
Audit of the Convention Center Authority

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

Report No. 00-08
February 2000

THE AUDITOR
STATE OF HAWAII

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Submitted by

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Foreword

The Legislature, through Act 98, Session Laws of Hawaii 1999 directed the State Auditor to audit and monitor the progress made by the Convention Center Authority in resolving various outstanding issues. The Legislature desired assurance that these issues will be addressed on or before June 30, 2000. This is our third report in two years on the Convention Center Authority.

We wish to express our appreciation for the cooperation and assistance extended to us by the officials and staff of the Convention Center Authority and SMG, the convention center operator, during the course of this audit.

Marion M. Higa
State Auditor

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Chapter 1

Introduction

The Legislature, through Act 98, Session Laws of Hawaii (SLH) 1999, directed the State Auditor to continue to audit and monitor the progress made by the Convention Center Authority in resolving various outstanding issues and problems. The Legislature wanted assurance that these issues will be addressed by June 30, 2000. By February 28, 2000, the Auditor is to submit a management audit report to the Legislature on the effectiveness of the steps taken by the authority to resolve traffic, noise, and other outstanding claims against it. The management audit may include financial audit issues that the Auditor deems appropriate. This report responds to Act 98 and is our third report in two years on the Convention Center Authority.

Background

In 1993, the Legislature concluded that convention organizers had bypassed Hawaii for other destinations because Hawaii lacked the facilities to house conventions in a professional manner. It also concluded that the loss of convention-related business could have a long-lasting and far-reaching impact on the state, since Hawaii's economy was heavily dependent on tourism. Therefore, the Legislature found that the construction and operation of a convention center was crucial to the economic well being of the State and its counties. Convention-related business was anticipated to add an estimated \$335 million per year in new tax revenues to the State and the counties.

Originally, the convention center was to be constructed at the site of the International Market Place in Waikiki. After the developer withdrew its plan to construct the convention center in 1992, six alternative sites for a convention center were recommended to the Legislature. In 1993, the Legislature officially selected the present location for the facility at the corner of Kalakaua Avenue and Kapiolani Boulevard.

During the 1999 legislative session, the Legislature clarified that the primary intent in developing the convention center was to bring additional outside money into the state's economy. Consequently, the Legislature stated that the effectiveness of the convention center is to be determined by its ability to generate new tourism revenues and not by its ability to be self-supporting.

The Convention Center Authority

The Convention Center Authority, administratively attached to the Department of Business, Economic Development, and Tourism, was

established by the Legislature in 1988 to approve the proposed convention center development plan and supervise construction of the facility.

Chapter 206X, Hawaii Revised Statutes (HRS), establishes the authority, whose seven-member body is appointed by the governor pursuant to Section 206X-3, HRS. In addition to the seven members appointed to the board, the authority has seven staff positions, including an executive director, fiscal officer, and community relations officer.

The authority has completed its initial mandate to build the convention center. Other duties beyond the construction of the convention center, as legislatively defined in Section 206X-4, HRS, include, but are not limited to:

- Managing, operating, and maintaining, or entering into contracts for the professional management, operation, and maintenance of the convention center facility; and
- Setting, collecting, discounting, or waiving any rents, fees, charges, or other payments for the lease, use, occupancy, or disposition of the convention center facility.

The authority has oversight responsibilities

The Convention Center Authority, under empowerment granted by Section 206X-4, HRS, entered into a contract for the professional management, operation, and maintenance of the convention center facility with Spectacor Management Group (now known as SMG) for the base period June 28, 1996 through June 30, 2001. The State also has the option to extend the contract through June 30, 2003, and another option to further extend the contract through June 30, 2005.

Specifically, SMG's responsibilities include the management of the facility's day-to-day operations, administration, personnel, fiscal procedures and controls, food and beverage operation, pricing, maintenance, purchasing, parking, and the coordination and oversight of any sub-contractors, vendors, and suppliers. As of December 1998, SMG employed 67 full-time personnel for these purposes.

Some construction issues are outstanding

The primary purpose of the Convention Center Authority was to supervise the construction of the convention center. The authority is still responsible for resolving some outstanding construction-related issues.

In 1994, the authority issued a request for proposals (RFP) to design the convention center as a "design/build" project. After evaluating the proposals, the authority awarded a \$200 million contract to Nordic/PCL,

a joint venture, as the design/buildier. Nordic/PCL designed and constructed the facility on time and within budget. The authority accepted the facility on the completion date, October 13, 1997, but the convention center was not without need for repair or completion. Items discovered before the October 13, 1997 acceptance of the facility are referred to as “punchlist items.” Punchlist items include outstanding repairs or incomplete items. The punchlist for the convention center originally had approximately 250 items that Nordic/PCL needed to repair or complete. The authority has the responsibility for ensuring that all of these items are resolved.

