control and to safeguard against possible misappropriation of funds by separating the "function of disbursing" from the "function of receiving" moneys. Under the statutes, the water department has the duty of receiving and depositing funds and of transferring to the county at the end of each month all such funds received during the month, regardless of their nature, and the county treasurer (director of finance under the charter) has the duty of disbursing the funds.

Recommendation. We recommend that the water department adhere to the fiscal mandates of sections 54-24 and 54-25, HRS.

Storage of accounting records. The department does not label all of its accounting records and documents in storage, nor does it stack its records in any chronological order. This

¹The "director of finance" under the charter.

²*Ibid.*

may result in excessive manhours spent in search for the desired records and documents. In addition, some of the records kept in storage are more than 10 years old, thus taking up more storage space than may be necessary.

Recommendations:

1. We recommend that the department properly label its records and documents of prior years and store them in an orderly manner.

2. We further recommend that the department initiate action for the destruction of old records and documents in accordance with section 46-43, HRS, relating to the procedures to be followed in securing authorization for the destruction of records.

Collection and Delinquencies

Generally. The department is generally lax in enforcing payments on accounts. It has often permitted accounts to remain delinquent for long periods of time.

Rule XI provides that water service may be discontinued for the non-payment of a bill, if the bill remains outstanding after 15 days of mailing or presentation thereof to the consumer. A policy adopted by the board of water supply (SOP no. 14) on December 13, 1966, to implement this rule allows a period of 60 to 75 days after the mailing of a bill before service is

discontinued for non-payment. It would appear that this policy is too lenient. As a result of this policy, the department has had to absorb losses, on the average, of four to five months of unpaid water bills. In some cases, it has had to absorb losses of as much as six months or more of unpaid bills. Although losses from residential consumers generally are not significant in amount, losses from businesses can amount to large sums. An extreme example of the latter involved the Seven Seas Hotel. Throughout the year 1965, the hotel was grossly delinquent on its account and later became bankrupt. As a result, the department lost \$2,630 representing water bills from February 1965 to December 1965.

Recommendation. We recommend that the department review its delinquency policy and consider making necessary revisions to tighten its control over delinquent accounts.

Landlord-tenant. Our examination noted special problems with respect to the department's collection practices in cases of water services to rented properties. Rule V, paragraph 1, provides:

"Each prospective consumer and, in the case of rented premises, the landlord also shall be required to sign the standard application form for the water services desired, assuming responsibility for the payment of future charges for water service at the

designated location, before water is turned on for any use whatever. The consumer or the sponsoring landlord signing the application form shall be held liable for the payment of all charges for water and water service at the designated location."

The department has not in all cases of rented premises secured the signatures (on the standard application forms) of both the tenants and the landlords as required by this rule. Of approximately 40 delinquent water bill accounts which we reviewed, two accounts lacked the signatures of both the tenants and the landlords and 27 accounts, although they contained the signatures of the tenants, lacked the signatures of the landlords. In several of the latter cases, the delinquent tenants have "skipped town," leaving the department without recourse, presumably because the language of the above rule precludes recovery from the landlord without his signature.

The intent of the rule, of course, is to enable the department to hold the landlord liable for water charges incurred by the tenant, if the tenant refuses or fails to pay. The wording of the present rules, however, precludes such recovery from the landlord unless he actually signs the application form. We understand that, at times, it has been difficult to secure the landlord's signature. Perhaps, the intent of the rule can be met by amending the rule by deleting the requirement of the landlord's signature and by making it clear that the landlord would also be held liable for unpaid water charges in all landlord-tenant cases.

However, a change in the rule will make little difference if the present practice in collecting from landlords who do sign the application forms is followed. We noted that the department has often failed to exert sufficient effort to collect from landlords who signed the application forms upon the failure of the tenant to pay.

Recommendations. We recommend that the department:

1. review and revise, where necessary, its rules relating to liability for water charges in cases of rented premises to permit the department to hold the landlord liable in the event the tenant fails or refuses to pay; and
2. where the landlord is clearly liable for water service charges left unpaid by the tenant, exert every effort to effect collection from the landlord.

County debt. As of July 1969, the county owed the water department the sum of \$1,472. This amount is the total unpaid portions of various billings issued by the water department to the county between April 1964 and December 1967 for services rendered by the department to the county.

\$1,358 of this total unpaid amount is on account of a billing made in April 1964 for \$2,315. As of July 1969, the county had paid only \$957 of this bill. This billing was for work

done by the department on a county flood control project. This capital improvement project was financed through a State appropriation (Act 195, SLH 1961), with the county designated as the expending agency. The reason given for the non-payment of the balance is that the county "ran out" of State funds.

There appears to be no valid reason why the county should withhold payment of its outstanding debt to the water department.

Recommendation. We recommend that the county immediately pay its past due amount.

Service Charges

Cost exclusions in service connection charges. Rule I, paragraph 5, states:

"The term 'COST OF SERVICE CONNECTION' shall mean the sum of the cost of the labor, materials, transportation, equipment, and road repair, if any, and other incidental charges necessary for the complete installation of a service connection, but excluding the cost of the meter and meter box."

Contrary to this rule, the department, for many years now, has followed the practice of charging *only* for the cost of labor and materials to customers for service connections.

Besides being in violation of the department's rule, this practice of charging only for the cost of labor and material is fiscally unsound. Good, fiscal management dictates that charges be adequate to recover all costs of services which directly benefit an identifiable individual or group. This failure to recover all costs means in effect that the customer receiving the services is subsidized to the extent of the unrecovered cost by water consumers in general—consumers who do not necessarily benefit from such services. This unrecovered cost can amount to a significant sum, especially on large jobs which usually require extensive use of equipment.

Use of flat rates in service connections. As mentioned earlier in chapter 4 of this report, the department adopted the practice of charging flat rates for service connections not exceeding 40 feet and involving certain sized meters. In that chapter, we discussed the department's non-conformance with the provisions of the Administrative Procedure Act when it adopted the flat rate charges. This section deals with the adequacy of the flat rate charges as a means to recover cost.

Customers are charged either \$5, \$12.50, or \$40 per service connection depending on the nature of the services to be rendered. These flat rates are intended to reflect the cost of labor and materials—and only of labor and materials, which, as pointed out above, is the practice followed by the department in computing *all* service connection charges. They are based on the average cost of labor and materials of a few service connections experienced in 1965. Since

that time, we understand that the department has not made a detailed cost analysis for the purpose of determining the adequacy of the individual flat rates. At our request, the department prepared such an analysis for the year 1968. The results of the analysis are as follows.

Per Service Connection		
Flat Rates Charged to Customers	Actual Average Cost Experienced in 1968	Total Amount of Gain (Loss)
\$40.00	\$53.05	(\$1,528)
12.50	14.77	(149)
5.00	3.68	33
		<u>(\$1,644)</u>

The above "actual cost" figures include only the cost of labor and materials.

As the above tabulation indicates, all of the flat rates, except for the \$5 charge, are inadequate to recover the department's cost of service connections even if the actual cost is limited only to labor and materials. If all other costs, such as transportation and equipment costs, are included in the "actual cost" figures, as the rule requires, the inadequacy of the flat rate would be even greater.

Recommendation. We recommend that, if the department modifies its rules in accordance with the APA to permit the charging of flat rates for all or any service connections, it establish such flat rates as will recover all costs of service connections. In addition, we recommend that the department periodically make a detailed cost analysis study for the purpose of insuring that flat rate charges will recover all costs.

Aid-in-construction. The department follows county ordinance no. 94³ in matters dealing with subdivisions. One of the provisions contained in the ordinance states:

"Where large quantities of water are required or a large investment is necessary to provide service, the subdivider will be informed as to the conditions under which the subdivision may be approved."

One such condition imposed by the department is that the subdivider pay a charge known as "aid-in-construction." This charge is assessed to help defray the cost of installing a water main larger in size than the one then existing to accommodate the needs of not only the then planned subdivision but also of potential subdivisions in the area.

³County ordinance no. 94, dated May 3, 1965, establishes standards for the subdivision of land in the county of Kauai.

The method of computing aid-in-construction charges was adopted by the department in January 1966. The method calls for the department to assume two-thirds of the estimated cost of the larger sized water main and for the present and potential subdividers in the area to assume one-third of the cost. We understand that this method was initially adopted to satisfy an immediate situation which then existed, and thus was applied without the benefit of a systematic analysis of the issue. It was not intended for future application, but, since 1966, it has been continually used.

