

**SUNSET EVALUATION UPDATE
CONTRACTORS**

Chapter 444, Hawaii Revised Statutes

A Report to the Governor and the Legislature of the State of Hawaii

Submitted by

**Legislative Auditor of the State of Hawaii
Honolulu, Hawaii**

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FOREWORD

Under the "Sunset Law," licensing boards and commissions and regulated programs are terminated at specific times unless they are reestablished by the Legislature. Hawaii's Sunset Law, or the Hawaii Regulatory Licensing Reform Act of 1977, scheduled for termination 38 licensing programs over a six-year period. These programs are repealed unless they are specifically reestablished by the Legislature. In 1979, the Legislature assigned the Office of the Legislative Auditor responsibility for evaluating each program prior to its repeal.

This report evaluates the regulation of contractors under Chapter 444, Hawaii Revised Statutes. It presents our findings as to whether the program complies with the Sunset Law and whether there is a reasonable need to regulate electricians and plumbers to protect public health, safety, or welfare. It includes our recommendation on whether the program should be continued, modified, or repealed. Draft legislation intended to improve the regulatory program is incorporated in this report as Appendix B.

We acknowledge the cooperation and assistance extended to our staff by the Contractors License Board, the Department of Commerce and Consumer Affairs, and other officials contacted during the course of our examination. We also appreciate the assistance of the Legislative Reference Bureau which drafted the recommended legislation.

Newton Sue
Acting Legislative Auditor
State of Hawaii

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Sunset Evaluation Update

CONTRACTORS

This report evaluates the regulation of the business of contracting under Chapter 444, Hawaii Revised Statutes, to determine whether the health, safety, and welfare of the public are best served by the reenactment, modification, or repeal of Chapter 444. The Office of the Legislative Auditor previously conducted an evaluation of the regulation of contractors and reported its findings and recommendations in January 1983 in the *Sunset Evaluation Report, Contractors, Chapter 444 Hawaii Revised Statutes*. This update summarizes the information presented in the 1983 evaluation, reports on subsequent developments, and presents our current findings and recommendations.

Background on Construction Contracting and Its Regulation

When a construction project is proposed, the owner and a contractor usually enter into a contract with each other. The contractor is responsible for coordinating the different parts of the project and completing it according to the terms in the contract. A "prime" or "general" contractor constructs an entire project while a subcontractor or specialty contractor is responsible for a limited aspect of a project.

Contractors undertake projects as varied as the construction of harbors, highways, tunnels, and airports; the erection and renovation of skyscrapers, apartments, and homes; the installation of garage doors, solar energy systems, and alarm systems; and the building of rock walls and fences. The diversity explains why contractors do not have common education or experience. They are required, however, to have general knowledge of construction methods, the law and legal obligations, and business principles and procedures.

In the United States, the regulation of construction contractors began with the adoption of a building law in New Amsterdam in 1625¹ and was followed by the development of construction standards by various professional organizations. In 1905, the National Board of Fire Underwriters (now the American Insurance Association) formulated the first model building code and continues to issue a model general building code called the National Building Code.² Today, governmental regulation of construction takes various forms: building codes which incorporate national fire, structural, and health standards; specialty trade codes; zoning laws; building permits; and field inspections.

In addition, 31 states, including Hawaii, require some sort of license to engage in the business of contracting. In some of these states, licensing is required only for specific types of contractors, i.e. general, residential, remodelers, or nonresidents, while in other states, including Hawaii, licensing is required for all contractors.³

In Hawaii, construction contractors were first regulated under the provisions of Act 305 of 1957, now codified as Chapter 444, HRS. A seven-member "Contractors License Board" (hereinafter referred to as "board") also was created and standards for licensing established. Today, a 13-member board consisting of five general engineering or general building contractors, five specialty contractors, and three public members regulates contractors. The board is placed within the Department of Commerce and Consumer Affairs (DCCA) for administrative purposes.

The current statute defines contractor as "any person who by oneself or through others offers to undertake, or holds oneself out as being able to undertake, or does undertake to alter, add to, subtract from, improve, enhance, or beautify any realty or construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building, highway, road, railroad, excavation, or other structure, project, development, or improvement, or do any part thereof, including the erection of scaffolding or other structures or works in connection therewith."⁴

Applicants must: (1) be at least 18 years old, (2) possess a good reputation for honesty, truthfulness, financial integrity, and fair dealing, (3) pass the Part I written examination designed to test the applicant's general knowledge of the building, safety, health, labor, and lien laws of the State and some basic administrative principles of the contracting business, and (4) pass the Part II written examination if offered for the classification the applicant is seeking. An applicant must also submit proof of experience or training, credit history, financial capacity, tax clearance, and maintenance of workers' compensation, personal injury, and property damage liability insurance. Corporations must also submit a copy of the articles of incorporation, and foreign corporations and partnerships must submit a copy of their registrations.

The board may grant or deny licenses, suspend, refuse to renew or revoke licenses for established cause, disseminate information about licensing, and promulgate rules governing contractors and the licensing process. Although the board retains the power to take disciplinary action against a licensee, it has delegated its authority to receive, arbitrate, investigate, and prosecute complaints to DCCA's Regulated Industries Complaints Office (RICO).⁵

Prior Sunset Evaluation

In compliance with the provisions of the Hawaii Sunset Law, an evaluation of the regulation of contractors was first conducted by this office in 1982. In a 1983 report to the Hawaii State Legislature, we concluded as follows:

- “1. There is a continued need to regulate construction contractors to protect the public from financial loss and to ensure that contractors are qualified and have the financial responsibility to carry out their contracts.
- “2. There is room for substantial improvement in licensing operations. The financial capacity required of applicants serves little purpose, experience requirements are vague and restrictive and the examination system, which tests some for specialized knowledge but not others, is particularly questionable.
- “3. In the absence of any statutory authority, the Contractors License Board has issued conditional licenses to applicants who fail to meet the standards for licensure. In issuing these licenses, the board has imposed conditions that are both inappropriate and unenforceable.
- “4. The manner in which contractors are classified restricts competition and is subject to abuse. The board is currently issuing specialty contractor licenses in 82 specialty classifications and another 212 subspecialty classifications. This has resulted in jurisdictional problems between and among the trades without any clear benefit to the public.
- “5. Enforcement of the law has been severely deficient. Complaints are backlogged for several years, and few disciplinary actions are taken.
- “6. The \$10,000 maximum amount that a homeowner who suffers losses can recover from the contractors recovery fund appears to be unduly low and restrictive, as is the \$20,000 limit in total claims that can be made against any one contractor.”⁶

The need for regulation. We found that the public could suffer considerable financial loss if contractors are not qualified or financially able to fulfill contracts. While health and safety standards are enforced by many federal, state, and county agencies, state regulation is needed to protect the public against dishonest, unskilled or otherwise unqualified contractors.

We also found that consumers had filed numerous complaints with DCCA about costs, materials used, differing interpretations of design specifications, unfulfilled warranties, poor workmanship, and lost deposits. The wide range of complaints further attested to the potential for public harm. Therefore, we recommended that the State continue to regulate construction contractors by reenacting Chapter 444, HRS.

Licensing requirements. We found several deficiencies in the area of licensing requirements. Some requirements had no relationship to either competency or financial responsibility whereas other vital requirements were not being administered properly.

Financial capacity and statements. We found no valid basis for the amounts set as criteria for evaluating an applicant’s financial capacity. Moreover, financial statements submitted to support license renewals were not systematically reviewed.

We recommended removing the requirement that applicants submit financial statements to reveal financial capacity and instead suggested the utilization of credit reports for that purpose.

Experience requirements. We found no clear guidelines as to the kinds of experience applicants were required to have to demonstrate their knowledge or training. We also found that requiring four years of supervisory experience created hardship and an inequitable situation for many specialty contractors.

We recommended that the board establish guidelines and provide clearer instructions to applicants on the kinds of experience it would accept. In addition, we recommended that education, training, and work as an apprentice or journeyman be allowed to count towards satisfying the experience requirement.

Examination requirements. We questioned the inequities and validity of the examination requirements. Part II examinations which tested knowledge of specific contracting fields were required for applicants wanting A and B general contractor licenses and 47 of the C specialty contracting categories. However, examinations were not required for 35 specialty contracting categories and 212 subspecialty categories. We found this requirement to be unfair and the tests to be obsolete and of little use in proving competency.

We recommended improvement of the Part I examination, which tests the applicant's general knowledge of the law, rules, codes, and basic managerial and administrative principles and the elimination of the Part II examinations for the various specialty classifications.

Conditional licenses. We found the practice of granting conditional licenses to be without statutory authority. These licenses could be conditioned on any grounds that the board found acceptable and were subject to whatever conditions the board decided to impose. Inasmuch as some of these conditions were unenforceable and inappropriate, we found that the granting of these licenses detracted from rather than served the public interest.

We recommended that the board cease its practice of giving conditional licenses and amend its rules accordingly.

Licensing classifications. We found the system used to classify contractors to be restrictive and subject to abuse. The licensing provision restricting the general contractor from engaging in work involving two or more trades existed more to prevent the general contractors from competing with specialty contractors than to protect the public.

We also questioned the need for nearly 300 specialty and subspecialty licenses. We found that numerous license classifications created jurisdictional and enforcement problems and did not add to public protection.

We recommended the removal of restrictive provisions on general contracting activity and the evaluation of all specialty and subspecialty classifications to determine their necessity.

Complaints management. We found the handling of complaints to be seriously deficient. Cases had been backlogged to the point where some complaints took three years to resolve. Moreover, disciplinary actions taken against unscrupulous and unqualified contractors did not adequately address the seriousness of the violations. However, to facilitate the investigation and resolution of complaints, DCCA was in the process of establishing a regulated industries complaints office to handle all complaints.

We recommended that the department develop and implement a complaints management system with emphasis on more efficient and effective case management. We further recommended that the department develop policies on priorities and procedures to be followed in processing complaint cases.

Recovery Fund. We found that the \$10,000 maximum for damages to be unduly low and restrictive. We also questioned the \$20,000 limit imposed on total claims against any one contractor as this appeared to discriminate against later claimants.

We recommended that Chapter 444, HRS, be amended to raise the maximum amount recoverable from the fund and to remove the limitation of \$20,000 for recovery of funds from one licensee.