Marketing is not a direct responsibility of the authority

Although the authority is responsible for managing, operating, and maintaining the convention center, it is not directly responsible for marketing the facility. Act 98, SLH 1999, clarified the target market for the convention center when it noted the authority could give first priority to offshore bookings. Second priority is to be given to smaller corporate meetings, special events, and other local events open to the public, provided that these events do not interfere with offshore bookings.

The Hawaii Visitors and Convention Bureau (bureau) is the primary entity that markets the convention center. The bureau, with 15 full-time sales representatives worldwide, is responsible for booking all offshore events for the convention center. The bureau provides monthly reports to the Convention Center Authority on its sales and marketing efforts.

The Convention Center Authority reports that it works closely with both the bureau and SMG to market the convention center. It also asserts that the convention center plays a major role in the revitalization of the state’s visitor industry while being sensitive to the priorities of hotels and the Blaisdell Center. SMG supports the bureau’s marketing efforts by participating in sales calls, initiating sales calls to potential licensees not contacted by the bureau, and assisting in developing leads for convention center bookings.

The bureau is under contract with the Hawaii Tourism Authority to provide tourism marketing and promotion of the state through the end of calendar year 1999. In addition, the bureau was recently awarded a separate \$6 million-a-year contract with the Hawaii Tourism Authority to specifically market the convention center.

Our February 1999 report on the Convention Center Authority noted that the authority’s goal for FY1999-2000 was to book 25 events into the convention center. A July 1999 monthly sales report produced by the Hawaii Visitors and Convention Bureau listed 22 conventions booked for this fiscal year. It also reported that 95 definite bookings have been made for the period 1998 to beyond 2010, and that another 109 tentative

bookings have been made for the same period. Currently, offshore events booked into the convention center must use a minimum of 500 hotel rooms on peak nights.

The authority faces some pressure to discount the rental fees charged for the convention center and has given the bureau more flexibility in providing such discounts. Act 98, SLH 1999, allows the authority to waive or substantially discount any rent, fee, charge, or other payment at an open public meeting for a specific event whenever the authority determines that the waiver or discount is in the best interest of the convention center facility or the State. In response to competition with other convention centers, the authority has approved current rental rates that are below market value and below the actual cost to operate the facility.

Projected expenses exceed projected revenues

The 1999 Legislature stated that the effectiveness of the convention center is to be determined by its ability to generate new tourism revenues for the State and not its ability to generate revenues to support its operations. In fact, a tourism official responsible for marketing the convention center noted that the facility will never cover its costs and that self-sufficiency is a secondary concern.

Despite acknowledging that the effectiveness of the convention center is not determined by its ability to cover costs, the Legislature, through Act 91, SLH 1999, required the Convention Center Authority to submit a detailed action plan to minimize the operational shortfalls of the convention center and the resulting deficits in the Convention Center Operations Special Fund. This report was to be submitted to the Legislature no later than 20 days prior to the convening of the 2000 regular session.

The convention center's expenditures are expected to exceed revenues by approximately \$4.4 million. Projected FY1999-2000 revenues for the convention center are over \$8 million, as shown in Exhibit 1.1. Revenues generated from food and beverage services are projected at slightly over \$5.3 million, while rental revenue is expected to be slightly under \$1.9 million. Projected expenditures total over \$12 million in FY1999-2000, as displayed in Exhibit 1.2.

Exhibit 1.1
Projected FY1999-2000 Convention Center Revenues

Rentals	\$1,881,661
Food and Beverage	5,349,725
Parking	124,500
Electrical	206,321
Telecommunications	203,167
Miscellaneous	<u>288,466</u>
TOTAL	\$8,053,840

Exhibit 1.2
FY1999-2000 Projected Convention Center Operational Expenses

Facility Operations (Non-Food and Beverage)	\$ 942,066
Food and Beverage Operations	3,892,947
Human Resources / Personal Services (Non-Food and Beverage)	4,281,360
Marketing and Public Relations	102,200
Office and Administration	185,706
Utilities	1,950,000
Management Fees	361,000
General Excise Tax	482,533
Other Expenses	<u>228,370</u>
TOTAL	\$12,426,182

The Convention Center Authority also incurs additional costs beyond the operational expenses of the convention center. Its FY1999-2000 budget for its own operations totals nearly \$500,000, as displayed in Exhibit 1.3.