There are two issues raised by this allocation method. The first is the two-thirds—one-third allocation itself, and the second is the fairness with which the present and future subdividers are actually charged for "aid-in-construction." With respect to the two-thirds—one-third allocation itself, we are not in a position to state what the exact allocation of the costs should be between the county and the subdividers, since no rationale was given for the allocation when it was worked out in 1966. However, we question the extent of participation by the county in light of the amount of benefit that accrues to the general public from the installation of a larger sized water main. It appears that since the improvement is being made for the benefit of the subdividers or potential subdividers of a specified area and not for the general public, the subdividers should pay for a large portion of the cost. This is unlike an improvement such as the construction of sidewalks and the widening of streets where the improvement presumably benefits not only those fronting the

improvements but also everyone else who is entitled to use the public facilities.

On the issue of fairness with which the present and future subdividers are charged for aid-in-construction, there is inequity in the treatment of the various subdividers. The one-third cost to be assumed by the subdividers is apportioned among the total number of lots that the department expects will be developed in the particular area. The subdivider who develops his property prior to the installation of the larger sized main is charged for his share of the estimated cost of the improvement. However, subdividers who develop their properties after the installation of the main are not charged for their share of the cost, even though their tracts of land were included in the original count of the number of potential subdivided lots in the area. There appears to be no valid reason why subdividers who develop their land after the installation of the main should escape assessment when their land is included in determining the share to be paid by the subdivider who develops before the main is installed. This practice results in an unfair treatment of the subdivider who develops his land prior to the installation of the main. It also results in the department's absorbing more than its two-thirds share of the estimated cost of the improvement. That portion of the subdividers' one-third portion which is intended to be borne by future subdividers is paid for initially by the department at the time of the first subdivision. Thus, unless the department recoups this advance from subsequent subdividers, it in effect

pays for more than two-thirds of the total cost of installation.

Recommendation. We recommend that the department review its present method of computing aid-in-construction charges, particularly the two-thirds-one-third allocation formula and its practice of discriminating between subdividers before and subdividers after the installation of the water main in the enforcement of payment of the subdividers' portion of the installation cost.

Expenditures

Questionable expenditures. During fiscal year 1968-69, the department made certain expenditures of questionable propriety. They are as follows.

1. A dinner party was given by the employees of the water department for a retiring fellow employee. All persons attending were asked to contribute toward the cost of the dinner and gift. Four members of the board attended the party, and their share of the cost was paid for by the department while all others attending used their personal funds.
2. Department funds (\$130) were used to defray a part of the cost of the department's annual Christmas party. We understand that this practice has been going on for several years.

We believe that the above expenditures are not proper expenses of the department, but are instead the personal expenses of the individuals concerned.

Recommendation. We recommend that the use of department funds for the personal expenses of the board members and employees be immediately discontinued. The department should be mindful that the department's funds are public funds and should accordingly be used only for public purposes.

Use of departmental equipment and labor by another county department. From time to time, the department of water and the county department of public works use the equipment and labor belonging to each other. Except in cases where a project is financed from other than county resources, usually neither department charges the other for the use of such equipment and labor.

Since the departments do not maintain records relating to the "free" use of each other's equipment and labor, it is not possible to determine the volume of such free use or to assess which department is benefiting more from the exchange.

Although both are departments within the same county, the cost of the use of the equipment and labor of one department should be accounted for and billed to the department being serviced. There are two reasons for this.

First, the services of the department of water benefit a specific clientele (the water consumers), whereas the services of the department of public works benefit the public at large. It is for this reason that the department of water is expected to be largely self-financing and the cost of water service is expected to be borne by the water consumers rather than by the general public. Any cost to the water department is passed on to the consumer through water rate and service charges. It is unreasonable to expect the water consumers to pay for the costs of services which benefit not the consumers but some other party or the public at large. Conversely, of course, the water department and ultimately the water consumers should be charged for services which specifically benefit them but are performed by parties other than the water department.

Second, unless the respective departments are properly charged by the other, the *full costs* of the programs of neither department can be ascertained. The reflection of full costs is necessary if one is to evaluate the costs and benefits of a given program. Thus the cost of a program should reflect all of its proper costs and, conversely, should not include the costs of another program.

Recommendation. We recommend that the water department charge for all services rendered to, and pay for all services rendered by, other county departments.

Chapter 7

PROPERTY MANAGEMENT

This chapter on the department's property management practices is concerned with our findings regarding three specific matters: (1) the propriety of the department's loaning and selling of departmental inventory materials; (2) the high level of inventory kept by the department; and (3) the questionable use of departmental equipment by private contractors.

Loaning and Selling of Materials

The department has been and is loaning and occasionally selling materials to private concerns. The department's records show that, during the past two fiscal years, the department loaned or sold materials to approximately 18 private concerns, primarily contractors. We recognize that there may be occasions when loaning or selling of materials would be justifiable such as (1) in cases of emergency involving the health, safety and welfare of the public and (2) where the need for unavailable material arises through no fault of the contractor due to unforeseen circumstances, such as work order changes on water works projects requested by the water department and the need is immediate or necessary to avoid work stoppage. However, we believe that instances of loaning and selling departmental material should be the exception and not the rule.

It appears that the department often loans or sells materials solely as an accommodation to private contractors. This is apparent on review of the department's records. During the past two fiscal years, several contractors borrowed materials from the department on five to eight different occasions; one contractor borrowed as many as 20 times. If the loaning and selling of departmental materials were not for the accommodation of contractors but for meeting real emergency situations, it is doubtful that the frequency of such loaning and selling would have been that great. Further, these materials loaned or sold to contractors were used on private jobs, that is, on jobs contracted between the private contractors and their private clients. They were not for any water works project. In addition, the materials loaned or sold to contractors were generally of that kind which one would expect the contractors to have on hand. A contractor upon entering into a contract assumes the responsibility for furnishing all materials necessary to meet job specifications. What appears to have happened is that the department has become, to the private contractors, a convenient source or supplier of materials.

One other aspect of this loaning and selling practice should be noted. Although generally the private contractors return on a timely basis the materials loaned to them by the department, they sometimes return the materials quite late or not return them at all. The records show that in some instances, one to two years had passed before the materials loaned were finally returned to the department; that as of June 30, 1969,

there were some materials, loaned in 1967, still unreturned; and that in one instance, materials loaned in 1964, amounting to \$1,673, have never been returned or paid for because of financial difficulties on the part of the private contractor.

Recommendation. The department of water was created not for the purpose of engaging in the business of loaning and selling materials; loaning and selling materials is not a part of the "normal" operating function of the department. Thus, we recommend that the department discontinue the practice of loaning and selling of materials except in extremely necessary situations. Appropriate policies should be adopted indicating clearly and specifically the conditions under which the department's materials may be loaned or sold. Such policies should also provide for means to insure the return of materials on a timely basis.

Level of Inventory

The department's inventory of materials and supplies at June 30, 1969 totaled \$95,349. Considering the department's annual requirements for materials and supplies, this level of inventory is excessive—it is more than enough to satisfy the department's needs for two to three years. It also strongly suggests that the inventory perhaps contains many obsolete items.

Proper inventory management dictates that an inventory be maintained at a level which assures the availability of supplies at the time and in the quantity needed. Thus, ideally, it should not exceed that level that allows sufficient time to replenish supplies—probably not more than a few months.

Maintaining a high level of inventory opens the department to several risks. First, holding materials for long periods of time increases the chances of physical deterioration. Second, the materials held may become obsolete or useless because of technological advancements. This means that the larger the inventory, the greater the likelihood of loss resulting from obsolescence.

Recommendation. We recommend that the department make a comprehensive review of its present inventory of materials and supplies with the objective of establishing an appropriate level of inventory in relation to operating usage and needs. This review should also identify all unusable and obsolete items for proper disposition thereof.

Equipment Use by Private Concerns

The department has, on a few occasions, permitted the use of its equipment by private concerns. At least three such instances occurred in fiscal year 1968–69. The first two occurred in July 1968, when the department twice

permitted the use of its equipment (together with one of its employees to operate the equipment) for the benefit of private contractors. The third instance occurred in late 1968, when the department loaned its pipe cutter to a private contractor for a job not involving the water department. In the first two instances, the private contractors were billed for the labor of the department's employee but not for the use of the equipment. In the third instance, the contractor was billed for the use of the pipe cutter for two months at the rate of \$50 per month. This billing was issued in April 1969—rather late, considering that the equipment was used in late 1968.