Subsequent Developments

Since 1983, Chapter 444, HRS, has been amended yearly by the Legislature. The more important amendments are described below.

In 1983, Chapter 444, HRS, was amended by Act 201 to extend the life of the board to December 31, 1989. Act 201 also deleted the one year state residency requirement and the need for two certificates attesting to the applicant's good reputation for "honesty, truthfulness, and fair dealing."⁷ The law also provided that (1) the maximum amount obtainable by an injured party from the Contractors Recovery Fund be increased from \$10,000 to \$12,500, (2) claims be heard in the circuit court or the district court of the judicial circuit where the violation occurred, (3) the minimum balance necessitating replenishment of the fund be raised from \$150,000 to \$250,000, and (4) the maximum amount of contribution from contractors to replenish the fund be set at \$250 instead of \$150.

Two other significant measures were enacted in 1983. Act 274 redefined contractors to include those who work directly or indirectly for the federal government, and Act 275 revised the composition of the board and the county residency requirements of its members. Five

members are required to be general contractors; five, specialty contractors; and three, public members. Each county is also to be represented on the board.

In 1984, Act 98 added a new section enabling DCCA investigators to issue citations to persons acting as unlicensed contractors. The law allowed the department to issue citations ordering the unlicensed contractor to discontinue business and to assess penalties immediately after a violation had been observed.⁸ Previously, such actions were possible only after a court injunction had been obtained.

Also in 1984, legislation was passed to address concerns about unlicensed activity in the construction industry. Act 132 was enacted to require licensed contractors to include their license number in their advertisements so that the public would know that they are licensed. Act 216 increased the various penalties for aiding and abetting unlicensed contractors. The previous law did not sufficiently deter licensed contractors from violating the law or from including the amount of the fine in their price quotations if they were cited.⁹

Two amendments relating to licensing requirements were enacted in 1985. Act 67 removed the residency requirement imposed on partners or managing employees of a contracting business. To improve examination procedures. Act 160 authorized the board to contract for examination services with a professional testing service and empowered the Director of the DCCA to establish examination fees.

The other 1985 measure (Act 215) required owners or lessees who build on or improve their own property and who qualify for an exemption to register for the exemption with the county. The law further required the counties to maintain a list of all registered owner-builders in their jurisdiction.

To clarify the licensing requirements relating to government employees, Act 182, SLH 1986 limited the contractor licensing exemption to government employees working on a government project. Previously, the statute may have been interpreted to exempt all government employees from the contractor licensing law whether or not they were involved in a government project.¹⁰

Also in 1986, Act 23 established a minimum penalty for a person violating or failing to comply with the provisions of Chapter 444, HRS, and also provided that the penalty shall be for each violation. Act 319 amended the law to: (1) deny a license to anyone who, for up to six years prior to the license application date, has failed to satisfy an undisputed debt or judgment incurred while operating as a contractor; (2) clarify that the provisions of Section 444-11, HRS, do not apply to public works projects; (3) provide that no contractor's license be renewed if the licensee no longer meets the licensing requirements; (4) increase the minimum bond for specialty contractors

from \$2500 to \$5000 if required by the board; and (5) allow other persons or entities entitled to wages besides employees of the contractor to bring actions against the bond.

In 1987, Act 75 deleted the requirement for the board to provide a hearing in cases where a license is not renewed for failure to pay the renewal fee or submit the required documents. Also in 1987, Act 157 added a new section to license persons who engage in activities involving asbestos or asbestos-containing material. It provides for licensing, imposes penalties for delays, and allows the board to consult with, initiate, and maintain cooperative agreements with other departments and agencies to regulate asbestos activity.

The Legislature in 1988 passed two acts relating to contractors. Act 109 allows the Director of DCCA to set contractors license fees by rule rather than by statute. It also clarifies the requirement that the licensees must submit proof of financial integrity before licenses are renewed.

Act 247 clarifies the law relating to advertising by contractors. Specifically, it provides that (1) the prohibited practice of an unlicensed contractor advertising includes any listing which contains the word "contractor"; (2) a publisher or producer who obtains a signed statement from the contractor attesting that the contractor has read the advertisement or listing, is licensed as advertised, has included all applicable license numbers in the advertisement or listing, and knows of the law against false advertising, has a rebuttable presumption of compliance with the law; (3) a contractor who has advertised falsely shall have the telephone number contained in the advertisement disconnected; and (4) good faith compliance by a public utility with the disconnection requirement is a complete defense to any civil or criminal action brought against it arising from the termination of telephone service.

Current Findings and Recommendations

We find as follows:

1. There continues to be a need to regulate construction contractors to protect the public from financial loss and to ensure that contractors are qualified and financially responsible.
2. The administrative support provided by DCCA to meet the needs of the contractors licensing program is not adequate.
3. Recordkeeping of information about licensed contractors is deficient. The inputting of licensing records is backlogged, and much of the information remains unused and unusable.
4. The board has made progress in curbing the use of subspecialty licenses. However, it has yet to conduct a comprehensive review of all specialty licenses.

5. Conditional licenses continue to be issued to applicants who do not meet licensing requirements. There is no statutory basis for the practice, nor are there any established standards and guidelines or systematic monitoring and enforcement of the very conditions imposed by the board to safeguard public interests. Consequently, it is not clear what public benefit, if any, is being served.

6. Enforcement of the laws and rules regulating contractors continues to be deficient. Although the establishment of the RICO has resulted in some improvement in complaints management, complaints are still backlogged for several years, and there are inconsistencies in the disciplinary actions being taken. Moreover, there is a question as to which agency, if any, is responsible for the actual enforcement of the regulatory laws and rules.

7. Besides the board, there are various departments and entities throughout the state who are involved with construction contractors. However, no one agency provides the leadership necessary to elicit interagency cooperation and coordination.

The need for regulation. The purpose of state regulation of contractors through the Contractors License Board is "to protect the general public against dishonest, fraudulent, unskillful or unqualified contractors."¹¹ In our 1983 sunset report, we concluded that most consumers lacked the technical knowledge, legal expertise, and financial resources available to government agencies and corporations to protect themselves against failure or malpractice by a contractor. This continues to be true. Our present evaluation reaffirms the public need for the type of protection that state regulation can provide.

Continued regulation of contractors is also emphasized by the construction industry boom in Hawaii. The industry has flourished to the point where total construction completions in 1987 amounted to a record \$2.15 billion, an increase of 18.6 percent from 1986.¹² If the industry's growth continues, construction will soon pass defense as the state's second-largest industry.¹³ As a major provider of revenues, jobs, and consumer services, the construction industry affects all citizens of Hawaii. The public, therefore, should have some assurance that contractors are qualified and have the financial capacity to fulfill their contracts. The regulation of contractors through licensing can, and should, provide that assurance.

The growth of the construction industry also increases the sources of consumer dissatisfaction and financial hardship. This is corroborated by the complaints received by RICO. In our 1983 report, we noted that 405 contractor complaints were received in 1980. As shown in Table 1, the number of complaints remained fairly constant in 1983, 1984, and 1985. However, when the construction industry began to recover from its slump in 1985, the number of complaints also rose dramatically. They nearly doubled between 1985 and 1987. RICO continues to receive a variety of complaints: unfulfilled warranties, poor workmanship, uncompleted projects, and lost deposits.

Table 1

Complaints about Contractors Received by
Regulated Industries Complaints Office

<u>Year</u>	<u>Number of Complaints</u>
1983	398
1984	401
1985	395
1986	597
1987	721

Source: Department of Commerce and Consumer Affairs, Fifth Annual Report of the Regulated Industries Complaints Office, Honolulu, 1987

Regulated Industries Complaints Office, Contractors License Board, Master Logs, 1985, 1986, and 1987.

In view of consumer dissatisfaction and financial hardship and the continuing potential for public harm posed by unqualified or irresponsible contractors, we believe that Chapter 444, HRS, should be reenacted.

Inadequate administrative support. By statute, the board is responsible for implementing the contractors licensing program. DCCA provides the board with an executive secretary and staff to administer the day-to-day operations of the program. Our evaluation leads us to question the adequacy of the administrative support provided by DCCA. We cite the following as examples.

Need for workload assessment. DCCA is authorized to employ "such administrative and clerical assistants as the board may require and prescribe their power and duties."¹⁴ At present, there is no one employed full-time to serve the board. The executive secretary assigned to the board and her secretary also administer the commercial employment agencies' program. A licensing clerk and a records clerk in DCCA's Professional and Vocational Licensing Division (PVL) are responsible for processing contractor applications and maintaining licensing records, but they too serve other boards. Legal counsel is provided by a deputy attorney general who also serves other boards and by a private attorney who is retained by the board to defend the Contractors Recovery Fund. DCCA's Office Services provides all boards with secretarial, stenographic, and clerical support; RICO provides legal and investigative support.

Because workload statistics are not kept, we could not determine the staff's ability to meet workload demands. However, the size of the licensing program, the increasing number of new applications, and the increasing number of legal issues and questions suggest that current staffing may not be adequate.

In 1982, Hawaii had a total of 5335 licensed contractors.¹⁵ The latest information from DCCA shows that Hawaii has a total of 7298 licensed contractors, a 37 percent increase. This includes 5900 licensed, active contractors and 1398 inactive contractors.¹⁶

By comparison, the state of Tennessee had a total of 7263 licensees at June 30, 1986. However, its board is served by an executive director who is assisted by an office supervisor, an auditor, three secretaries, and six clerks. Legal and investigative support is provided by a pool of attorneys and investigators within the Division of Regulatory Boards of the Tennessee Department of Commerce and Insurance.¹⁷

A review of applications presented for board action gives some indication of program trends. As shown in Table 2, the number of new applications submitted to the board has grown from 677 in fiscal year 1985-1986 to 1065 in fiscal year 1987-1988. This represents an increase of over 57 percent in the last three years. In fact, the total number of new applications handled by DCCA is even greater than what is shown in Table 2 because some applications are taken out and not returned or are filed and withdrawn before review. The tremendous increase of new applications generates a corresponding increase in workload for the clerical staff and the executive secretary who are required to compile all necessary documents, review the applications for completeness, assess the qualifications, make recommendations as to eligibility, notify applicants as to disposition, transmit information about further fee and examination requirements, and issue licenses.