Exhibit 1.3
FY1999-2000 Budget for the Convention Center Authority

Personal Services Expenses	\$372,684
Office Supplies and Services	23,350
Rental of Land and Building	23,000
Travel	4,000
Other Expenses	<u>58,400</u>
TOTAL	\$481,434

The Legislature recombined two special funds

Act 7 of the Special Session of 1993 established the Convention Center Capital and Operations Special Fund. Four years later, the Legislature separated this fund into a Convention Center Capital Special Fund and a Convention Center Operations Special Fund, established under Sections 206X-10.5 and 206X-10.6, HRS, respectively. However, the two funds were recombined into a single Convention Center Capital and Operations Special Fund under Act 98, SLH 1999.

This Convention Center Capital and Operations Special Fund may be used for, but is not limited to, the following:

- A depository for a portion of the revenues of the Transient Accommodations Tax, all proceeds from revenue bonds issued by the authority, legislative appropriations, and all net revenues derived from the operations or use of the convention center;
- Payment, establishment, or reimbursement of debt service issued for the purposes of the convention center;
- Operation, maintenance, and improvement of the convention center and any public facilities related thereto; and
- Any purpose deemed necessary by the authority for the purpose of planning, improving, and developing the convention center facility.

Act 98, SLH 1999, allows for the deposit of net revenues

Act 98, SLH 1999, allows for the deposit of net revenues rather than gross revenues into the special fund. The act also allows the Convention Center Authority to adopt administrative rules to define the term “net revenues or moneys derived from the operations or use of the convention center.” The authority reportedly is attempting to develop financial controls to monitor net revenues and has proposed amending the administrative rules accordingly.

The authority is scheduled to sunset

The convention center is owned and operated by the Convention Center Authority. The authority and Chapter 206X, HRS, which established the authority, were originally scheduled to sunset on June 30, 1999. As noted in our previous report on the authority, which we summarize below, unless specific provisions are made to transfer the authority to another state agency, state control over the convention center will cease with the expiration of the authority.

Act 98, SLH 1999, extended the sunset date of the Convention Center Authority from June 30, 1999, to June 30, 2000. However, the act did not specify which agency or jurisdiction, if any, should assume responsibility for the convention center after the extended sunset date.

Prior audits identified major issues

We conducted two prior audits of the Convention Center Authority. In our first report, *Audit Report of the Convention Center Authority: First Report—Design and Construction of the Convention Center*, Report No. 98-16, we found that the authority had generally assured that the newly constructed Hawai‘i Convention Center met or would meet contract and government requirements; however, the authority would need to resolve potentially costly problems. We also found that confusion over noise limits for events on the rooftop terrace hindered the identification and resolution of a possible flaw in the rooftop design.

We recommended that the authority continue to identify problems that may be the fault of the design/builder, ensure that the burden of rectifying any new problems attributable to the design/builder falls on the design/builder, and monitor the design/builder’s progress in rectifying design and construction flaws. Also, the authority should accept Department of Health community noise guidelines as the noise limits for events on the rooftop terrace. Furthermore, if a different noise standard was to be set for the rooftop terrace, this standard should be established by the Legislature or another objective party empowered by the Legislature.

Our second report, *Audit of the Convention Center Authority: Final Report*, Report No. 99-10, examined the role and function of the authority, the need for state oversight of the convention center, how the convention center is marketed and promoted, contracting issues, and the authority’s efforts to resolve issues affecting neighborhood residents. We found that the purpose of the Hawai‘i Convention Center needed clarification. We also found that continued state oversight of the convention center was needed. In addition, the Convention Center Authority had exercised its oversight responsibilities thus far. Lastly, we found that the Convention Center Authority had a difficult relationship with some neighboring residents.

We recommended that the Legislature consider amending Chapter 206X, HRS, to clarify the purpose of the convention center, how the convention center should generate tourism revenues for the State, and how the effectiveness of the facility should be assessed. Furthermore, we recommended that the Legislature consider extending the sunset date of Chapter 206X, HRS, determining the agency or department to assume the present functions of the Convention Center Authority, and requiring the authority to cooperate in ensuring the orderly transfer of its functions. We recommended that the Convention Center Authority develop clear booking policies in line with the directives of the Legislature. We also

recommended that the authority ensure it runs the necessary additional sound tests and adopts other measures to continue to monitor rooftop noise.

Objectives of the Audit

1. Identify and describe issues related to the future oversight of the convention center.
2. Assess the progress made by the Convention Center Authority in resolving the punchlist and warranty items.
3. Evaluate the management controls of the Convention Center Authority.
4. Assess the progress made by the Convention Center Authority in resolving traffic, noise, and other issues that impact surrounding residential and business communities.
5. Make recommendations as appropriate.