While these three instances are mentioned, it is difficult to state whether these were the only occasions when the department's equipment was loaned to private concerns. The department keeps no records of when any equipment is loaned and returned. We were able to note the three instances only because of the billings issued by the department. Also, because of the absence of such records, we were unable to verify whether, in the third instance mentioned above, the equipment was in fact used by the private contractor for a period of two months. An additional undesirable effect of this lack of records is best illustrated by the following incident which occurred with respect to the third instance. In December 1968, the pipe cutter was needed on a job being done by the department's staff. However, the employees at the baseyard where the pipe cutter is normally kept could not locate the pipe cutter. As a result, a less efficient cutter had to be used.

Recommendation. As in the case of the loaning and selling of the department's materials, there are perhaps emergency circumstances when the loaning of departmental equipment is justified. However, clear policies should be formulated spelling out the conditions under which such loans may be made, and accurate records of the loan should be kept and the private concerns properly billed. We therefore recommend that the department adopt policies stating the conditions under which the department's equipment may be loaned to private concerns, including a provision that such use not interfere with the operation of the department; that the department establish a system of controlling the usage and recording the dates of loan and return and the whereabouts of all equipment; and that the full costs of the use of equipment be charged the private concerns.

Chapter 8

PERSONNEL MANAGEMENT

In the area of the department's personnel management practices, findings of significance are the following: (1) The department has on several occasions erred in computing vacation and sick leave credits and in applying the county rules and regulations relating to vacation and sick leaves; and (2) the department's manager has acted in conflict of interests.

Vacation and Sick Leaves

On two occasions, the department permitted vacation credits to be accumulated in violation of county rules and regulations, and, in one instance, it computed the vacation and sick leave credits of a part-time, regular employee erroneously. Details follow.

Vacation credit accumulation. County rules and regulations relating to vacation and sick leaves state as follows:

"Any employee may accumulate not more than 15 days of vacation leave per calendar year. However, vacation leave in excess of 15 days per year may be accumulated for good cause when a request for such accumulation is approved by the department head provided such request shall be accompanied by a stipulation that the employee shall take such excess vacation days at a specified time. If the employee fails to take this vacation at the time stipulated, he shall forfeit the excess accumulation of vacation leave unless for good reason an extension of time is granted by the department head."

In one instance in 1965 and in another in 1966, an employee accumulated more than 15 days of vacation leave per calendar year. In the first instance, approval was given by the department head but there was no stipulation as to when the employee should take the excess vacation days. In the second instance, there was no evidence of the department head's approval.

Thus, in each instance, the accumulation constituted a violation of the above county rules and regulations.

Computation of vacation and sick leaves. Prior to November 1967, the water department was under the erroneous assumption that one of its employees was not entitled to vacation, sick leave and holidays because she was not a full-time employee. She had been employed on a regular, part-time basis by the water department since September 1960. Upon learning of its error, the water department computed the employee's vacation and sick leaves, covering the period September 1960 to December 1967, and paid the employee for all vacation leaves in excess of 90 days (which is the maximum number of days allowed to be accumulated) and for all the sick days and holidays for which the employee did not get paid. The gross amount paid to the employee totaled \$1,174.

The authority for the employee's eligibility to earn vacation and sick leaves is stipulated in the present rules and regulations relating to vacation and sick leaves for the county of Kauai. However, the present rules and regulations took effect on July 1, 1963, and the previous rules and regulations contained no provision entitling vacation and sick leaves to regular, part-time employees. Thus, the department, in attempting to correct its initial error, should have computed the employee's vacation, sick and holiday leave entitlements as of July 1, 1963 instead of September 1960.

The above errors on the part of the water department are partly attributable to the lack of staff in the department sufficiently knowledgeable in personnel matters. The calculation of the vacation, sick and holiday leave credits, particularly in such instances as those encountered with respect to the part-time employee, requires some technical competence in personnel administration. It appears that one way in which the department might avoid future errors is to secure the assistance of the county department of personnel services. The county department of personnel services might well check from time to time the administration of personnel affairs in the water department, make available its resources to assist the water department on technical matters and provide training in such fundamentals of personnel administration as to enable the department's assigned staff to carry out, with sufficient understanding of the county rules and regulations, the routine, personnel tasks of the department.

Recommendation. We recommend that the water department and the county department of personnel services take such steps as necessary to insure that errors of the kind noted above do not occur in the future.

Conflict of Interests

In early 1969, there were allegations publicly made implying a conflict of interests on the part of the department's manager arising from his

financial interest in a land development corporation. Our investigation revealed that the department manager does indeed have a substantial financial interest in a land development corporation, and that he has, as manager of the department, acted in conflict of interests with respect to the corporation's subdivision of a parcel of land. The facts are as follows.

The manager became an investor in and a shareholder of the land development corporation when the corporation was initially formed in April 1967. At the inception, the manager acquired a 15.6% interest in the corporation (represented by 375 shares of the total 2400 shares acquired by all investors). He paid for his interest partly in cash and partly by note. In June 1968, the manager paid up his note, except for a portion thereof equal to 87.5 shares. That portion of the note equivalent to 87.5 shares was cancelled by mutual agreement between the corporation and the manager. As a result of this cancellation, upon payment by all subscribers for their interests, the corporation's outstanding shares totaled 2312.5, and the manager's holding amounted to 287.5 shares. The manager today continues to hold these shares which represent 12.4% interest in the corporation.

The land development corporation began a subdivision in 1967. The manager was personally and directly involved in official actions taken by the water department on matters pertaining to the water system in the subdivision. His involvement as an official of the water

department included approving the water system construction plans on July 28, 1967, assuming personal responsibility for the inspection of the subdivision during construction to insure compliance with the approved water system plans, and recommending to the county council on September 12, 1969, that the subdivision's water system be accepted. At the time of his initial acquisition of interest in the corporation, the manager, by letter, informed the water board of his acquisition. The minutes of the board of May 9, 1967 show that the board passed a motion directing the manager to make a "full disclosure" of the following: "the total amount of money involved, copies of all papers that his name appears and the actual position he holds in the corporation." Neither the subsequent minutes nor the records of the water department reveal what, if any, further action the board took on this matter.

The Kauai county code of ethics states, among other things, that "no officer or employee of the county shall acquire financial interest in business enterprises [in] which he may be directly involved in official action to be taken by him."¹ Although the manager acquired his financial interest in the corporation before the effective date of the code (January 2, 1969), the principle embodied in the code is grounded on ethics and was applicable in 1967 as it is today. The purpose of this axiom, as stated in the code, is to prevent the rising of conflicts of

¹Section 20.02, article XX, Kauai County Charter, effective January 2, 1969.

interests—of those situations in which one's actions as a public officer might affect one's private interests, and vice versa. The manager's awareness of this principle and that conflicts of interests were bound to arise, given the nature and purpose of the corporation, was evident when he chose to disclose to the board his acquisition of interest in the corporation.

It would appear to us that when the manager took direct official actions on the corporation's subdivision water system, a conflict of interests arose. Further, as long as the manager continues to retain his financial interest in the private land development corporation, the potential for the occurrence of future conflicts exists. We recognize that the county code of ethics provides for the filing of information by heads of departments² regarding their interests in business firms "which contracts for county business," and that an employee or officer having a controlling interest in any matter or a substantial financial interest which he believes may be affected by a county agency "shall not vote on any matters affected by such interest." In compliance, the manager did file a disclosure relating to his financial interests in the corporation. However, even so, and even if he has no vote on the board of water supply and delegates to a subordinate the function of passing on any future applications of the corporation, the mere fact that he is the head of

²The manager is specifically designated as the head of the water department in article XVII, section 17.04, of the Kauai County Charter.

the department raises grave doubt that he can sufficiently extricate himself from involvement in any future subdivision ventures of the corporation as to prevent the rising of conflicts of interests.

In our opinion, the manager was derelict in acquiring and the water board was equally remiss in permitting the acquisition of the manager's interest in the corporation when the probability of conflicts of interests arising was patently evident. We think that further conflicts can be avoided only if the corporation ceases to do subdivision developments or the manager divests himself of his interest in the corporation.