Table 2

New Applications for Board Action
By Fiscal Years

<u>Fiscal Year</u>	<u>Number of Applications</u>
1985-86	677
1986-87	730
1987-88	1065

Source: Minutes of the Contractors License Board
July 1985-June 1988

While we did not conduct a formal assessment, we did review some aspects of the executive secretary's workload. During a two-week period, she saw a total of 80 individuals, participated in a deposition hearing, and went to court to register some documents. During the same period, her secretary recorded at least 110 messages for which responses were required.

Usually the more complex inquiries are referred to the executive secretary, who must answer a variety of questions. During the two-week period, a sample of the phone messages showed the following:

- A request from the county building department for a letter about the time allowed for extension on a new responsible managing employee;
- A question about finders' fees for referring contractors to homeowners;
- A question about the type of license needed to install supermarket-type doors;
- A request for a bond waiver;
- A legal question about a contractor's responsibility;
- An invitation to a meeting to discuss a different license and test for the installation of underground gas tanks; and
- Several questions relating to the scope of work allowed for various licenses.

The questions and requests demonstrate the complex nature of the contracting industry. In view of this and the various responsibilities delegated to her by the board,¹⁸ particular attention should be paid to the executive secretary's position when an assessment of staff workload is conducted.

Limited accessibility to computer. DCCA uses a computer system to store information about the licensed contractors in the program. However, the system is not readily accessible to all staff involved with the program. While the staff in the licensing branch have computer terminals, the executive secretary does not.

With over 7000 licensed contractors in the program, the executive secretary cannot be expected to remember specific details about each contractor. When there is an inquiry about a specific contractor, the executive secretary must either manually extract the individual file or ask a licensing clerk to retrieve the records on the computer. However, when help is not available or when computer use is restricted, the records are not promptly retrieved. The lack of ready access to a computer, then, not only hampers the executive secretary's ability to efficiently administer the program, but also adds to the work of the licensing branch staff.

The lack of computer access may also lead the executive secretary to derive wrong conclusions about a licensee. Documents recorded in the computer files may not have been manually filed. For example, the absence of such documents as proof of workers' compensation insurance could lead to the conclusion that the license has been suspended. Without reviewing the information available in the computer files, the executive secretary cannot determine the actual status of the licensee.

Need to clarify use of available resources. One of the resources available for board use is the Contractors Education Fund. The fund is maintained by the interest from investments made of the Contractors Recovery Fund.¹⁹ It may be used by the public, licensees, board members, and staff for "educational purposes." According to board rules, these purposes include publications, media exposure, seminars, participation in national associations, classes, and the improvement of services of the board's staff to the public and licensees.²⁰

DCCA and the board should clarify how the fund is to be used. We find inconsistencies in the ways monies have been spent and question the role of DCCA in determining education fund expenditures, especially when a proposed activity falls within the fund's stated purpose.

Questionable role in determining fund expenditures. DCCA initially denied a board proposal for board members and DCCA staff to attend a weekend workshop on Chapter 444, HRS; Chapter 77, rules of the board; the roles of board members, hearings officers, and DCCA staff in the licensing program; and the legislative process.²¹ The activity appeared to meet the "educational purposes" criteria for use of the fund. A similar workshop had been conducted a year earlier for which DCCA had approved \$2000 to cover workshop costs. However, DCCA would not approve the proposed \$4000 cost of the second workshop until contractor members of the board agreed to absorb their own expenses.

Reluctance to support the board's participation in the workshop is questionable since the funds to cover the costs of the entire workshop had already been included in the budget for the education fund, and monies were available. We also question the inconsistency of support shown by DCCA since the education fund was used to cover DCCA staff expenses at the workshop. Furthermore, Section 444-3(b)(2), HRS, clearly states that a board member "shall be reimbursed for his necessary traveling expenses incurred in the performance of his duties" although he cannot be compensated for his services.

The fundamental issue, though, is DCCA's authority to determine the use of the education fund itself. According to Section 26-35(8), HRS, DCCA *does not* have the power to supervise or control any board placed within the department for administrative purposes in the exercise by the board of its functions, duties or powers, except as set forth by statute. Since Section 444-29,

HRS, vests control of the education fund with the board rather than DCCA, DCCA may have overstepped its authority by overriding the board's decision to use monies from the education fund for the workshop.

Inconsistencies in fund expenditures. The need to clarify the use of the education fund became more apparent when we reviewed some of the fund expenditures. During the past year, for example, the fund was used to cover travel costs for board members when public hearings on amendments to the board's rules were held on the Neighbor Islands. While we concede that public hearings on board rules may have some educational value, the primary purpose of holding public hearings on rules is to allow board members to receive public input about the rules it seeks to promulgate and amend. Since the hearings are required by the Hawaii Administrative Procedure Act (Chapter 91, HRS), the expenses incurred by this activity should have been covered by the general fund instead.

At the July 22, 1988, Contractor License Board meeting, a proposal was made to increase the fees charged to contractors. Although the proposed increases were said to be based on the cost to the department, DCCA has not conducted any recent assessment of workload nor provided the board with a breakdown of revenues and expenditures for the contractors licensing program. On the other hand, the Professional, Vocational and Personal Services Program under which the contractors licensing program is funded received revenues in fiscal year 1985-86 of approximately \$3 million whereas expenditures were only about \$1.5 million.²² The fees from the contractors licensing program should "maintain a reasonable relation between the revenue derived from the fee and the cost or value of services rendered."²³ Therefore, DCCA should determine whether an appropriate level of resources and services has been allocated to the board and whether there is justification for increasing fees.

Deficiencies in recordkeeping. The staff of the licensing branch of the Professional and Vocational Licensing Division (PVL), is responsible for establishing and maintaining licensing records for the board. It also compiles and maintains statistics and prepares reports as requested. The system by which PVL keeps licensing records is deficient. Specifically, we find that the inputting of licensing record information is backlogged, and much of the available information remains unused and unusable. These deficiencies adversely affect the licensing program.

Information backlogged. After an applicant is approved for licensing and the necessary paperwork is completed, PVL clerks input the information into the computer files. The information includes the status of the license; the classification(s); the name of the responsible managing partner or the business name; notation of any restrictions or conditions; insurance held; and the effective and expiration dates. PVL staff use the information to respond to inquiries about contractors from the public and other agencies.

We find that the information is not being inputted in a timely manner. This observation is confirmed by PVL staff who report a four week backlog in inputting. Because of workload demands, they have been unable to keep up, even with the entire staff working overtime.

The backlog results not only in response delays to the public, but also in a waste of staff time. For example, when a licensing branch clerk receives a query about a specific contractor, the clerk first tries to retrieve the necessary information from the computer. If there is no listing for that contractor, the clerk must then manually search through a list of new licensees to determine if the contractor is licensed. If more information is needed, the individual licensee's file must then be located. This process can be time-consuming and can increase the chances of inaccurate information being disseminated.

In one situation, RICO received a complaint about an individual who allegedly operated as a contractor after his license had been suspended. The complainant had checked with PVL and had been told that the contractor's liability insurance had expired and therefore the license was automatically suspended.²⁴ A check by RICO to PVL confirmed this information. On that basis, RICO opened an investigation. However, the case had to be closed after a search of the contractor's file showed that the contractor did have the required insurance coverage.

PVL's failure to input data in a timely manner also impacts on its ability to issue an accurate listing of licensed contractors. PVL prepares and distributes a roster of licensed contractors on a quarterly basis. However, the roster does not accurately reflect all current licensees.

During the quarter immediately preceding the July 3, 1988, roster of licensed contractors, the board issued a total of 134 new licenses.²⁵ The roster did not list 87, or 65 percent, of these. Thirty-six unlisted licenses had been issued about two months before compilation of the roster and should have been inputted. Four more had been issued in April, three months prior to compilation of the roster, but they had also been excluded. Assuming that these four contractors are included in the next quarterly roster, it will have taken them six months *after* licensing to be properly listed.

By August 29, 1988, 83 additional licenses had been issued. Since they were issued after the July 3, 1988, roster had been compiled, they too would not be listed until the next quarterly update. At that time then, a total of 170 licenses were not posted on the roster. A random check showed that their status could be ascertained by PVL. However, in at least one case, no record could be found of a license which, by PVL records, was about two months old at the time. The status of that license was confirmed finally about a month later after another check was made with PVL. Even at that time, no record of the particular business could be found and the license had to be located finally by use of the owner's name.

The seriousness of these omissions may be overlooked by PVL since the licensees eventually are entered into the computer and the needed information can then be retrieved. However, the roster of licensed contractors is used by many other individuals and groups who cannot access the computer and individual files. Unless they recheck the roster with PVL, they may be relying on inaccurate data in selecting or rejecting certain contractors.

Unused and unusable information. PVL uses a computer system for recordkeeping. Since there are over 7000 licensed contractors, computerization should allow for quicker and more efficient storage, manipulation, and retrieval of data. However, a great deal of necessary information has not been organized and remains in an unusable form. For example, the type(s) of license classification, i.e., "A," "B," and/or any of the "C" specialty licenses, is inputted for each licensee. Yet, PVL is unable to readily provide the board with such basic information as the number of licensees in each classification. While it should be possible to sort and extract the data, PVL's computer is not programmed for this task and so a manual count has to be taken.

Although PVL compiles and distributes a roster of licensed contractors, the information is so incomplete that the utility of the roster itself is questionable. For example, for those conditional licenses which are listed, further examination of the individual contractor's records is necessary if one desires to know exactly what conditions have been established by the board.

A random sample of 102 licenses on the July 3, 1988 roster revealed that approximately 25 percent were coded "R." This coding signifies only that the renewal status is uncertain. Anyone needing to know the actual status of any of these licenses must contact PVL. There is no other way to know if the license has been allowed to expire, is awaiting receipt of missing documents or fees, or is simply waiting to have the receipt of documents noted.

It may be argued that the reason for so many "R" codings is because this particular quarterly roster had been compiled soon after June 30 which was the deadline of a two month grace period for license renewals. Nevertheless, the need for so much rechecking diminishes the utility of the roster and places additional work on the PVL staff.

Specialty licensing. The board is authorized to classify contractors according to established usage and procedure in the construction industry and to limit the field and scope of operations to those in which the contractors are classified and qualified.²⁶ Accordingly, the board issues "A" licenses for general engineering contractors, "B" licenses for general building contracting, and "C" licenses for specialty contracting. The board also has included a subspecialty category, C-68, in the specialty license classification.