Scope and Methodology

Our audit reviews the time period from FY1997-98 to the present. We obtained information and data from an extensive review of documents including statutes, laws, administrative rules, correspondence, organizational materials such as meeting minutes, reports, and convention center policies, guidelines, contracts, and contract-related documents. We also reviewed our two prior reports on the Convention Center Authority. We interviewed staff and members of the authority, the Hawai'i Convention Center, and the Hawaii Visitors and Convention Bureau. We also interviewed personnel from the Department of Business, Economic Development, and Tourism; the Department of the Attorney General; the Hawaii Tourism Authority; and the City and County of Honolulu. We spoke to consultants of the Convention Center Authority and the Hawai'i Convention Center and interviewed selected residents of the neighboring community and the owners and/or operators of businesses near the convention center. We attended authority meetings and briefings with the community, conducted a physical inspection of the convention center to view punchlist items, and observed a convention's impact on traffic and noise.

Our work was performed from May 1999 to January 2000 in accordance with generally accepted government auditing standards.

Chapter 2

Vigilance Is Required

In this third report on the Convention Center Authority, we identify issues and concerns affecting the ongoing operations of the convention center. The authority has taken some steps to meet its responsibilities, however, continued vigilance is required to protect state interests in the convention center and to ensure that the facility meets legislative expectations. Important management controls must be strengthened and several issues regarding the convention center are unresolved. Finally, although some mechanisms are in place to address historical community concerns, the authority should not relax the vigilance required of it.

Summary of Findings

1. The Convention Center Authority's management controls are generally in place, but two important controls need improvement.
2. Issues regarding the future of the convention center are unresolved.
3. Although steps are being taken to respond to community concerns such as traffic and noise, the authority and the convention center operator must continue to address these issues.

Management Controls Are Generally in Place But Need Improvement in Two Important Areas

The Convention Center Authority is charged under Chapter 206X, Hawaii Revised Statutes (HRS), with the responsibility of managing, operating, and maintaining the convention center. To ensure that the facility is properly managed, operated, and maintained and that goals are met, the authority needs to establish a complete set of management controls. This involves:

- Setting performance standards and the methods for measuring performance,
- Measuring that performance,
- Determining whether the performance matches the standards, and
- Taking corrective action.

Specific controls applicable to the authority include, but are not limited to, the establishment of policies and procedures to monitor the achievements of the convention center, the collection and review of financial data, the collection and review of booking and client satisfaction information, and

steps to resolve the punchlist items. Another management control for state agencies that contract with private providers is the monitoring and evaluation of those contracts. A final management control is the development of policies and procedures to ensure that resource use is consistent with applicable laws and regulations.

We found that the Convention Center Authority's management controls are generally in place but need improvement in two important areas. Under Chapter 206X, the authority may enter into contracts for the professional management, operation, and maintenance of the convention center facility. The authority needs to establish a more rigorous and objective evaluation mechanism to ensure that SMG, the convention center operator, has satisfactorily met the terms and conditions of its contract. Secondly, the authority needs to establish procedures to ensure that it is in full compliance with the State Procurement Code.

Some controls are in place

The authority has established policies and procedures to monitor the extent to which goals and objectives are being achieved. These include requirements of the convention center operator to provide requisite financial information, the review and analysis of booking data, steps to ensure that the convention center meets the needs of clients using the facility, and procedures to ensure that the value of the convention center is safeguarded and maintained.

The authority secured professional management services to operate the convention center

In 1995, under the provisions of Chapter 206X, the Convention Center Authority issued a request for proposals (RFP) to procure professional management services to operate and maintain the convention center. The authority entered into a contract in June 1996 with Spectacor Management Group (now known as SMG) to operate and manage the convention center.

SMG's contract expires on June 30, 2001, but the authority has the sole option of extending the period of services in two option periods to June 30, 2005. SMG currently earns an annual management fee of \$350,000 and is reimbursed for costs or expenses that have been approved by the authority.

The authority has established policies and procedures to reasonably ensure that objectives are met

As a state agency responsible for oversight of the convention center, the authority has identified a set of goals for itself. In addition, the authority has the task of monitoring the accomplishment of the objectives given to

SMG as specified in the RFP and contract. Also, the authority and SMG have a dual responsibility to address the expectations for the convention center as articulated by the Legislature.