Official disposition of this matter, of course, rests with the water board and the Kauai ethics board. At the time the allegations regarding the manager's financial interest were publicly made, newspaper articles hinted at a possible investigation of this matter by the Kauai ethics board. As of the writing of this report, no official complaint or request for an opinion has been made of the ethics board.

Recommendation. We recommend that an official resolution of the manager's financial interest in, and his past and future official conduct as manager with respect to, the land development corporation be made by the Kauai ethics board.

PART III
SUMMARY

The Senate of the Fifth Legislature of the State of Hawaii, by virtue of senate resolution no. 14, regular session of 1969, requested the office of the legislative auditor to investigate the operating procedures of the department of water, county of Kauai.

Pursuant to this request, this office conducted an examination of the operational and financial management practices of the Kauai water department during the summer of 1969.

The audit considered the numerous allegations that were made at the legislative committee hearings on senate resolution no. 14. Generally, these allegations involved: (1) violations of the Kauai board of water supply rules and regulations, (2) questionable loan practices of departmental property, and (3) irregularities in billing and collection procedures. Also, other aspects of the department's operations which came to our attention during the course of the audit were examined.

The findings of our examination and the comments and recommendations made therefrom are summarized below.

General Management

Delineation of administrative powers. Just prior to the effectuation of the county charter in January 1969, the water board had virtually full authority to manage, control and administer the county waterworks and all properties and resources thereof.

Under the 1969 charter, the water board has substantially the same powers and duties. At the same time, however, the charter expressly makes the water department a department of the county and provides that the mayor shall have direct supervision over all departments. These charter provisions have raised questions regarding the extent of the mayor's administrative authority over the water department and the water board's relationship to other county agencies on such matters as finance, personnel, and property controls.

Recommendation. The present uncertain delineation of powers is potentially hazardous to governmental efficiency. Thus a formal, legal interpretation and clarification of the county

charter should be sought as quickly as possible for the guidance of all on at least the following questions:

(1) To what extent is the department of water subject to, or removed from, the administrative control of the mayor?

(2) To what extent is the department of water subject to the fiscal controls, financial procedures, personnel policies and performance review of county executive agencies?

Rule-making and interpretative policies. The current rules and regulations of the water department were originally adopted on October 22, 1952 and have remained unamended since that date. When viewed in the light of the Hawaii Administrative Procedure Act (chapter 91, HRS), the department's rules and rule-making process are deficient as follows:

1. No rules have been adopted by the department, prescribing the manner in which the public may secure information, participate in the rule-making process and seek redress of grievances.

2. Certain interpretative and administrative policies currently in effect (e.g., downward adjustment of meter readings in cases of suspected underground leaks) fall within the meaning of "rule," as defined in the APA, but were not promulgated in the manner prescribed by the APA.

3. Existing formal rules have been modified either by general practice or by the adoption of policies without formal public notice and hearings as required by the APA.

In some of the cases, the department departed from the existing rules on the basis that compliance with the rules was administratively impracticable. However, instead of formally amending the rules, the department sought to achieve amendatory effects through means other than that required by the APA.

4. The department's written, interpretative policies have not been systematically compiled and documented as to be readily accessible to public review as required by the APA.

5. The department's rules have not been filed with the office of the lieutenant governor and the office of the Kauai county clerk as required by law.

Recommendation. A thorough review of the department's rules and its approach to rule-making appears to be in order. Specifically, we recommend that the department:

(1) Adopt rules of administrative procedures and practices to comply with sections 91-2, 91-6, 91-8, HRS, without further delay. The adoption of rules covering public access to information and procedures for public petitioning should be accorded priority treatment in view of the fact that they are required by law and are long overdue.

(2) With the assistance of the county attorney, critically evaluate current administrative policies to determine if any should be promulgated as rules.

(3) Review the operating practices of the department and take steps as necessary to conform deviating practices to current rules, or proceed to amend the rules in the manner prescribed by the APA.

(4) Devise a system of documenting the policies and procedures of the water department in a more concise fashion so as to insure public accessibility.

(5) Immediately file copies of present rules and regulations with the county clerk and the lieutenant governor so as to be in conformance with section 91-4(a) of the Administrative Procedure Act.

Operational Management

Violation of rules and regulations. The department's formal rules relieve the department of all liability and maintenance responsibility over consumer water pipes and fixtures. However, on two occasions, the department violated the rules and repaired certain consumer pipes and fixtures without charge. Unless the water department observes to the fullest extent the distinction made in the rules between public

and private responsibility for water equipment maintenance, it can be justly criticized for arbitrary and preferential treatment of its consumers and for the misuse of its resources.

Violation of the county subdivision ordinance. Subdivision developments in the county of Kauai are governed by ordinance no. 94. If the requirements prescribed in the ordinance are strictly applied, the department would be prohibited from providing water services to individual consumers in subdivisions where the subdivision water systems have yet to be conveyed to the county. However, it has been the practice of the water department to install consumer meters in subdivisions as new homes therein are sold, although the water system has not been accepted by the county, as long as the pipelines and roadways are completed. This practice raises this legal question: does such installation of consumer meters imply county acceptance of the water system?

We recognize that water services are often required in a developing subdivision, because new homes are sold and occupancy is permitted by the developer even before the subdivision is completed. This suggests that perhaps the requirements of the ordinance are impractical and thus should be changed. Any change in the requirements of the ordinance, however, raises the additional issue of whether such change can be made by the water department through its rules and regulations or whether it requires action by the county council.

Recommendation. We recommend that the water department seek clarification from the county attorney on the following: (1) the consequences of the water department's present practice of installing consumer meters in subdivisions before acceptance of the subdivision water system by proper authorities; (2) possible remedies to accommodate consumers requiring water services in incrementally developed subdivisions; and (3) if any changes to the requirements of the current ordinance regarding acceptance of subdivision water systems are contemplated, whether such changes can be made through the rules and regulations of the water department or whether they must be made through an ordinance.

Violations of departmental standard procedures. The departmental practices are often in conflict with its standard, internal, operating procedures. Examples are:

1. SOP no. 5 establishes a uniform system for handling certain work orders but, in practice, this SOP has been deviated from so much that it is virtually obsolete.

2. SOP no. 7 requires that water meters be removed as soon as possible upon discontinuance of service. This policy is primarily intended to prevent, or at least make difficult, the unauthorized use of water when a service is officially discontinued. In practice, such meters are not removed for periods as long as in excess of 60 days.

3. SOP no. 17 prescribes a special form to record and refer for action all consumer complaints and water emergencies reported by the public. One reason for this form is "to gather statistics for pinpointing problem areas." In practice, consumer complaints are reported not on the prescribed form but, rather, on their daily time sheets which normally are not reviewed by management.

Recommendation. We recommend that management of the water department review the department's standard operating procedures and delete or amend those which are now inapplicable or out of date and take steps to insure compliance with those which are applicable.

Security of operational records. Many pertinent documents and files are exposed to potential destruction by fire, particularly the water system maps on which are plotted all of the water mains and distribution lines of the public water system in the county, and of which only the originals exist.

Recommendation. We recommend that the department review security measures, present and necessary, for the safeguarding of valuable departmental records, documents and files and provide suitable means by which they may be protected from destruction by fire.

Consumer meter maintenance. The department reportedly accords a relatively high priority to the job of maintaining its consumer meters in an operable and accurate condition. However, the actual conduct of field meter maintenance services suffers from procedural deficiencies which detract from the effectiveness of the program. Specifically, significant delays are encountered in reporting and correcting meters which are known or suspected to be faulty. As much as six days or more elapse before repair work actually commences and, even after work is commenced, time lags of up to two and three weeks occur before all deficiencies are corrected.

Recommendation. Although there are no specific standards established by the department to which its performance can be compared, we believe that its conduct of consumer meter maintenance activities should be closely evaluated in view of the notable delays it has experienced in responding to correct meter deficiencies. We suggest, in particular, that attention be given to an analysis of the procedures and operating practices which impede the timely flow of defective meter information and of the effects of workload cycle and volume upon the capabilities of the field maintenance staff to correct the deficiencies within a reasonable time.

Operational reporting. The department's informational reporting and recordkeeping

system is deficient in that operational performance data are not systematically reported. The new charter requires annual reports from each county agency; this makes it opportune for the department to devise an operational reporting system which can serve both public information and management purposes. With respect to the latter, the ability of the water board to make independent and objective review of departmental operations depends to a large extent on the kind of information it receives.