In our 1983 report, we questioned the need for the nearly 300 specialty and subspecialty license classifications and recommended that all of them be reviewed. The board has since

reviewed the subspecialty licenses and made considerable improvement towards restricting the use of the C-68 category. However, it has yet to review all specialty licenses to determine whether the established classifications are warranted.

Improvement in use of C-68 specialty classification. According to the board's rules, "classifications under C-68 classified specialist may be established by the board until the work performed is defined and a hearing is held to establish the proper classification."²⁷ In our 1983 report, we noted that there were 496 contractors holding C-68 licenses in 212 subspecialty categories. We recommended that the board cease immediately its licensing of additional C-68 subspecialties and reclassify the licensees on an appropriate basis. The board has made significant progress in this area.

In 1987, the board's rules committee and the executive director met over a number of weekends to review the 408 active C-68 licenses held by contractors classified in 142 subspecialty categories.²⁸ Following the review, the board voted to reclassify most of the C-68 licensees into new or existing specialty contractor classifications and to delete certain subspecialty classifications.²⁹ Of the 408 C-68 licenses, 332 were reclassified and integrated into broader, specialty classifications, 8 were converted to the A-general engineering contracting classification, and 26 were deleted. The board retained the use of the C-68 classification for the remaining 42 licensees. The three subspecialty categories retained are: C-68IB interior design, limited to bidding and entering into contracts, all installation work subcontracted to licensed specialty contractors; C-68LA limited to bidding and signing contracts; and C-68PR erecting new poles in new pole lines only. The board subsequently has added another subspecialty classification: C-68RG erection of radio, TV & FM transmitting antennas, related systems and work class not including steel towers.³⁰

No comprehensive review of specialty licenses. Specialty licenses, designated "C" licenses, are issued to contractors "whose operations as such are the performance of construction work requiring special skill and whose principal contracting business involves the use of specialized building trades or crafts."³¹ In our 1983 report, we noted that the board had established 82 specialty licenses despite the fact that it had not developed guidelines to determine (1) what falls within the scope of construction work or building trade, (2) what activities warrant licensing, and (3) what criteria must be met before an activity can be considered a specialty. We then recommended that the board adopt criteria and guidelines for evaluating all specialty classifications to determine if they meet the standards set forth in the law. Our current evaluation discloses that since the board has yet to adopt such criteria and guidelines, it has been unable to undertake the comprehensive review of specialty licenses previously recommended.

When the board amended its rules in 1988, it also amended its list of specialty contractor classifications. The board deleted two classifications: C-18 fencing contractor and C-32a aluminum railings contractor, and added ten new classifications: C-2 mechanical insulation contractor, C-19 asbestos contractor, C-22a glass tinting contractor, C-31e concrete cutting, drilling, sawing, coring and pressure grouting contractor, C-33c surface treatment contractor, C-34 soil stabilization contractor, C-37e treatment and pumping facilities contractor; C-37f fuel dispensing contractor, C-44b awnings and patio cover contractor, and C-49b hot tub and pool contractor. The proposed amendments to the list of the specialty classifications were presented at public hearings, but without a comprehensive review. The net result has been the addition of eight specialty license classifications. Table 3 lists the 90 specialty license classifications now authorized by the board.

We again reiterate the need for the board to eliminate or combine some of the specialty classifications rather than add new ones. All the new specialties with alphabetical suffixes are actually segments of a larger specialty. For example, the scope of work for C-33c surface treatment contractor is "to treat surfaces by using, but not limited to, sandblasting, waterblasting, power cleaning, or steam cleaning."³² This scope of work appears to be covered already by the C-33 painting and decorating contractor classification which includes within its scope, "surface preparations of all types, caulking, sandblasting, waterblasting, power cleaning, or steam cleaning preparatory to painting."³³ It is not clear that the fragmentation of a specialty provides the public with any additional protection.

The absence of specific evaluation criteria has led to confusion over what activities require specialty licenses. For example, an individual who had a gardening, nursery, and maintenance business had been doing grounds maintenance work for a company. He held a general excise license and assumed that no other license was necessary. However, the scope of work of a C-27 landscaping contractor is "to prepare plots of land for architectural horticulture and to provide decorative treatment and arrangement of gardens, lawns, shrubs, vines, bushes, trees, and other decorative vegetation..."³⁴ Therefore, when he received a landscaping contract for ground leveling and seeding from the same company, a licensed contractor filed a complaint against him for engaging in an unlicensed activity.

Table 3

Specialty Contractor Classifications

C-1	Acoustical and insulation contractor;
C-2	Mechanical insulation contractor;
C-3	Asphalt paving and surfacing contractor;
C-3a	Asphalt concrete patching, sealing, and striping contractor;
C-3b	Play court surfacing contractor;
C-4	Boiler, hot-water heating and steam fitting contractor;
C-5	Cabinet, millwork, and carpentry remodeling and repairs contractor;
C-5a	Garage door contractor;
C-5b	Siding application contractor;
C-6	Carpentry framing contractor;
C-7	Carpet laying contractor;
C-9	Cesspool contractor;
C-12	Drywall contractor;
C-13	Electrical contractor;
C-14	Sign contractor;
C-15	Electronic systems contractor;
C-15a	Fire and burglar alarm contractor;
C-16	Elevator contractor;
C-16a	Conveyor systems contractor;
C-17	Excavating, grading, and trenching contractor;
C-19	Asbestos contractor;
C-20	Fire protection contractor;
C-20a	Dry chemical fire repressant systems contractor;
C-21	Flooring contractor;
C-22	Glazing and tinting contractor;
C-22a	Glass tinting contractor;
C-23	Gunite contractor;
C-24	Building moving and wrecking contractor;
C-25	Institutional and commercial equipment contractor;
C-27	Landscaping contractor;
C-27a	Hydro mulching contractor;
C-27b	Tree trimming contractor;
C-31	Masonry contractor;
C-31a	Cement concrete contractor;
C-31b	Stone masonry contractor;
C-31c	Refractory contractor;
C-31d	Tuckpointing and caulking contractor;
C-31e	Concrete cutting, drilling, sawing, coring, and pressure grouting contractor;
C-32	Ornamental, guardrail, and fencing contractor;
C-33	Painting and decorating contractor;
C-33a	Wall coverings contractor;
C-33b	Taping contractor;
C-33c	Surface treatment contractor;
C-34	Soil stabilization contractor;

- C-35 Pile driving, pile and caisson drilling, and foundation contractor;
- C-36 Plastering contractor;
- C-36a Lathing contractor;
- C-37 Plumbing contractor;
- C-37a Sewer and drain line contractor;
- C-37b Irrigation and lawn sprinkler systems contractor;
- C-37c Vacuum and air systems contractor;
- C-37d Water chlorination contractor;
- C-37e Treatment and pumping facilities contractor;
- C-37f Fuel dispensing contractor;
- C-38 Post tensioning contractor;
- C-40 Refrigeration contractor;
- C-40a Prefabricated refrigerator panels contractor;
- C-41 Reinforcing steel contractor;
- C-42 Roofing contractor;
- C-42a Aluminum shingle contractor;
- C-42b Wood shingles and shakes contractor;
- C-42c Cement and clay tile contractor;
- C-42d Composition shingle contractor;
- C-42e Urethane foam contractor;
- C-42f Liquid asphalt roofing contractor;
- C-43 Sewer, sewage disposal, drain, and pipe laying contractor;
- C-43a Reconditioning and repairing pipeline contractor;
- C-44 Sheet metal contractor;
- C-44a Gutters contractor;
- C-44b Awnings and patio cover contractor;
- C-48 Structural steel contractor;
- C-48a Steel door contractor;
- C-49 Swimming pool contractor;
- C-49a Swimming pool service contractor;
- C-49b Hot tub and pool contractor;
- C-51 Tile contractor;
- C-51a Cultured marble contractor;
- C-51b Terrazzo contractor;
- C-52 Ventilating and air conditioning contractor;
- C-55 Waterproofing contractor;
- C-56 Welding contractor;
- C-57 Well drilling contractor;
- C-57a Pumps installation contractor;
- C-61 Solar energy systems contractor;
- C-61a Solar hot water systems contractor;
- C-61b Solar heating and cooling systems contractor;
- C-62 Pole and line contractor; and
- C-68 Classified specialist.

Source: Hawaii Administrative Rules, Title 16, Department of Commerce and Consumer Affairs, Chapter 77, Contractors, Section 16-77-28(c), Exhibit A, January 15, 1988.

As previously stated, specialty licenses are issued to contractors involved in construction work requiring *special skill*. One of the qualifying tests used by the board is passing Part II of the contractors' examinations. In our 1983 report, DCCA contended that "Part II of the examinations complements Part I by testing a candidate's knowledge of the particular contracting field to which he is applying. It is our position that Part II of the examinations is a necessary requirement to ensure that a candidate has achieved the sufficient mastery of a specific contracting field to warrant public confidence." We find, however, that Part II examinations are still not required for 43 or nearly half of the 90 specialty classifications.

The need for comprehensive review of specialty licenses is particularly critical because of the issue of reciprocity among licensed contractors in the western states. If a reciprocity agreement is reached, a contractor holding a specific license in one state will be able to work as a licensed contractor in another participating state. Uniform criteria must be established so that there is agreement about the requirements for a specific classification and an understanding that a specialty classification established by one state encompasses the same scope of work as that established by another state.

One of the reasons for the lack of review in this area may be because board members are not aware of the number of existing specialty licenses. We stated previously that PVL is unable to provide readily such information as the number of licensees in each classification. A review of the summary of license examinations taken by applicants from January - December 1987³⁵ indicates that some classifications continue to be used by only a few licensees. For example, there were only one or two applicants taking 12 of the 45 specialty examinations given, and of those applicants, only 11 passed the tests for 8 specialty classifications. If there are only a few licensees in each classification, these narrow specializations may have the effect of conferring unfair economic benefits to select groups of contractors.

Some board members point out the need for a comprehensive review of not only specialty licenses but "A" and "B" licenses as well. For example, under the scope of work currently allowed for "B" general building contractor, a "B" licensee whose experience may be in the construction of a simple frame dwelling is also licensed to construct a multi-storied commercial building. Thus, all license classifications may need to be assessed.