The authority's request for proposals for the management and operation of the convention center listed 14 general operating objectives and expectations for the operator. Although the authority contracted professional management services for the convention center, it was not absolved of the responsibility to ensure that the objectives were achieved. Consequently, the authority needed to establish policies and procedures to ensure that SMG fulfilled its responsibilities and met the terms and conditions of the contract.

According to the authority's draft administrative rules, the primary objective of the convention center is to "attract offshore dollars into Hawaii's economy and thereby infuse new tax revenues that will be available for the State to utilize in its many areas of economic need." These draft rules further detail 14 general operating objectives and goals under which the convention center shall be managed, operated, and maintained. These are consistent with the general operating objectives and expectations stated in the request for proposals.

The Convention Center Authority has management controls in place to assess the accomplishment of three broad areas of responsibility. These areas can be categorized as:

- Ensuring fiscal responsibility,
- Maximizing offshore revenues, and
- Preserving the value of the convention center.

Exhibit 2.1 summarizes selected management controls established which are relevant to these areas of responsibility.

The authority has established procedures to collect and review budget and expenditure data

Procedures are in place to monitor the fiscal responsibility of SMG, the convention center operator. Management controls in this area include collecting and reviewing budget and expenditure data, auditing financial statements, and analyzing cash flows in the special fund. For example, the authority requires SMG to submit an annual budget to the Board of the Convention Center Authority that details SMG's expected expenses and activities for the fiscal year. Review and approval of the budget helps to ensure that SMG is directed to use resources in line with the expectations of the convention center.

Exhibit 2.1
Selected Convention Center Authority Management Controls

Area of Responsibility	Management Control	Purpose
Ensuring fiscal accountability	<ul style="list-style-type: none"> • Review and approve past, present, and future facility operating expenses through the collection and review of SMG financial reports, travel requests, and annual budgets. • Audit SMG financial statements annually through the contracting of a public accounting firm. • Analyze Capital and Operations Special Fund cash flows through the review of reports on Transient Accommodations Tax revenue and debt servicing, as well as convention center operating expenses. 	<ul style="list-style-type: none"> • Ensures expected operating activities and expenses are aligned with the authority's intentions. • Validates financial information. • Supports long-range planning, including the formulation of policies and procedures.
Maximizing offshore revenues	<ul style="list-style-type: none"> • Review marketing strategies, activities, and outcomes through marketing materials and reports. • Determine customer satisfaction through in post-event client critiques. 	<ul style="list-style-type: none"> • Allows the Convention Center Authority to recommend marketing strategies and other efforts to improve the quality and quantity of facility bookings. • Identifies convention center areas and services in need of further examination and/or improvement.
Preserving the value of the convention center	<ul style="list-style-type: none"> • Resolve construction punchlist items. • Examine furniture, fixtures, and equipment through a physical inspection of the facility and fixed asset warranty analysis. 	<ul style="list-style-type: none"> • Ensures the design-builder is not released of its responsibility for the proper construction of the facility. • Allows the Convention Center Authority to ascertain and monitor the condition of the convention center.

While authority officials note that they are reluctant to micro-manage the convention center operator, SMG still is required to obtain certain approvals from the authority. For example, the authority's board approves all of SMG's contracts with vendors or service providers that are in excess of \$100,000. The authority also reviews and approves rental rates and fees for other services that have been recommended by SMG.

SMG's monthly financial statements provide the authority with sufficient financial detail to assess the convention center operator's expenses. These statements enable the authority to compare actual income to budget. They provide an explanation for any favorable as well as unfavorable variance from the monthly budget. In addition, they allow the authority to review income and attendance for specific events held at the convention center during the month.

The authority uses monthly financial statements to verify the accuracy of other statements submitted by SMG, including travel and expense reimbursement requests. In addition, the fiscal officer ascertains the rationale for atypical items in the financial statements. Also, a public accounting firm contracted to conduct annual financial audits of the convention center verifies the accuracy of the convention center's annual financial statements. The financial audit pinpoints operations and financial management issues that may require greater attention.

Information on facility operating costs is collected from SMG, while Transient Accommodation Tax revenue and convention center bond debt service figures are obtained from the Department of Budget and Finance. Such information allows the authority to formulate long-range plans for the convention center and set rental rates for offshore as well as local events.

The authority collects and reviews booking information and data on client satisfaction

Obtaining accurate and complete data is necessary for the Convention Center Authority to provide guidance and feedback to the Hawaii Visitors and Convention Bureau and SMG's sales department regarding their efforts to maximize bookings at the convention center. The authority obtains booking and expenditure data from the bureau such as potential, tentative, and definite bookings, anticipated number of attendees, and hotel room nights.