Recommendation. We recommend that the department devise a system for selecting, accumulating, reporting and recording operational performance information to meet its public information commitment and management review needs. In this connection, we suggest the following basic steps.

(1) Survey the role, functions and legal obligations of the department and determine the objectives or expectations being pursued.

(2) Identify the criteria, both quantitative and qualitative, which best relate to the defined objectives and which can serve as "yardsticks" to measure progress toward accomplishment of departmental objectives.

(3) Prescribe a plan for selectively accumulating and reporting the results of operations incorporating the evaluation criteria as determined above.

Financial Management

Financial management, generally. 1. *Banking.* The department banks into one of the several bank accounts it maintains the deposits made by customers for services. Upon completion of the service and determination of the actual cost of the service, the department transfers into the county treasury that portion of the deposit due the department, and pays out of the account that portion which is refundable to the customer. At times, the deposits are held in the account for periods exceeding six months.

This practice violates sections 54-24 and 54-25, HRS, which provide that all receipts of the department deposited in a bank shall be paid into the county treasury at the end of each month and that the county treasurer shall disburse all moneys of the department. The purpose of these statutes is to provide fiscal control and a safeguard against possible misappropriation of funds by separating the functions of receiving and disbursing funds; the statutes assign the receiving function to the water department and the disbursing function to the county treasurer.

Recommendation. We recommend that the water department adhere to the fiscal mandates of sections 54-24 and 54-25, HRS.

2. *Storage of accounting records.* The department does not label all of its accounting

records and documents in storage. Some of these records are more than 10 years old, thus creating storage problems.

Recommendations. We recommend that (1) the department properly label its records and documents of prior years and store them in an orderly manner, and (2) the department initiate action for the destruction of old records and documents in accordance with section 46-43, HRS, relating to the procedures to be followed in securing authorization for the destruction of records.

Collection and delinquencies. 1. *Generally.* The department is generally lax in enforcing payments on accounts. Rule XI provides that water service may be discontinued if a water bill remains outstanding after 15 days of mailing or presentation thereof to the consumer. SOP no. 14, adopted to implement this rule, allows a period of 60 to 75 days after the mailing of a bill before service is discontinued for non-payment. It appears that this policy is too lenient. As a result of this policy, the department has had to absorb losses, on the average, of four to five months of unpaid water bills. Dollar losses in cases of business firms can amount to large sums. For example, the Seven Seas Hotel was grossly delinquent on its account and later became bankrupt. The department permitted its bills to remain delinquent for long periods and in the end suffered a loss of \$2,630, representing water bills from February 1965 to December 1965.

Recommendation. We recommend that the department review its delinquency policy and consider making necessary revisions to tighten its control over delinquent accounts.

2. *Landlord-tenant.* Where rented premises are involved, rule V, paragraph 1, requires that both the consumer and the landlord shall sign the standard application form for water services before water is turned on. The intent of the rule is to enable the department to hold the landlord liable for water charges incurred by the tenant, if the tenant refuses or fails to pay.

Of approximately 40 rented premises delinquent water bill accounts, 27 contained no signatures of landlords. In several of these cases, the delinquent tenants had "skipped town," leaving the department without recourse. Presumably, the language of the rule precludes recovery from the landlord unless he actually signs the application form. It has been alleged that, at times, it has been difficult to secure the landlord's signature. If this be so, perhaps, the intent of the rule can be met by amending the rule to make it clear that in all landlord-tenant cases the landlord would be held liable for unpaid water charges, regardless of whether or not he signs the application form.

However, such a change in the rule will make little difference if the present practice in collecting from landlords, even in cases where the landlord has signed the application form, is followed. The department has often failed to exert sufficient effort to collect from the landlord upon the tenant's default.

Recommendation. We recommend that the department

(1) review and revise, where necessary, its rules relating to liability for water charges in cases of rented premises to permit the department to hold the landlord liable in the event the tenant fails or refuses to pay; and

(2) where the landlord is clearly liable for water service charges left unpaid by the tenant, exert every effort to effect collection from the landlord.

3. *County debt.* As of July 1969, the county owed the water department the sum of \$1,472. This amount is the total unpaid portions of various billings issued by the water department to the county between April 1964 and December 1967 for services rendered by the department to the county. There appears to be no valid reason why the county should withhold payment of its outstanding debt to the water department.

Recommendation. We recommend that the county immediately pay its past due amount.

Service charges. 1. *Cost exclusions in service connection charges.* "Cost of service connection" is defined by rule I, paragraph 5, as the total cost of labor, materials, and other incidental charges such as transportation and use of equipment. Contrary to this rule, the

department, for many years now, has followed the practice of charging *only* for the cost of labor and materials to customers for service connections. This practice of charging only for the cost of labor and materials is fiscally unsound. Good, fiscal management dictates that charges be adequate to recover all costs of services which directly benefit an identifiable individual or group.

2. *Use of flat rates in service connections.* The department has been charging flat rates, rather than actual installation costs as required by the rules, for service connections not exceeding 40 feet. The flat rates are \$5, \$12.50, or \$40 per connection, depending on the nature of the services. These flat rates are based on the average cost of labor and materials of a few service connections experienced in 1965. No detailed cost analysis has been made since 1965 to determine their adequacy. An examination of the actual average cost per service connection that was experienced in 1968 indicates that all of the flat rates, except the \$5 charge, are inadequate, even if the actual cost is limited only to labor and materials.

Recommendation. We recommend that if the department modifies its rules in accordance with the APA to permit the charging of flat rates for all or any service connections, it establish such flat rates as will recover all costs of service connections. In addition, we recommend that the department periodically make a detailed cost analysis study for the purpose of insuring the flat rate charges will recover all costs.

3. *Aid-in-construction.* Aid-in-construction is an assessed charge to help defray the cost of replacing an existing water main with a larger sized main to accommodate the needs of not only the then planned subdivision but also of potential subdivisions in the area. Under the present method of computing aid-in-construction charges, the department assumes two-thirds of the estimated cost of the larger main and the present and potential subdividers in the area assume one-third of the cost. Two issues are raised by this allocation method.

First, it appears that since the improvement is being made for the benefit of the subdividers or potential subdividers of a specified area and not the general public, the subdividers should pay for a larger portion of the cost.

Second, the present and future subdividers are not treated equally in the payment of the charges. Although the one-third cost is apportioned among the total number of lots that the department expects will be developed in the particular area and the subdivider who develops his property prior to the installation of the larger main must pay his share, subdividers who develop their properties after the installation are not required to pay their share. This practice results in not only an unfair treatment of the first subdivider, but it also results in the department's absorbing more than its two-thirds share of the estimated cost of the improvement.

Recommendation. We recommend that the department review its present method of computing aid-in-construction charges, particularly the two-thirds-one-third allocation formula and its practice of discriminating between subdividers before and subdividers after the installation of the water main in the enforcement of payment of the subdividers' portion of the installation cost.

Expenditures. 1. Questionable expenditures. During fiscal year 1968-69, the department made the following expenditures of questionable propriety:

a. A dinner party was given by the employees of the water department for a retiring fellow employee. Four members of the board attended the party, and their share of the cost was paid for by the department while all others attending used their personal funds.

b. Department funds (\$130) were used to defray a part of the cost of the department's annual Christmas party.

We believe that the above expenditures were not proper expenditures of the department but were personal expenses of the individuals concerned.

Recommendation. We recommend that the use of department funds for expenses of this nature be immediately discontinued. The department's funds are public funds and should accordingly be used only for public purposes.

2. Use of departmental equipment and labor by another county department. From time to time, the department of water and the county department of public works use the equipment and labor belonging to each other. Usually, neither department charges the other for such use. Although both are departments within the same county, each department should charge for the use of its equipment and labor and, likewise, pay for the use of the other's equipment and labor. Reasons for this are:

(a) The cost of water service is borne by water consumers, rather than by the general public, through water rate and service charges. It is unreasonable to expect the water consumers to pay for the costs of services which benefit some other party or the public at large. Conversely, the water department and ultimately the water consumers should be charged for services which specifically benefit them but are performed by other parties. (b) Unless the respective departments are properly charged by the other, the full costs of the programs of neither department can be ascertained. The reflection of full costs is necessary if one is to evaluate the costs and benefits of a given program.

Recommendation. We recommend that the water department charge for all services rendered to, and pay for all services rendered by, other county departments.