Conditional licenses. Under the rules of the board, a conditional license may be granted when the board determines that it is in the best interest of the public.³⁶ The board may impose any conditions it chooses on the license. Consequently, applicants or licensees who do not meet all licensing requirements or who may have violated certain statutory requirements may still receive conditional licenses.

In our 1983 report, we stated that the granting of conditional licenses lacked any statutory basis and concluded that this practice detracted from rather than served the public interest as the board maintained. Although there is still no statutory authorization for the granting of conditional licenses, the practice continues, and our evaluation again supports our prior conclusion.

Current board members maintain that the practice enables applicants to earn a living without sacrificing the need for public protection. Board members spend considerable time reviewing the applications of conditional licensees and determining what conditions should be imposed. They require each applicant to agree, in writing, that the license may be withdrawn without a hearing should the licensee fail to comply with the conditions or act in the best interest of the public. In theory at least, the imposition of specific conditions for a conditional license should provide adequate safeguards for the public. In actual practice, however, we find no systematic monitoring or enforcement of these conditions.

For example, conditional licensees who are borderline with respect to meeting experience or financial capability requirements are usually required to submit periodic job reports or financial reports. However, because of other workload demands, the DCCA staff does not follow up to ensure compliance with the established conditions. Generally, the reports, if they are received at all, are filed and do not undergo any review. The board is not routinely told when reports are late or are not being submitted at all. Unless the reports are sent directly to the executive secretary, the board has little chance of knowing which licensees have failed to comply with the specified conditions and, therefore, should have their licenses revoked.

A check of RICO's complaint history of 96 contractors holding conditional licenses revealed that 24 of them had a total of 75 complaints filed against them. Some of these complaints resulted in the revocation of licenses. However, others did not, and contractors are still operating with conditional licenses. The following two cases illustrate this situation:

- Five complaints have been filed against a conditional licensee in 1987 and 1988. The complaints include the contractor's failure to pay for materials and services rendered, failure to complete the job or refund the money, and diversion of funds. The investigation of the first complaint, i.e., diversion of funds and failure to complete project, revealed that the contractor could not complete the project because he had used the money he had received for the project to pay his own outstanding bills. However, because the case was settled with the contractor agreeing to make monthly payments to the complainant, RICO did not refer the case to the board for further action. Had it been referred, the board may have withdrawn the conditional license since it was clear that the contractor did not have the financial capacity to operate as such. Such action, in turn, may have prevented other complaints from being filed.

A conditional licensee was reported for operating with a crew without having the required workers' compensation insurance. A RICO investigation confirmed the allegation. It was learned that the contractor had stated originally that he was working by himself and had no employees. Moreover, he had been unable to obtain insurance coverage because of financial difficulties. Although the contractor clearly violated licensing laws, he was merely sent a warning letter, and the board was not informed of the violations. Therefore, the conditional license was not withdrawn. Subsequently, another complaint was filed against this contractor.

One reason why conditional licenses are not monitored or enforced is because data relating to such licenses are not readily available. The DCCA staff was unable to provide us with the total number of conditional licenses or a listing of such licenses. Using various sources, we compiled a list of 110 conditional licensees. However, even this list may be incomplete because new conditional licenses have not been inputted. Moreover, 17 of the 110 licensees had licenses which had been terminated, forfeited, revoked, canceled, or permanently suspended. Of the remaining 93 licenses, 30 had been designated inactive. This still left 63 licenses categorized as active, but the status of 22 of them is unknown because they were coded as being in the license renewal process. It is questionable, then, whether anyone knows which contractors currently hold conditional licenses or what conditions have been imposed on them.

Another requirement established by the board is that conditional licenses must retain that status for at least one year. As was noted in our 1983 report, the effect of this requirement is the creation of a probationary period without an evaluation of performance at the end. Unless the licensee requests a change at the end of the one-year period, no determination is made as to whether the licensee should continue in the conditional category, be placed in the unconditional category, or have the license withdrawn. Therefore, this requirement does not serve any real purpose and is unfair to those licensees who are unaware that they must take the initiative to effect the necessary changes. Many conditional licensees probably do not realize they are still being placed in the conditional category.

Our review of the 93 conditional licenses on our list shows that conditional licenses may continue in that category indefinitely. As shown in Table 4 below, over half of the conditional licenses have been issued to individuals or businesses which have been licensed as contractors for 10 years or more. However, it is not clear how long they had been in this category. Some of these licenses may be inactive, but at least three licenses which are over 30 years old continue to be active.

Table 4

Conditional Licenses
Years Licensed with DCCA

<u>Years Licensed</u>	<u>Number of Licenses</u>
30+	3
20+ - 29	9
10+ - 19	37
5+ - 9	23
0 - 4	21

Source: Department of Commerce and Consumer Affairs,
Professional and Vocational Licensing Division, Report
Number: RGC J072R, July 7, 1988.

No one enforces any conditions, and conditional licensees are treated just the same as unconditional licensees. When the public inquires about a specific contractor, no mention is made of the conditions attached to that license.

Consequently, it is not clear what purpose, if any, is being served by conditional licenses. Without systematic monitoring or enforcement, the process is meaningless. We therefore reiterate the position taken in our 1983 report. The purpose of the licensing statute is to license those who are qualified and to deny licenses to those who are not. The practice of granting conditional licenses should be terminated unless the board is empowered to issue them, appropriate standards are established, and an effective system of monitoring and enforcement is developed.

Complaints handling and enforcement. The handling of complaints and the enforcement of laws and rules are integral functions of a regulatory program. We find several weaknesses in these areas. While the establishment of RICO as the central agency for complaints' management has resulted in some improvement, complaints are still backlogged for several years, and inconsistencies have been noted in the disciplinary actions taken. In addition, the enforcement of laws and rules continues to be deficient because ambiguities surround the responsibility of the enforcement function itself.

Complaints management. During our prior evaluation, we found the handling of complaints to be seriously deficient. At that time, the complaints were being handled by the executive secretary and board. Shortly thereafter, DCCA reorganized and RICO was designated as the agency to receive, arbitrate, investigate, and prosecute complaints on behalf of the board.

Persistent backlog. Our current evaluation reveals that complaints have been resolved faster since the transfer of complaints' management to RICO. In 1982, we criticized the lengthiness of the investigation phase, pointing out that in 40 percent of the complaints against contractors, it took between 91 and 360 days to complete the investigation phase.³⁷ In 1987, by comparison, 41 percent of the 572 complaints referred to the investigation unit were completed within 30 days, and an additional 48 percent of the complaints were completed within a year. This left only 11 percent of the complaints still pending on May 31, 1988.

In 1983, we reported that a period of three years from initiation of complaint to resolution was not uncommon. As shown in Table 5, approximately half of the complaints filed in 1985 had been resolved within three months.

Table 5
Summary of Time Spent by RICO
in Resolution of Complaints
Filed in 1985

<u>No. of Days</u>	<u>No. of Complaints</u>	<u>Percent of Total</u>
0-30	124	31%
31-90	74	19
91-120	20	5
121-180	34	9
181-365	57	14
366-730	31	8
731-1095	12	3
1096+	2	1
Pending	40	10
Total	395	100%

Source: Regulated Industries Complaints Office, Contractors License Board, Master Log, 1985.

Despite these improvements, a number of complaints continue to be backlogged. Ten percent of the complaints filed in 1985 were still pending as of May 31, 1988, with seven complaints being over three years old. Fifteen percent of the total complaints filed in 1986 and 40 percent of those filed in 1987 were still pending as of May 31, 1988. This means that for the past three years, 418 complaints have not been resolved. Delays in complaint resolution ill-serve consumers and increase the risks of other consumers being hurt. We again urge RICO to make a greater effort to develop and institute an efficient case management system.

No specially trained staff. In our 1983 report, we noted that one way of improving the efficiency of case management is to have specially trained personnel handle construction contractor complaints. This suggestion seemed to be warranted by the substantial number of complaints against contractors. As shown by Table 6 below, the complaints filed against contractors continue to account for a significant portion of all complaints received by RICO.

Table 6

Complaints Against Construction Contractors
Received by the
Regulated Industries Complaints Office

<u>Year</u>	<u>Complaints Received by RICO (all boards)</u>	<u>Complaints Received Against Contractors</u>	<u>Percent of Complaints</u>
1983	1342	398	30%
1984	1543	401	26%
1985	1499	385	26%
1986	1744	600	34%
1987	2121	646	31%

Source: Department of Commerce and Consumer Affairs, Fifth Annual Report of the Regulated Industries Complaints Office, Honolulu, 1987.

In fact, a review of all complaints received by RICO on behalf of the boards, commissions, or programs under DCCA's jurisdiction shows that each year more complaints are filed against contractors than any other industry or profession.³⁸ Nevertheless, RICO has not yet designated personnel to specialize in this area. Instead, supervisors try to distribute cases equitably among staff. Assistance is sought from individuals with special knowledge only on an informal basis. It was claimed that in the past, some individuals did develop expertise in a specific area because they tended to be assigned to one type of case.

Without personnel who specialize in the construction contractors' area, it is not uncommon for a number of investigators to be assigned to different complaints filed against the same contractor. For instance, in 1987, ten complaints were filed against an unlicensed contractor. Three of the complaints involved incidents on a neighbor island and were assigned accordingly to three neighbor island investigators. Six of the seven remaining complaints were received by RICO within about a month of one another. While the investigator assigned to the first complaint

was still working on that it, five subsequent complaints were assigned to two other investigators. Thus, within a nine-month period, the same contractor had investigated by five different staff members.

No guidelines for case resolution. RICO has not established any guidelines or policies for determining how cases should be resolved. There are no disciplinary guidelines regarding penalties or prosecutorial actions. In addition, RICO has not defined acceptable mitigating and aggravating factors justifying departure from guidelines. Instead, the philosophy of RICO is that the staff should listen to the two parties and try to resolve the case to the consumer's satisfaction. Essentially, this means that the individual staff member assigned to the case decides on the disposition of the case. We find that this has resulted in inconsistent treatment of the same violations.