A booking is "tentative" when the user proposes the space and dates for the use of the convention center and SMG acknowledges the proposed use. A booking is "definite" when the user has executed a licensee agreement and has paid the initial deposit.

Information sources include monthly marketing reports, weekly meetings with SMG, and periodic memoranda from SMG and the bureau. Armed with this information, the authority can provide feedback to the bureau and SMG or participate with the two entities in the development of marketing strategies and activities.

The authority recently worked with the bureau to revise the format of booking information and gain a clearer understanding of its marketing strengths and weaknesses. In addition, the authority has recommended potential marketing opportunities to the bureau or SMG. These recommendations were developed after reviewing SMG's travel requests, current client booking data, and other information.

The authority also provided guidance to SMG to clarify the advertising practices for the center's ballroom banquet capacity. SMG had represented the banquet capacity of the ballroom to be less than that of one of Waikiki's major hotels. This gave the appearance that the center was competing with hotels that propose to compete more directly with the convention center for banquets of 2,000 or more attendees. The revised capacity figure reaffirmed that the center's ballroom capacity is greater than that of neighboring hotels.

The authority also obtains information from post-event critiques by consulting with SMG and the Hawaii Visitors and Convention Bureau. Such critiques help the authority identify ways to improve the convention center operations. For example, the authority used client critiques to identify locations in the convention center that were reportedly too warm. Our first report on the authority, *Audit Report of the Convention Center Authority: First Report – Design and Construction of the Convention Center*, Report No. 98-16, indicated that two areas of the convention center were reported to be uncomfortably warm. The authority collected monthly temperature reports to identify areas in need of cooling. Using this information, the authority decided to cool the center's lobby and upper concourse areas.

Management controls also preserve the value of the convention center facility. An important management control in this regard is the resolution of punchlist items.

The authority has worked to ensure the value of the convention center

The authority has established some steps to preserve or enhance the physical condition and contents of the convention center. One of those steps is the resolution of punchlist items. In addition, staff from the authority and SMG have inspected the facility and worked on correcting identified deficiencies, or conducted further observations and tests.

The authority is working to adopt a local events policy

The Convention Center Authority adopted a local events policy in March 1999 and has developed draft administrative rules for such. The policy defines local events as non-convention type events at which attendance by non-residents of Hawaii is less than 10 percent of the total anticipated attendance. The policy allows such events to be held at the convention center under certain conditions. However, weddings, birthday parties, anniversary parties, political fundraisers, proms, or similar events are not to be booked.

Originally, local events were restricted due to the authority's interpretation of its mandate to attract offshore dollars, parking limitations at the convention center, and concerns about noise and traffic. The authority received guidance from a deputy attorney general that the policy would have to be adopted as an administrative rule. This means the authority must adhere to public hearing and notice requirements before implementing the policy. Also, exact rates for local events will have to be adopted through administrative rule making.

The authority is still in the process of establishing its local events policy under administrative rules. In addition, the Convention Center Authority has also been working on proposed rates for local events. Such rates for local events are higher than those for offshore events, because offshore visitors generate Transient Accommodations Tax (TAT).

Hotel booking requirements revised

In 1995, the Convention Center Authority established a minimum hotel room block necessary to secure center bookings. The initial requirement was for 500-peak room nights, but to be increased over time to a 3,000-peak room nights requirement. The presumption was that the convention center would become busier over time and would be able to attract large conventions to Hawaii. However, in May 1999 the authority revised the policy to maintain the 500-peak room night minimum rather than to increase the requirement over time. In June 1999, the board approved a revised marketing policy procedure to maintain the 500-peak room night minimum.

The authority is in compliance with Chapter 206X, HRS

The authority is generally in compliance with the requirements of Chapter 206X, HRS. The authority makes and executes contracts as necessary; adopts rules in accordance with Chapter 91, HRS; oversees the operation, management, and maintenance of the convention center; and administers the Convention Center Capital and Operations Special Fund.

While the authority's management controls are generally in place, improvements are needed in two areas.

Important management controls should be strengthened

The authority is deficient in evaluating SMG's performance. Also, the authority has not consistently complied with the State Procurement Code. State agencies contracting with private providers are required, as custodians of limited public resources, to give contracted providers clear objectives, monitor their accomplishment of those objectives, and rigorously evaluate their performance using a defensible evaluation standard. Failure to attend to these tasks places the State at risk. In addition, the State Procurement Code is designed to ensure that state agencies fairly contract with vendors and that state resources are protected. Inattention to the detailed requirements of this code also places the State at risk and jeopardizes the integrity of the procurement process.