Property Management

Loaning and selling of materials. The department loans and occasionally sells materials to private concerns. This practice is often solely to accommodate private contractors. During the past two fiscal years, several contractors borrowed materials from the department on five to eight different occasions (one contractor borrowed as many as 20 times); the materials loaned or sold were used on non-waterworks projects and were generally of the kind which one would expect the contractors to have had on hand. In addition, although the materials loaned by the department are generally returned on a timely basis, some are returned quite late (one to two years late) or not returned at all.

Recommendation. We recommend that the department discontinue the practice of loaning and selling of materials except in extremely necessary situations. Appropriate policies should be adopted indicating clearly and specifically the conditions under which the department's materials may be loaned or sold. Such policies should also provide for means to insure the return of materials on a timely basis.

Level of inventory. The department's inventory of materials and supplies at June 30, 1969 totaled \$95,349. This level of inventory grossly exceeds that level which proper inventory management would dictate. An excessive level of inventoried goods increases the risk of losses resulting from physical deterioration and obsolescence.

Recommendation. We recommend that the department make a comprehensive review of its present inventory of materials and supplies with the objective of establishing an appropriate level of inventory in relation to operating usage and needs. This review should also identify all unusable and obsolete items for proper disposition thereof.

Equipment use by private concerns. The department, on occasions, permits the use of its equipment by private concerns. In fiscal year 1968-69, in two instances, private contractors were billed for the labor that was provided to operate the equipment, but not for the use of the equipment itself, and in another instance, the contractor was billed for the use of a pipe cutter long after the period of use.

The department keeps no records of when any equipment is loaned and returned. In the absence of records, we were unable to verify the actual number of instances when equipment was loaned and, in the third instance mentioned above, whether the equipment was in fact used by the private contractor for the period billed. An additional undesirable effect of this lack of records is best illustrated by the pipe cutter instance. While the pipe cutter was out on loan, it was needed on a job being performed by the department's staff. The employees at the baseyard where the pipe cutter is normally kept could not locate the pipe cutter and, as a result, had to use a less efficient cutter.

Recommendation. As in the case of the loaning and selling of the department's materials, there are perhaps emergency circumstances when the loaning of departmental equipment is justified. However, clear policies should be formulated spelling out these circumstances. In addition, accurate records of the loan should be kept and the private concerns properly billed. We therefore recommend that the department adopt policies stating the conditions under which the department's equipment may be loaned to private concerns, including a provision that such use not interfere with the operation of the department; that the department establish a system of controlling the usage and recording the dates of loan and return and the whereabouts of all equipment; and that the full costs of the use of equipment be charged the private concerns.

Personnel Management

Vacation and sick leaves. On two occasions, the department permitted the accumulation of vacation credits in excess of 15 days in a manner contrary to the county rules and regulations. In another instance, it computed the vacation and sick leave credits of a part-time, regular employee erroneously. In this latter instance, the department, under the county rules and regulations which took effect on July 1, 1963, at first failed to give the employee credit for vacation and sick leaves and then later granted the employee too much credit.

These errors on the part of the water department are partly attributable to the lack of staff in the department sufficiently knowledgeable in personnel matters. Given this situation, one way in which the department might avoid future errors is to secure the assistance of the county department of personnel services on matters requiring technical competence in personnel administration. In addition, the department of personnel services might well provide training in such fundamentals of personnel administration as to enable the department's staff to properly carry out the routine, personnel tasks of the department.

Recommendation. We recommend that the water department and the county department of personnel services take such steps as necessary to insure that errors of the kind noted above do not occur in the future.

Conflict of interests. The department's manager holds a substantial financial interest (12.4%) in a land development corporation. He became an investor in and a shareholder of the corporation when it was initially formed in April 1967.

The manager was personally and directly involved in official actions taken by the water department on matters pertaining to the water system in a subdivision developed by the corporation. His involvement as manager included (1) approving the water system construction plans; (2) assuming personal

responsibility for the inspection of the subdivision during construction; and (3) recommending to the county council the acceptance of the subdivision's water system.

In our view, when the manager took direct official actions on the corporation's subdivision water system, he acted in conflict of interests. Further, as long as the manager continues to retain his financial interest in the corporation, the potential for the occurrence of future conflicts exists. Even if he delegates to a subordinate the function of passing on any future applications of the corporation, the mere fact that he is head of the department raises

grave doubt that he can sufficiently extricate himself from involvement in any future subdivision ventures of the corporation as to prevent the rising of conflicts of interests. We think that further conflicts can be avoided only if the corporation ceases to do subdivision developments or the manager divests himself of his interest in the corporation.

Recommendation. We recommend that an official resolution of the manager's financial interest in, and his past and future official conduct as manager with respect to, the land development corporation be made by the Kauai ethics board.

PART IV. APPENDIX

S. RES. 14

COPY

APPENDIX A

RESOLUTION

RELATING TO THE OPERATIONS OF THE KAUAI BOARD OF WATER SUPPLY.

WHEREAS, the Kauai Board of Water Supply has been entrusted with considerable State funds for the purpose of planning and constructing many water projects in that county; and

WHEREAS, it is highly probable that such projects will be proposed in the future with the Kauai Board of Water Supply being the appropriate agent for carrying them out; and

WHEREAS, there have been disturbing indications that the Kauai Board of Water Supply has acted in a questionable manner by loaning equipment and materials to private developers without payment or return of equipment; and

WHEREAS, an audit of the Kauai Board of Water Supply has uncovered many irregularities with regard to billing and collection procedures; now, therefore,

BE IT RESOLVED by the Senate of the Fifth Legislature of the State of Hawaii, Regular Session of 1969, that the Legislative Auditor is hereby requested to investigate during the session and if necessary during the interim the operating procedures of the Kauai Board of Water Supply and report its recommendation to the Legislature twenty days prior to the convening of the 1970 Regular Session; and

BE IT FURTHER RESOLVED that duly certified copies of this Resolution be transmitted to the Chairman of the Kauai Select Committee of the Senate, the Mayor of the County of Kauai, the Chairman of the Kauai County Council, the Chairman of the Kauai Board of Water Supply, and the Legislative Auditor.

PART V
KAUAI WATER DEPARTMENT'S RESPONSE TO AUDIT FINDINGS

The preliminary draft of this report on the management audit of the department of water, county of Kauai, was completed in December 1969. In accordance with our normal practice, a copy of the preliminary draft was transmitted on December 22, 1969 to the agency audited for its response to our findings and recommendations. (A copy of our transmittal letter is attached as attachment no. 1.) Copies were also furnished the mayor of the county of Kauai and the chairman of the county council.

The Kauai board of water supply submitted its remarks to us on January 15, 1970 (see attachment no. 2). Generally, the board is in agreement with our findings and recommendations. A summary of the exceptions follow. But, first, a word about the use and disposition made of our preliminary report is in order.

Breach of Trust

Our preliminary report has a very limited distribution. It is limited to those agencies which are affected by our findings and recommendations. Copies of the preliminary report are distributed to those agencies for the sole purpose of permitting them to comment on our findings and recommendations prior to the final publication of the report. The agencies' responses are incorporated in the final draft to enable the public to read and evaluate both our findings and the agencies' comments simultaneously. The preliminary draft, therefore, is not intended for public release, and we expect those to whom copies thereof are distributed to keep the contents of the draft in strictest confidence. To do otherwise would be unfair to the affected agencies, our office, and the general public.

This confidence was breached in the distribution of the preliminary draft of this report. Shortly after the copies were distributed, a lead article appeared in *The Garden Island*, a newspaper of general circulation in the county of Kauai, detailing the findings and recommendations contained in the preliminary draft. The article's depth of coverage leaves little doubt that a copy of the preliminary report was made available to the writer of the article. This, in our minds, constituted a serious breach of trust. At no time since 1965, when our office began issuing audit reports, has there been such a brazen disregard of

confidence. Release of the preliminary report undermines our continuing effort to present all audit findings fairly and completely. It is hoped that, in the future, all agencies receiving preliminary drafts of our reports will abide by this rule of confidentiality.

WATER DEPARTMENT'S RESPONSE

Conflict of Interests

Our report stated that the department manager has a substantial financial interest in a land development corporation, and that he has, as manager of the department, acted in conflict of interests with respect to the corporation's subdivision of a parcel of land. The department responded thus:

"We do not believe that the Auditor was proper in comparing the actions taken in 1967 with the County Charter which was established in 1969. In 1967, Ordinance No. 112 was in effect 'ESTABLISHING CODE OF ETHICS.' We believe that under the requirements of the 1967 and 1969 Ethics Code, the Manager did submit the required information. The Board will look further into this matter and will take such action as it deems proper."