For example, for a few years, RICO has reviewed newspapers, magazines, directories, and other advertising materials to identify individuals and companies engaging in unlicensed contracting activity. We reviewed the disposition of some of these cases and found differences in how violators have been disciplined. Violations have resulted in \$500 fines; \$500 fines with \$250 being suspended; \$500 fines with the entire amount being suspended, warning letters; and no further punitive or disciplinary action upon assurance by the violator of voluntary compliance. Although the intent of the law is to identify and curb the activity of *unlicensed* contractors,³⁹ many complaints were filed against *licensed* contractors who had neglected to include their license numbers in their advertisements. Ironically, most of these licensed contractors were fined while some unlicensed contractors were merely issued warning letters. Still others escaped all disciplinary action because they could not be located.

Poor record keeping. Another area of weakness is RICO's method of record keeping. Currently, all records are kept manually. Numerous logs, card files, and folders are maintained to record and store information on complaints. The department itself reports that RICO's most severe problem is record keeping and that the system is "inaccurate, time-consuming, duplicative and cumbersome to maintain."⁴⁰ Our review of a random sample of 71 complaints filed against contractors in 1987 confirmed this. Despite a search by RICO staff, folders could not be located for four of the completed cases. In addition, we found that complaint cards were misfiled, the status of cases under investigation was not logged systematically, and information as basic as the alleged violation was sometimes not recorded on the file cards. RICO acknowledges the deficiencies of the system and anticipates that it will be able to solve some of these problems shortly with the implementation of a computerized record keeping system.

Enforcement. In Hawaii, the Legislature and the board have instituted strict regulatory laws and rules and provided for specific penalties in the event of their violation. The purpose is to ensure that only qualified contractors engage in the construction contracting business. However, the laws and rules remain ineffective and meaningless if they are not enforced. Our evaluation reveals that enforcement of these laws and rules has been weak and uneven.

In our 1983 report, we commented on the department's tendency to settle cases even when fraud is involved or other acts in violation of Chapter 444, HRS. In one recent instance, RICO initiated an investigation after an investigation of another complaint disclosed that the licensed contractor may have aided and abetted an unlicensed contractor. The unlicensed contractor had used the contractor's license to undertake some jobs and repay a personal loan to the licensee. The licensee admitted loaning his license, and several permits were found to have been issued under his license number by the unlicensed contractor. The investigation summary indicated that Section 444-9.3, HRS, had been violated, which states as follows:

“Aiding or abetting. Aiding or abetting an unlicensed person to evade this chapter or knowingly combining or conspiring with an unlicensed person, or allowing one's license to be used by an unlicensed person, with the intent to evade this chapter, shall be a misdemeanor.”

The case was then referred to RICO's Legal Section for review and final disposition. Although the licensed contractor had violated Section 444-9.3, HRS, as well as Section 16-77-73 of the administrative rules of the board, which states that a license is nontransferable, the staff attorney closed the case without filing a petition for disciplinary action. Instead, the licensee was sent a letter warning him against the loan of his license to anyone.

Under Section 444-17(13), HRS, the board may revoke, suspend, or refuse to renew a license if the licensee willfully failed to comply with Chapter 444, HRS, or the rules and regulations of the board. However, the non-prosecution of this case precluded any disciplinary action by the board. In fact, the board was not informed of the disposition of this case and remains unaware that one of its licensed contractors violated the statutes. Further, RICO's decision not to prosecute appears to have usurped the board's responsibility to discipline the licensed contractor since Section 444-23(a), HRS, provides that a licensee who violates section 444-9.3, HRS, *shall* be fined \$500 for the first offense. (Emphasis added.)

In another case, RICO received a complaint about an owner-builder violation. A couple living in another state had applied for and received a permit which exempted them from the state's contractor licensing laws because they were building a home for their own use. The

investigator found that the house was listed with a real estate agent and offered for sale before completion. When notified of the violation, the real estate agent canceled the listing and took the house off the market. An advisory letter was sent to the couple requesting that they refrain from unlicensed contracting activity. No punitive action was taken.

The weaknesses in the enforcement of laws and rules is most evident in RICO's disposition of complaints involving unlicensed contractors. The consumer has no assurance that an unlicensed contractor is professionally qualified or financially capable of fulfilling the contract. Furthermore, the consumer is not eligible for compensation from the Contractors Recovery Fund if the contractor is not properly licensed. From an industry standpoint, unlicensed contractors are given an unfair economic advantage. They avoid the expenses of licensure, state and federal taxes, insurance, and bonding, and are not always subject to punitive measures.

This is supported by our review of the disposition of all complaints filed in 1987 against unlicensed contractors. Of the 371 complaints against unlicensed contractors in 1987, 216 were resolved as of May 31, 1988. As shown by Table 7 below, either advisory or warning letters were sent in approximately 62 percent of the complaints that were filed in 1987 and resolved by May 31, 1988.

Table 7
Disposition of Complaints
Against Unlicensed Contractors
Filed in 1987 and Resolved by May 31, 1988

<u>Manner of Disposition</u>	<u>Number</u>	<u>Percent of Total</u>
Advisory letter	87	40%
Warning letter	47	22
Insufficient evidence/ No violation	27	13
Respondant unlocatable	22	10
Records only	10	5
Fine/Judgment	5	2
Settlement	5	2
Refer to AG	3	1
No jurisdiction	3	1
Civil	2	1
Other	5	2
Total	216	99%*

*Does not equal 100% because of rounding.

Source: Regulated Industries Complaints Office, Master Log
1987, Contractors License Board

In cases such as these, the contractors are in no worse position for having violated the law. Consequently, there is no incentive for them to comply with the law or rules. Issuing warning or advisory letters is not enforcement; it does not deter potential violators nor punish proven ones.

It is not surprising, then, that unlicensed activity in the construction contracting industry continues to be a problem in Hawaii. While an estimate of the number of unlicensed contractors in Hawaii is not available, our review of the number of complaints filed against unlicensed contractors at RICO suggests that unlicensed contractors are engaging in a sizeable portion of Hawaii's construction contracting industry. For example, complaints against unlicensed contractors have totaled 180, 313, and 330 for 1985, 1986, and 1987, respectively.⁴¹ Yearly, these totals have amounted to approximately half of all complaints filed at RICO against contractors.

Ambiguities in enforcement roles. Contributing to the weaknesses in the enforcement area are the ambiguities which surround the responsibility for enforcement. By statute, the responsibility for enforcing Chapter 444, HRS, and the rules adopted pursuant thereto, is vested with the board.⁴² The board members, however, are under the impression that RICO had assumed the enforcement responsibility when it was delegated the authority to handle complaints on behalf of the board in 1982.

This situation has developed partly because the board lacks the staff and resources to implement an effective enforcement program. While the statutes allow DCCA to appoint an investigator specifically for the Contractors License Board,⁴³ such an appointment was never made. On the other hand, RICO is headed by a complaints and enforcement officer and staffed by a full complement of intake specialists, investigators, attorneys, and clerical support personnel. However, RICO does not consider itself to be working for the board and, accordingly, does not take any direction from the board.

The board's assumption that RICO is responsible for enforcement is reinforced by the fact that RICO has initiated complaints against contractors. Moreover, under the provisions of Act 98, SLH, 1984, RICO was authorized to issue citations to "persons acting in the capacity of or engaging in the business of a contractor within the State, without having a license previously obtained under and in compliance with this chapter and the rules promulgated thereunder."

In spite of these delegations of authority, RICO has chosen to define its enforcement role narrowly. It maintains that its objective is consumer complaint resolution. It further contends that since it is responsible for servicing 39 other boards, it lacks the resources to police the entire construction contracting industry. In general then, RICO assumes a passive stance and relies on

filed complaints to identify unlicensed contractors or possible violators. What this means is that neither the board nor RICO is actively and systematically monitoring the construction contracting industry.

Lack of coordination and cooperation among agencies. Besides the board, many other state and county agencies are directly involved with construction contractors. These agencies include the county building divisions which issue building permits; the county planning departments which regulate zoning; the Department of Labor and Industrial Relations (DLIR) which is responsible for such areas as wage and labor laws, workers' compensation, and disability insurance; the Department of Accounting and General Services which enters into contracts for building and maintenance projects; and the Department of Taxation which collects taxes and assesses liens in cases of tax delinquencies.

While various regulatory responsibilities have been assumed by the different agencies, no one agency provides the leadership necessary to elicit interagency cooperation and coordination. Thus, essential information about lawsuits, permits, bankruptcy cases, malpractice, and complaints are not compiled, analyzed, or made available to the board. Without such information, the board cannot effectively license, monitor, and control its practitioners.

As an example, we cite the case of a licensed contractor who pleaded guilty to defrauding his workers of fringe benefits or wages on public work projects following an investigation by DLIR. The contractor filed an application for renewal of his license and for another license for a new corporation. As is currently the practice, the board posted his name on a list of applicants which was distributed to several trade organizations, lawyers, business groups, and the Department of Taxation for any protests against licensure. As a result, a representative from a labor union filed a protest with the board citing the applicant's failure to "possess a good reputation for honesty, truthfulness, financial integrity, and fair dealing."⁴⁴ However, since DLIR was not notified, no DLIR representative was present at the board meeting at which the contractor's attorney tried to minimize the offenses. Had the union attorney not been present, the board might have been persuaded by the contractor, his attorney, and his character witnesses to approve the licenses being sought.

The absence of cooperation and coordination between agencies is also evident in the area of owner-builder registrations. Under Section 444-2(7), HRS, owners or lessees who construct or improve a structure on their property for personal use and do not offer the structure for sale or lease within one year after completion are exempt from the contractor licensing requirements. However, the owner-builder claiming the exemption must register with the county. The county, in turn, is required to maintain an owner-builder registration list which can be utilized to

determine if a person is working in the guise of an owner-builder to evade the licensing requirements. However, the board does not receive these lists, nor do all counties maintain them. Therefore, it is not surprising that multiple permits have been issued to the same "owner-builders" within the one year time period or that complaints have been received about "owner-builders" who have been constructing houses for sale rather than for their own use.

Cooperation and coordination are lacking even between entities in the same state department. We find, for example, that no formal relationship has been established between RICO and the board. In our 1982 report, "Evaluation of the Professional and Vocational Licensing Program of the Department of Regulatory Agencies," we recommended that the investigatory and prosecutory functions of the board be separated from its adjudicatory functions.⁴⁵ This does not mean, however that the two agencies should not share any information.