The authority's evaluation of SMG's performance lacks sufficient criteria, clarity, and rigor

SMG's performance should be evaluated to measure the extent to which services provided fulfill contract objectives. A Convention Center Authority official confirmed that the authority is responsible for ensuring that SMG meets the requirements of the request for proposal. The authority is unable to do this unless it conducts a comprehensive evaluation of SMG that includes a review of processes and outcomes.

Process evaluation determines (1) if the contracted procedures are carried out according to the standards set in the contract; (2) if the procedures are carried out efficiently; and (3) if processes actually contribute to the production of results. It requires that the authority and SMG have a written agreement regarding the expected results and a minimum set of procedures that will be used to produce those results.

Outcome evaluation determines if SMG is producing results that contribute to the authority's goals and objectives. The authority needs to create sound written objectives, include SMG's goals and objectives in the contract, and identify the measures of effectiveness to be used. An objective is a target or goal, stated in specific measurable terms. It needs to be well defined and clearly communicated. It quantifies performance so that there can be no dispute over results.

Specifically, the Convention Center Authority's responsibilities include: (1) constructing a contract with a clear and specific scope of services that can be adequately monitored and evaluated; (2) ensuring that SMG is in compliance with the contract and all applicable laws and regulations; (3) ensuring the fiscal accountability of SMG; (4) determining whether the services were provided as contracted; and (5) determining whether objectives were accomplished as proposed.

The authority did not fully meet these responsibilities. Consequently, the authority needs to examine and strengthen its mechanism for evaluating the convention center operator's performance. The authority lacks sufficient criteria for evaluating SMG's performance because objectives and expectations are not sufficiently measurable or clear.

We reviewed three different ratings of SMG's performance. The first was conducted by the authority's staff for FY1997-98; the second by the authority's board in 1999; and the third was a self-assessment completed by SMG in 1999. Two of these ratings referenced SMG's responsibilities as outlined in the initial request for proposals. However, taken either individually or altogether, these ratings are insufficient as comprehensive performance evaluations.

The evaluation conducted by staff members of the authority for FY1997-98 covered 14 items, including SMG's performance on enhancing Hawaii as a convention destination, maximizing the use of the convention center, and its standard of operations. Three staff members from the authority rated SMG on each item using a five-point scale. However, the scale was not defined and criteria were not established.

The evaluation by the board of the Convention Center Authority in 1999 rated SMG on six areas:

- Operates the convention center at a high standard;
- Develops, coordinates, and implements a strong marketing strategy;
- Establishes an effective working relationship with the authority and other tourism entities;
- Maintains good community relations;
- Maintains competent financial management; and
- Maintains a strong national reputation and financial stability.

Six of the board members rated SMG on each of the six items using a ten-point scale and an average rating for each item was calculated. However, we found no evidence that the board established standards or criteria for the ratings. In addition, there was no indication of what data was collected; how it was reviewed, if at all; or how that data might have supported the ratings. There was no indication of how closely SMG had come to achieving its objectives.

SMG's self-assessment of its accomplishments for FY1997-98 may be useful in obtaining the operator's perspective on its performance. However, objective evaluations require more than a self-assessment.

As a result, the authority's three evaluations were neither comprehensive nor objective. In a November 1999 board meeting, the authority approved an intent to renew SMG's contract, pending review by legal counsel. Unless the authority improves its method of evaluating the contractor's performance, the authority may not be able to thoroughly defend its recommendation to extend the State's contract with SMG.

The authority failed to comply with the State Procurement Code

The Convention Center Authority has not always complied with the State Procurement Code. This code, established by the Legislature in 1993, promotes fiscal integrity and responsibility as well as economy, efficiency, and effectiveness. It also was intended to provide for fair, consistent, and broad-based competition, to provide safeguards for quality and integrity, and to increase public confidence in public procurement.

Requirements of the State Procurement Code are based on Chapter 103D, HRS. Further details on the intent and practical application of the code is provided in the administrative rules of the Department of Accounting and General Services, in which the State Procurement Office is located.

Procuring entities must ensure that all interested parties have the same information. For example, if information is given to one bidder and that information would be useful to other bidders, then the procuring entity must issue addenda or written bid clarification notices to furnish other bidders with that same information.

In addition, a fixed-price contract is the only type of contract allowed in competitive sealed bidding. Furthermore, construction contracts over \$25,000 require the contractor to provide the State with contract performance and payment bonds at the time of execution. Failure to provide the two necessary bonds cancels the contract award. A contract performance bond protects the State against loss resulting from a contractor's failure to perform a contract in accordance with plans and specifications. A contract payment bond guarantees payment and protection for those furnishing labor and materials to the contractor or its subcontractors for the work bonded.