Our Comments: We recognized in our report that the manager's conduct in question antedated the effective date (January 2, 1969) of the Kauai county code of ethics. However, as stated in our report, the principle governing conflicts of interests is grounded on ethics and was applicable in 1967 as it is today.

The board argues that the manager submitted the required information regarding his financial interest as required by ordinance no. 112 (which was in effect in 1967) and by the 1969 ethics code; it implies that because a disclosure was made, acting in conflict was excusable. Filing a disclosure is one thing; acting in conflict is another. The mere *filing* of a disclosure does not excuse or sanction *acting* in conflict of interests. Neither the ordinance nor the 1969 code states that one may act in conflict if a disclosure is filed. To the contrary, the ordinance which was in effect in 1967 states clearly in section I-1-(d) that

"No . . . officer or employee of the County of Kauai shall engage in any transaction as representative or agent of the County with any business entity in which he has direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his official duties."

Similarly, the 1969 code states in Article XX, section 20.02c of the County Charter, thusly:

"No officer or employee of the County shall acquire financial interest in business enterprises [with] which he may be directly involved in official action to be taken by him."

The disclosure provisions of both the ordinance and the 1969 code are intended to do just that—disclose. They do not qualify in any way the prohibitions against acting in conflict of interests.

Questionable Expenditures

Our report stated that the department made certain expenditures of questionable propriety. We concluded that the expenditures in question were the personal expenses of the individuals concerned. The board commented thus:

"We do not necessarily agree with the Auditor that the expenditures noted were improper. This matter will be referred to the County Attorney for further clarification for future action."

Our Comments: The board's response is unsatisfactory and incomplete. While it states that it does not necessarily agree with the finding, it fails to give reasons for its non-concurrence. The fact that the board is seeking legal counsel reflects some uncertainty on its part with respect to the subject matter.

Computation of Vacation and Sick Leaves

We noted in our report that the department erroneously computed the vacation and sick leave credits of a part-time, regular employee. In response to this finding, the department stated:

"We do not concur with the Auditor's findings. Our records show Auditor's report in error."

Our Comments: Again, the board's response is totally inadequate as it fails to indicate its reasons for not concurring with our findings. Without further elaboration, we are unable to judge the validity of the board's comments.

Clinton T. Tanimura
Auditor

THE OFFICE OF THE AUDITOR

State of Hawaii
Iolani Palace
Honolulu, Hawaii 96813

December 22, 1969

Mr. George Kawakami, Chairman
Board of Water Supply
County of Kauai
P. O. Box 1706
Lihue, Kauai 96766

Dear Mr. Kawakami:

Enclosed are seven copies of our preliminary report on the management audit of the Department of Water, County of Kauai, for the fiscal year ended June 30, 1969. The term, "preliminary," indicates that the report has not been released for general distribution. However, copies of the report have been sent to the Governor, the presiding officers of both houses of the State Legislature, the Mayor of the County of Kauai, the Chairman and Presiding Officer of the County Council, and the Manager and Chief Engineer of the Department of Water.

The report contains several recommendations. I would appreciate receiving your written comments on them, including information as to the specific actions your board has taken or intends to take with respect to each of the recommendations. Your comments must be in our hands by January 15th. The report will be finalized and released shortly thereafter.

If you wish to discuss the report with us, we will be pleased to meet with you on or before January 7th. Please call our office to fix an appointment. A "no call" will be assumed to mean that a meeting is not required.

Sincerely,

/S/ Clinton T. Tanimura

Clinton T. Tanimura
Legislative Auditor

Encl. 7

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ATTACHMENT NO. 1

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ATTACHMENT NO. 2

COPY

DEPARTMENT OF WATER
County of Kauai
P. O. Box 1706
Lihue, Hawaii 96766

January 15, 1970

Mr. Clinton T. Tanimura
Legislative Auditor
State of Hawaii
Honolulu, Hawaii 96813

The attached minutes of our special meeting held on January 8, to consider your preliminary report, contain our responses to your recommendations. We appreciate the opportunity to make this response prior to publication of your report. We regret, however, that because of the short time permitted for us to make this response, we could not respond in greater detail.

/s/ George Kawakami

George Kawakami, Chairman
Board of Water Supply

Enc.

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SPECIAL MEETING
BOARD OF WATER SUPPLY
JANUARY 8, 1970

A special meeting of the Board of Water Supply was called to order by the Chairman at 8:00 p.m., on Thursday, January 8, 1970, at J J's Broiler. The following members were present:

Mr. George Kawakami, Chairman
Mr. Roger Hazard
Mr. Jeremiah Kaluna
Mr. Benjamin Kaohi
Mr. Edwin Nakano
Mr. Phil Tacbian
Mr. Suyeto Yama

Others present: Mr. Walter L. Briant, Jr.
Mr. Kei Hirano

The purpose of the meeting was to consider the Legislative Auditor's report. The Legislative Auditor in his letter of December 22 asked the Board for written comments on the recommendations contained in his report. It was, therefore, decided that the Board would consider each recommendation separately. Page numbers listed refer to the recommendations contained in the [final] report.*

CHAPTER 4, GENERAL MANAGEMENT

Page [6], Delineation of Administrative Powers

Referred to County Attorney for clarification.

*The minutes refer to the pagination contained in the preliminary report which was distributed to agencies concerned. Page numbering in the final report differs from that of the preliminary report. For the convenience of the readers, all page references contained in the agency's response have been altered to conform to the numbering in the final report.

Page [8], Rule-Making and Interpretative Policies

We concur. Our Rules Committee with assistance from the County Attorney has been working on this for some time now.

CHAPTER 5, OPERATIONAL MANAGEMENT

Page [16], Violation of County Subdivision Ordinance

Referred to County Attorney for clarification.

Page [18], Violations of Departmental Standard Procedures

We concur with the recommendations. The following are our comments on the three cases referred to in the Auditor's report:

- 1) SOP No. 5, relating to work order forms, has been re-written to cover the deficiency noted.
- 2) SOP No. 7, removal of meters. The Auditor is correct that this SOP is not being followed. The SOP shall be enforced in the future.
- 3) SOP No. 17, Consumer complaint forms. The Auditor is only partially correct in the statement that these forms are not being used to report complaints. The form has been used; however, it has not been used in all cases as it should have been. This SOP will be enforced.

Page [20], Security of Operational Records

We concur with the Auditor that many of our important documents would be destroyed in the event of a fire. This matter will be studied further to see what can be done prior to the construction of our new office building.

Page [20], Consumer Meter Maintenance

We do not necessarily concur that the time taken to repair defective meters is excessive. However, we do concur with the Auditor's recommendation that we

establish systematic procedures in order to find out whether or not our repairs are timely.

Page [22], Operational Reporting

We concur. The Public Affairs Committee will work on this.

CHAPTER 6, FINANCIAL MANAGEMENT

Page [24], Banking

The practice of keeping deposits in our own bank account has been discontinued.

Page [24], Storage of Accounting Records

Old accounting records and documents in storage will be properly labeled and stacked in chronological order. We will initiate destruction of old records.

Page [25], Collection and Delinquencies

Our policy will be reviewed and we will consider the Auditor's recommendations. Referred to the Finance Committee.

Page [25], Landlord-tenant

1) Legality of the Auditor's recommendation is in question. This will be referred to the County Attorney for his opinion.

2) We concur with the Auditor's recommendation.

Page [26], County Debt

We have been working to collect this amount for many years. We agree the County should pay and, in fact, we have been informed that the largest amount of their unpaid bill—that is, \$1,358—is now ready for payment. In the event they do not pay or do not wish to pay the balance, we do not know what recourse we have to collect

inasmuch as we are a department of the County. The matter of recourse will also be referred to the County Attorney for his advice.

Page [27], Use of Flat Rates in Service Connections

We concur. Referred to Finance Committee for recommendation and action.

Page [28], Aid in Construction

We concur. This is under study by our Public Affairs Committee.

Page [30], Questionable Expenditures

We do not necessarily agree with the Auditor that the expenditures noted were improper. This matter will be referred to the County Attorney for further clarification for future action.

Page [30], Use of Departmental Equipment and Labor by Other County Departments

We agree with the Auditor provided this is not in conflict with the County Charter, Sec. 22-14, which provides for coordination of work between various county departments.