As the agency with direct contact with consumers, RICO can and should share its knowledge about contractors with the board so that the board can better fulfill its regulatory responsibilities. However, RICO contends that it does not have enough staff to keep statistics and generate regular reports, although it does hope to do so after its new computer program is established. In the past, RICO has investigated specific applicants at the request of the board, but this is not being done now. Moreover, it does not always transmit information about the prior history of an applicant, although it receives the board's list of applicants for contractors' licenses. Other than cases requiring disciplinary action by the board, RICO does not inform the board about general problems in the field or deficiencies in the statutes. In fact, during a recent legislative session, the board was not aware that RICO had submitted a bill amending Chapter 444, HRS, until after its introduction in the Legislature. Consequently, the board did not present any testimony on the bill.

The board is charged with the responsibility of regulating contractors in the State. As discussed earlier, there is a need for increasing staff support before the board can elicit cooperation and coordination among all who are directly involved with construction contractors. Only then can state regulation of the construction contracting industry provide the public with reasonable assurance that the contractors in business in the State are appropriately qualified and licensed.

Recommendations

We recommend the following:

1. *Chapter 444, HRS, be reenacted to continue the licensing of construction contractors.*

2. *The Department of Commerce and Consumer Affairs assess the adequacy of the services and resources provided to the board in relation to the fees being derived from the contractors. Particular emphasis should be placed on staff workload, improving accessibility to the computer system, and defining lines of authority regarding the disbursement of funds held by the board in the Contractors Education Fund.*

3. *The Department of Commerce and Consumer Affairs evaluate the adequacy and effectiveness of its recordkeeping system so as to better serve the board and the public.*

4. *The Contractors License Board review all specialty classifications to determine whether the many specific specialty classifications warrant licensing. In conducting such a review, the board must first develop guidelines regarding (1) what falls within the scope of construction work or building trade, (2) what activities warrant regulation, and (3) what criteria must an activity meet to be considered a specialty.*

5. *The Contractors License Board establish uniform criteria to govern the issuance of all general and specialty classifications. In so doing, the board should identify and define the criteria and specify the requirements that must be met before a specific classification is assigned.*

6. *The Contractors License Board cease its practice of granting conditional licenses and amend its rules accordingly.*

7. *The Department of Commerce and Consumer Affairs initiate an overall and thorough review of the complaints management and enforcement system aimed at providing more timely complaint management, imposing sanctions on violators, and referring unlicensed contractors for prosecution. In so doing, the department should clarify the roles and responsibilities of RICO and the board with respect not only to enforcement but also in coordinating all involved governmental agencies to ensure that contractors engaging in the construction business in the state are appropriately qualified and licensed and are performing in compliance with applicable regulatory laws and rules.*

NOTES

1. Colling, R.C. and H. Colling, *Modern Building Inspection*, Building Standards Monthly Publishing Co., 1950, p. 48.
2. Garrett, Michael D., *Complete Handbook of Successful Subcontracting*, Prentice-Hall 1979, p. 96.
3. National Association of Home Builders, *1988 Analysis of State Builder and Remodeler Licensing Laws*, "State Contractor Licensing - 1988" reported in National Clearinghouse on Licensure, Enforcement and Regulation, *Clear News*, Volume V, No. 2, June 1988, p. 6
4. Hawaii Revised Statutes, Section 444-1(2).
5. Hawaii Revised Statutes, Section 26-9(1).
6. Hawaii, Legislative Auditor, *Sunset Evaluation Report, Contractors, Chapter 444, Hawaii Revised Statutes*, Report No. 83-3, Honolulu, January 1983, p. 17-18.
7. Senate Conference Committee Report 5 on House Bill 659, Twelfth State Legislature, 1983, State of Hawaii.
8. House Standing Committee Report 87 on House Bill 1766, Twelfth State Legislature, 1984, State of Hawaii.
9. Senate Standing Committee Report 499 on House Bill 2396, Twelfth State Legislature, 1984, State of Hawaii.
10. Senate Standing Committee Report 647 on House Bill 2111, Thirteenth State Legislature, 1986, State of Hawaii.
11. House Standing Committee Report 618 on House Bill No. 423, Regular Session of 1957.
12. Bank of Hawaii, *Construction in Hawaii*, 1987, p. 1.
13. "Boom Times for Hawaii Construction," *Honolulu Advertiser*, July 27, 1988.
14. Hawaii Revised Statutes, Section 444-5(a).
15. Department of Commerce and Consumer Affairs, *Geographic Report*, September, 1982.
16. Department of Commerce and Consumer Affairs, *Geographic Report*, May, 1988.

17. Snodgrass, William R. Comptroller of the Treasury, State of Tennessee, Department of Audit, Division of State Audit, *Performance Audit, Board for Licensing Contractors*, Nashville, Tennessee, February 1988.
18. According to the minutes of the meeting of the Contractors License Board, May 27, 1987, the executive secretary has been delegated the following responsibilities:
 - Develop forms for licensing;
 - Collect fees;
 - Issue licenses;
 - Cause the suspension, termination, and/or forfeiture of a license when it is automatically authorized by Chapter 444, HRS;
 - Cause a license to be placed on inactive status under the provisions of Section 44-15, HRS;
 - Cause the restoration of a license under the provisions of Section 44-15, HRS;
 - Assist the public by responding to inquiries and/or correspondence;
 - Formulate and implement procedures regarding the processing of license applications; and
 - Assist the board in its review of license applications.

The minutes of the same meeting show also that the executive secretary is authorized to review and make recommendations regarding all license applications and to appear on behalf of the board at any administrative hearing held on denial of a license application.

19. Hawaii Revised Statutes, Section 444-29.
20. Haw. Admin. Rules, sec, 16-77-101, April 14, 1988.
21. Department of Commerce and Consumer Affairs, Contractors License Board, Minutes of Meeting, March 18, 1988.
22. State of Hawaii, *The Multi-Year Program and Financial Plan and Executive Budget for the Period 1987-1993 (Budget Period: 1987-89)*, Volume III, p. 1508.
23. Hawaii Revised Statutes, Section 26-9(k).
24. Hawaii Revised Statutes, Section 444-11.1(2).
25. Contractors License Board list of new applications issued January 1, 1988 to June 30, 1988.
26. Hawaii Revised Statutes, Section 444-8.
27. Haw. Admin. Rules, sec. 16-77-28 (d), April 14, 1988.
28. Contractors License Board, *C-68 Contracting Entity Reclassification*.
29. Department of Commerce and Consumer Affairs, Contractors License Board, Minutes of Meeting, Honolulu, November 20, 1987.

30. Department of Commerce and Consumer Affairs, Contractors License Board, Minutes of Meeting, Honolulu, January 22, 1988.
31. Hawaii Revised Statutes, Section 444-7(d).
32. Haw. Admin. Rules, sec. 16-77, Exhibit A "Specialty Contractor Classifications," April 14, 1988.
33. *Ibid.*
34. *Ibid.*
35. ACSI-National Assessment Institute, *Hawaii Contractors License Examinations Summary*, January - December, 1987.
36. Haw. Admin. Rules, sec. 16-77-24, April 14, 1988.
37. Hawaii, Legislative Auditor, *Evaluation of the Professional and Vocational Licensing Program of the Department of Regulatory Agencies*, Report No. 82-1, January 1982, p. 48.
38. Department of Commerce and Consumer Affairs, *Annual Report of the Regulated Industries Complaints Office*, Honolulu, 1987, p. 19-20.
39. House Standing Committee Report 484 on House Bill 2589, Seventh State Legislature, 1974, State of Hawaii.
40. Department of Commerce and Consumer Affairs, *Annual Report of the Regulated Industries Complaints Office*, Honolulu, 1986, p. 18.
41. Department of Commerce and Consumer Affairs, *Annual Report of the Regulated Industries Complaints Office*, Honolulu, 1987, p. 19.
42. Hawaii Revised Statutes, Section 444-4(3).
43. Hawaii Revised Statutes, Section 444-5(c).
44. Hawaii Revised Statutes, Section 444-11(2).
45. Hawaii, Legislative Auditor, *Evaluation of the Professional and Vocational Licensing Program of the Department of Regulatory Agencies*, Report No. 82-1, Honolulu, January 1982.

APPENDICES

3/12

APPENDIX A

COMMENTS ON AGENCY RESPONSES

A preliminary draft of this Sunset Evaluation Report was transmitted on December 13, 1988 to the Contractors License Board and the Department of Commerce and Consumer Affairs for their review and comments. A copy of the transmittal letter to the board is included as Attachment 1 of this Appendix. A similar letter was sent to the department. The responses from the board and department are included as Attachments 2 and 3.

The board agrees that Chapter 444, HRS be reenacted. In response to the recommendations calling for a review of all specialty licenses and the establishment of uniform criteria to govern the issuance of all general and specialty classifications, the board will initiate action to review all contractor classifications. It doubts, however, whether such a review would result in the elimination of a significant number of classifications.

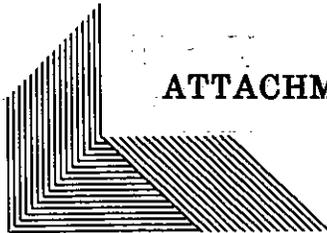
The board disagrees with our recommendation that it cease awarding conditional licenses. The board contends that it does have the statutory authority to issue conditional licenses, but suggests that statutory amendments are needed to clarify the practice. Despite our assessment that this licensing category detracts from, rather than enhances public protection, the board maintains that this practice provides contractors with a second chance and deters them from acting as unlicensed contractors. The board admits, however, that its monitoring and enforcement practices in this area are inadequate and states that this will be one of its priority activities.

The Department of Commerce and Consumer Affairs expresses appreciation for our views on matters pertaining to its operations and management, but indicates its belief that its actions are and have been the proper ones. It did not respond to any of the specific recommendations relating to the department.

9 - 1

ATTACHMENT 1

THE OFFICE OF THE AUDITOR
STATE OF HAWAII
465 S. KING STREET, RM. 500
HONOLULU, HAWAII 96813



CLINTON T. TANIMURA
AUDITOR

December 13, 1988

COPY

Mr. Wilbert S. Toma, Chairperson
Contractors License Board
Department of Commerce and Consumer Affairs
State of Hawaii
1010 Richards Street
Honolulu, Hawaii 96813

Dear Mr. Toma:

Enclosed are 14 preliminary copies, numbered 4 through 17, of our *Sunset Evaluation Update, Contractors, Chapter 444, Hawaii Revised Statutes*. These copies are for review by you, other members of the board, and your executive secretary. This preliminary report has also been transmitted to Robert Alm, Director of the Department of Commerce and Consumer Affairs.

The report contains our recommendations relating to the regulation of the business of contracting. If you have any comments on our recommendations, we would appreciate receiving them by January 12, 1988. Any comments we receive will be included as part of the final report which will be submitted to the Legislature.

Since the report is not in final form and changes may possibly be made to it, we request that you limit access to the report to those officials whom you wish to call upon for assistance in your response. Please do not reproduce the report. Should you require additional copies, please contact our office. Public release of the report will be made solely by our office and only after the report is published in its final form.

We appreciate the assistance and cooperation extended to us.

Sincerely,

Clinton T. Tanimura
Legislative Auditor

Enclosures

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JOHN WAIHEE
GOVERNOR



ROBERT A. ALM
DIRECTOR

NOE NOE TOM
LICENSING ADMINISTRATOR

CONTRACTORS LICENSE BOARD

STATE OF HAWAII

PROFESSIONAL & VOCATIONAL LICENSING DIVISION

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

P. O. BOX 3469

HONOLULU, HAWAII 96801

January 6, 1989

RECEIVED

JAN 12 11 51 AM '89

OFFICE OF THE AUDITOR
STATE OF HAWAII

Mr. Clinton Tanimura
Legislative Auditor
The Office of the Auditor
485 So. King St., Rm. 500
Honolulu, HI 96813

Dear Mr. Tanimura:

Re: Sunset Evaluation Updates - Contractors

The Contractors License Board thanks you for the opportunity to comment on the updated evaluation of the Contractors License Board. The Board has chosen to restrict its comments to items 1, 4, 5 and 6 of your recommendation as follows:

Recommendation 1: Chapter 444, HRS, be reenacted to continue the licensing of construction contractors.

Comment: The Board wholeheartedly supports this recommendation.

Recommendation 4: The Contractors License Board review all specialty classifications to determine whether the many specific specialty classifications warrant licensing. In conduction such a review, the board must first develop guidelines regarding (1) what falls within the scope of construction work or building trade, (2) what activities warrant regulation, and (3) what criteria must an activity meet to be considered a specialty.

Recommendation 5: The Contractors License Board establish uniform criteria to govern the issuance of all general and specialty classifications. In so doing, the board should identify and define the criteria and specify the requirements that must be met before a specific classification is assigned.

Mr. Clinton Tanimura
January 6, 1989
Page Two

Comments: The Board will review all contractor classifications as time permits. However, whether such a review will eliminate a significant number of classifications is questionable. It would be highly unlikely that classifications would be eliminated solely because there are a limited number of licenses in a classification.

At present, the Board evaluates the scope of work to determine whether specialized skill is required; whether the person will be altering, adding to, subtracting from, improving, enhancing or beautifying realty; and lastly, whether licensure requirement for public protection is warranted. The Board has turned down numerous requests for licensure when not warranted, even when persons strongly desire licensure.

Recommendation 6: The Contractors License Board cease its practice of granting conditional licenses and amended its rules accordingly.

Comments: The evaluation indicates that the reasons for this recommendation are: 1) The practice lacks statutory authority; 2) The practice detracts from rather than serves public interest; and 3) Monitoring or enforcement of the conditions imposed is lacking.

The Board believes it does have the statutory authority to issue conditional licenses. However, it appears that statutory amendments to clarify this practice should be made.

In regards to public interest, the Board strongly believes that providing an opportunity for contractors to reorganize their business; provide a person a second chance to engage in the contracting business; to provide a responsible managing employee an opportunity to prove that he/she has learned from his/her experience is in the interest of the public. Not providing these contractors an opportunity would encourage these people to continue contracting without licensure. (Incidentally, conditional licenses are never issued to persons who do not meet the experience requirement.)

Admittedly, monitoring and enforcement has been less than adequate. This activity, along with the classification review, will be placed as priority activities of the Contractors License Board.

Mr. Clinton Tanimura
January 6, 1989
Page Three

2/17
Lastly, the Contractors License Board would like to commend your staff for their professional conduct and a thorough review.

Very truly yours,



Wilbert S. Toma, Chairman
Contractors License Board

WST:sss

JOHN WAIHEE
GOVERNOR



ROBERT A. ALM
DIRECTOR
COMMISSIONER OF SECURITIES

SUSAN DOYLE
DEPUTY DIRECTOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
1010 RICHARDS STREET
P. O. BOX 541
HONOLULU, HAWAII 96809

January 10, 1989

RECEIVED

JAN 12 11 51 AM '89

OFFICE OF THE AUDITOR
STATE OF HAWAII

Mr. Newton Sue, Acting Auditor
Office of the Legislative Auditor
State of Hawaii
465 S. King Street, Room 500
Honolulu, Hawaii 96813

Dear Mr. Sue:

Subject: Sunset Evaluation Update - Contractors

The Department of Commerce and Consumer Affairs has reviewed the comments and recommendations made with regard to our operations and management. We appreciate having the benefit of your views on these matters but believe our actions are and have been the proper ones.

As to the comments about resources generally, please be assured that we have never hesitated to seek additional resources when appropriate.

Very truly yours,

A handwritten signature in black ink that reads "Robert A. Alm".

ROBERT A. ALM
Director

APPENDIX B

DIGEST

**A BILL FOR AN ACT
RELATING TO CONTRACTORS**

Extends contractor licensing law until 12/31/95.

(To be made one and twelve copies)

THE SENATE
FIFTEENTH LEGISLATURE, 19⁸⁹
STATE OF HAWAII

S.B. NO.

A BILL FOR AN ACT

RELATING TO CONTRACTORS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 26H-4, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§26H-4 Repeal dates. (a) The following chapters are
4 hereby repealed effective December 31, 1989:

5 [(1) Chapter 444 (Contractors License Board)

6 [(2)] (1) Chapter 448E (Board of Electricians and Plumbers)

7 [(3)] (2) Chapter 464 (Board of Registration of Professional
8 Engineers, Architects, Surveyors and Landscape
9 Architects)

10 [(4)] (3) Chapter 466 (Board of Public Accountancy)

11 [(5)] (4) Chapter 467 (Real Estate Commission)

12 [(6)] (5) Chapter 439 (Board of Cosmetology)

13 [(7)] (6) Chapter 454 (Mortgage Brokers and Solicitors)

14 [(8)] (7) Chapter 454D (Mortgage and Collection Servicing
15 Agents)

16 (b) The following chapter and sections are hereby repealed
17 effective December 31, 1990:

S.B. NO.

- 1 (1) Chapter 466J (Board of Radiologic Technology)
- 2 (2) Sections 321-13 to 321-15 (midwives, laboratory
- 3 directors, laboratory technologists, laboratory
- 4 supervisors, laboratory technicians, tattoo artists,
- 5 electrologists, and sanitarians)

6 (c) The following chapters are hereby repealed effective
7 December 31, 1991:

- 8 (1) Chapter 447 (Dental Hygienists)
- 9 (2) Chapter 453 (Board of Medical Examiners)
- 10 (3) Chapter 457 (Board of Nursing)
- 11 (4) Chapter 458 (Board of Dispensing Opticians)
- 12 (5) Chapter 460J (Pest Control Board)
- 13 (6) Chapter 462A (Pilotage)
- 14 (7) Chapter 438 (Board of Barbers)
- 15 (8) Chapter 468K (Travel Agencies)

16 (d) The following chapters are hereby repealed effective
17 December 31, 1992:

- 18 (1) Chapter 448H (Elevator Mechanics Licensing Board)
- 19 (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
- 20 (3) Chapter 457B (Board of Examiners of Nursing Home
- 21 Administrators)
- 22 (4) Chapter 460 (Board of Osteopathic Examiners)
- 23 (5) Chapter 461 (Board of Pharmacy)

S.B. NO.

1 (6) Chapter 461J (Board of Physical Therapy)

2 (7) Chapter 463E (Podiatry)

3 (e) The following chapters are hereby repealed effective
4 December 31, 1993:

5 (1) Chapter 437 (Motor Vehicle Industry Licensing Board)

6 (2) Chapter 437B (Motor Vehicle Repair Industry Board)

7 (3) Chapter 440 (Boxing Commission)

8 (4) Chapter 446 (Debt Adjusters)

9 (5) Chapter 436E (Board of Acupuncture)

10 (f) The following sections are hereby repealed effective
11 December 31, 1993:

12 (1) Sections 445-21 to 38 (Auctions)

13 (2) Sections 445-131 to 136 (Pawnbrokers)

14 (3) Sections 445-171 to 172 (Secondhand Dealers)

15 (4) Sections 445-231 to 235 (Scrap Dealers)

16 (g) The following chapters are hereby repealed effective
17 December 31, 1994:

18 (1) Chapter 441 (Cemetery and Funeral Trusts).

19 (2) Chapter 443B (Collection Agencies)

20 (3) Chapter 452 (Board of Massage)

21 (4) Chapter 455 (Board of Examiners in Naturopathy)

22 (5) Chapter 459 (Board of Examiners in Optometry)

23 (6) Chapter 442 (Board of Chiropractic Examiners)

24
25
B+4

S.B. NO.

1 (7) Chapter 373 (Commercial Employment Agencies)

2 (8) Chapter 448 (Board of Dental Examiners)

3 (9) Chapter 465 (Board of Psychology)

4 (10) Chapter 468E (Speech Pathology and Audiology)

5 (h) The following chapter is hereby repealed effective

6 December 31, 1995:

7 (1) Chapter 444 (Contractors License Board)

8 [(h)] (i) The following chapters are hereby repealed

9 effective December 31, 1997:

10 (1) Chapter 463 (Board of Private Detectives and Guards)

11 (2) Chapter 471 (Board of Veterinary Examiners)."

12 SECTION 2. Statutory material to be repealed is bracketed.

13 New statutory material is underscored.

14 SECTION 3. This Act shall take effect upon its approval.

15

16 INTRODUCED BY: _____

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