CHAPTER 7, PROPERTY MANAGEMENT

Page [31], Loaning and Selling of Materials

We concur and policies have been made since this investigation.

Page [32], Level of Inventory

We concur. Action has already been initiated since this investigation.

Page [33], Equipment Use by Private Concerns

A policy formulating conditions under which equipment may be loaned or rented will be established. Referred to the Public Affairs Committee.

CHAPTER 8, PERSONNEL MANAGEMENT

Page [34], Vacation and Sick Leaves

Vacation credit accumulation: We concur with the Auditor's findings.

Computation of vacation and sick leaves: We do not concur with the Auditor's findings. Our records show Auditor's report in error.

Page [35], Conflict of Interests

We do not believe that the Auditor was proper in comparing the actions taken in 1967 with the County Charter which was established in 1969. In 1967, Ordinance No. 112 was in effect "ESTABLISHING CODE OF ETHICS." We believe that under the requirements of the 1967 and 1969 Ethics Code, the Manager did submit the required information. The Board will look further into this matter and will take such action as it deems proper.

Motion. It was moved by Mr. Kaluna and seconded by Mr. Hazard that these comments be forwarded to the Legislative Auditor before January 15, 1970. The motion was carried.

The meeting was adjourned at 9:40 p.m.

/s/ T. P. Tacbian

T. P. Tacbian, Secretary

BILL NO. 1

ORDINANCE NO. 112

AN ORDINANCE ESTABLISHING CODE OF ETHICS

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF KAUAI OF THE STATE OF HAWAII:

SECTION I. STANDARDS OF CONDUCT

1. No member of the Board of Supervisors, officer or employee of the County of Kauai shall:

- (a) accept any gift, favor or service that might reasonably tend to influence him in the discharge of his official duties, but nothing contained herein shall preclude the acceptance of contributions for election campaigns.
- (b) Use his official position to secure special privileges or exemptions for himself or others.
- (c) Disclose confidential information gained by reason of his official position, nor shall he otherwise use such information for his personal gain or benefit.
- (d) Engage in any transaction as representative or agent of the County with any business entity in which he has direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his official duties.
- (e) Receive any compensation for his services as an officer or employee of the County from any source other than the County, except as otherwise provided by law.

2. Any member of the Board of Supervisors, officer or employee who possesses or who acquires such interests as might reasonably tend to create a conflict

with the public interest shall make a full disclosure in writing to his appointing authority or to the Board of Supervisors in the case of an elective officer, which shall be made a matter of public record, at any time that such conflict becomes apparent.

3. No appointive officer or employee may engage in outside employment or in any business or professional activity which may impair his independence of judgment in the exercise of his official duties, or which might require or induce him to disclose confidential information acquired by reason of his official position or which is otherwise inconsistent or incompatible with or which interferes with the proper discharge of his official duties.

4. Any member of the Board of Supervisors who knows he has a personal or private interest, direct or indirect, in any action proposed or pending before the Board of Supervisors shall disclose such interest in writing to the Board of Supervisors which shall be of public record prior to the taking of any vote thereon.

SECTION II. NON-COMPLIANCE

The failure to comply with or any violation of one or more of the foregoing standards of conduct by any elective or appointive officer or by any employee shall be additional grounds for the impeachment of elective officers and for the removal from office or from employment of all other officers and employees. Nothing contained herein shall preclude any other remedy available against such officer or employee.

SECTION III. EFFECTIVE DATE

This Ordinance shall take effect upon its approval.

DATE OF INTRODUCTION:	INTRODUCED BY:
February 7, 1961	<u>/s/ Louie Gonsalves, Jr.</u>
Lihue, Kauai, Hawaii	Supervisor
	<u>/s/ Raymond Souza</u>
	Supervisor

CERTIFICATE OF THE COUNTY CLERK, COUNTY OF KAUAI

I hereby certify that the foregoing is a true and correct copy of Bill No. 1 which was adopted as Ordinance No. 112 by the Board of Supervisors of the County of Kauai at a meeting held on June 7, 1961, by the following vote of the said Board:

FOR ADOPTION: Gonsalves, Pascua, Seto, Shiramizu, Souza,	TOTAL - 7,
Toyofuku, Aki	TOTAL - 0,
AGAINST ADOPTION: None	TOTAL - 0.
ABSENT & NOT VOTING: None	

Dated at Lihue, Kauai, Hawaii,
this 7th day of
June A. D. 1961.

/s/ J. K. Burgess, Jr.
J. K. Burgess, Jr.
County Clerk, County of Kauai.

**PUBLISHED REPORT OF
THE LEGISLATIVE AUDITOR**

Audit Reports

- 1966 1. Examination of the Office of the Revisor of Statutes, 66 pp. (out of print).
- 1967 1. Overtime in the State Government, 107 pp.
2. Management Audit of Kula Sanatorium, 136 pp.
- 1968 1. Financial Audit of the Department of Health for the Fiscal Year Ended June 30, 1967, v.p. (out of print).
2. Financial Audit of the Department of Planning and Economic Development for the Fiscal Year Ended June 30, 1967, v.p. (out of print).
3. Financial Audit of the Department of Regulatory Agencies for the Fiscal Year Ended June 30, 1967, v.p. (out of print).
4. Financial Audit of the Department of Hawaiian Home Lands for the Fiscal Year Ended June 30, 1967, 54 pp.
5. Financial Audit of the Oahu Transportation Study for the Period July 1, 1962 to August 31, 1967, 68 pp.
6. Financial Audit of the Hawaii Visitors Bureau for the Period July 1, 1966 to January 31, 1968, 69 pp.
7. State Capital Improvements Planning Process, 55 pp.
8. Financial Audit of the Hilo Hospital for the Fiscal Year Ended June 30, 1967, 43 pp.
9. Financial Audit of the Hawaii Visitors Bureau for the Period July 1, 1967 to June 30, 1968, 42 pp.
- 1969 1. Financial Audit of the General Fund, State of Hawaii, for the Fiscal Year Ended June 30, 1968, v.p.
2. Financial Audit of the Judicial Branch, State of Hawaii, for the Fiscal Year Ended June 30, 1968, v.p.
3. Financial Audit of the State Department of Budget and Finance for the Fiscal Year Ended June 30, 1968, v.p.
4. General Audit of the Department of Personnel Services, State of Hawaii, 129 pp.
4. A Summary of the General Audit of the Department of Personnel Services, 53 pp.
5. Financial Audit of the Samuel Mahelona Memorial Hospital for the Fiscal Year Ended June 30, 1968, 34 pp.
6. Financial Audit of the Honokaa Hospital for the Fiscal Year Ended June 30, 1968, 41 pp.
7. Financial Audit of the Kohala Hospital for the Fiscal Year Ended June 30, 1968, 34 pp.

8. Financial Audit of the Kona Hospital for the Fiscal Year Ended June 30, 1968, 44 pp.
9. Financial Audit of the Kauai Veterans Memorial Hospital for the Fiscal Year Ended June 30, 1968, 30 pp.
10. An Overview of the Audits of the Act 97 Hospitals, 18 pp.

Other Reports

- 1965 1. Long and Short Range Programs of the Office of the Auditor, 48 pp. (out of print).
2. A Preliminary Survey of the Problem of Hospital Care in Low Population Areas in the State of Hawaii, 17 pp. (out of print).
- 1966 1. Procedural Changes for Expediting Implementation of Capital Improvement Projects, 9 pp. (out of print).
- 1967 1. The Large School: A Preliminary Survey of Its Educational Feasibility for Hawaii, 15 pp.
2. State-City Relationships in Highway Maintenance, and Traffic Control Functions, 28 pp.
3. Manual of Guides of the Office of the Legislative Auditor, v.p.
- 1969 1. Transcript of Seminar in Planning-Programming-Budgeting for the State of Hawaii, 256 pp.
2. Airports System Financing Through Revenue Bonds, 9 pp.
3. Second Annual Status Report on the Implementation of Act 203, Session Laws of Hawaii 1967 (Relating to State-County Relationships), 13 pp.
4. An Overview of the Governor's 1969-70 Capital Improvements Budget, 61 pp.
5. A Supplementary Report on the Audit of the Hawaii Visitors Bureau, 2 pp.

LEGISLATIVE AUDITOR
STATE CAPITOL
HONOLULU, HAWAII 96813