As a public entity, the Convention Center Authority must adhere to all aspects of the code. SMG, the convention center operator, on the other hand, although it uses state moneys and is reimbursed for its expenses, is not subject to the procurement code because it is a private firm. Although SMG is not subject to the procurement code, it is still obligated by its own

corporate policies to abide by corporate procurement policies. These policies are similar to the State Procurement Code. We reviewed SMG's contract files and found that SMG has generally adhered to its corporate procurement policies.

We reviewed all six of the Convention Center Authority's contracts executed during FY1999-2000 and found that the authority did not adhere to State Procurement Code requirements in two of the six contracts.

In one contract, the Convention Center Authority failed to ensure the equitable treatment of vendors. Section 3-122-27, Hawaii Administrative Rules (HAR), requires that all bidders be informed of changes in specifications to ensure that each bidder's proposal is treated equitably. The authority did not issue an addendum to inform all interested bidders submitting proposals for hands-free retrofits in the convention center's restrooms that the authority had approved a substitute product that deviated from the initial design specifications. Consequently, one vendor asserted that another vendor who had received this information benefited from an unfair advantage over all bidders. However, the authority took no significant action as a result of this complaint. In another instance, the Convention Center Authority exposed the State to unnecessary liability by issuing a contractor with a notice to proceed on a construction contract 7 days prior to receipt of the performance bond and 11 days prior to execution of the contract.

Major Issues Are Unresolved and Could Affect Operations

Several major issues are currently unresolved and could adversely affect the operations and maintenance of the convention center. The most important issue is the need to retain public oversight over the operations and maintenance of the convention center. If the authority sunsets without resolution on this issue, the State's interests in the \$200 million facility could be unprotected. In addition, although the authority has worked toward resolving all remaining punchlist items, three major items are still unresolved. Regardless of which agency or jurisdiction assumes oversight responsibilities after June 30, 2000, the public's interest must still be protected and the design/builder must still be held accountable for adhering to the conditions of the contract. Finally, two matters outside the direct control of the Convention Center Authority but directly affecting convention center operations, put the State at some financial risk.

No provisions for continued oversight exist

Act 98, SLH 1999, extended the sunset date of the Convention Center Authority from June 30, 1999 to June 30, 2000. However, the act did not contain provisions for continued oversight of the convention center after the sunset date. It did not specify which state agency, if any, should assume responsibility for the convention center after the sunset date. In addition, the act did not address whether the officers and employees of the

Convention Center Authority should be transferred. It did not address the transfer of the authority's functions or the continuity of its rules and policies; it was silent on what should happen to the deeds, leases, contracts, loans and permits entered into by the Convention Center Authority; and it did not indicate how records and equipment should be transferred.

Formal plans have not been made

The Convention Center Authority has not developed formal plans or mechanisms to ensure that its current oversight responsibilities can be transferred to another agency. It has not formally discussed the potential transfer of its functions and responsibilities and is conducting "business as usual." A Convention Center Authority official believes the Legislature may extend the sunset of the authority again. A member of the board asserts that the majority of the board members of the authority feel that the board should continue its responsibility for the convention center. However, no formal decisions by the board have been made on this matter. The Convention Center Authority is waiting for direction from the Legislature before it develops plans or mechanisms to assist in the transfer of its functions and responsibilities.

The Hawaii Tourism Authority has not taken a formal position

In 1998, the Legislature created the Hawaii Tourism Authority and placed it within the Department of Business, Economic Development, and Tourism for administrative purposes. The powers of the Hawaii Tourism Authority include, but are not limited to, engaging the services of qualified persons to implement the State's tourism marketing plan, and creating a vision and developing a long range plan for tourism in Hawaii. The tourism authority has not been given specific responsibilities regarding the convention center. Act 156, SLH 1998, does not address the transfer of functions and responsibilities of the Convention Center Authority to the Hawaii Tourism Authority.

For the purposes of continuity, the Legislature provided that the Hawaii Visitors and Convention Bureau shall be the designated agency to conduct marketing and promotion until the end of FY1998-99 or until another date set by the board of the Hawaii Tourism Authority. The Hawaii Tourism Authority announced in November 1999 that it was awarding a new \$6 million-a-year contract to the Hawaii Visitors and Convention Bureau to market the Hawai'i Convention Center.

According to an official with the Hawaii Tourism Authority, no definite or formal plans have been made to assume oversight responsibilities. The Hawaii Tourism Authority, like the Convention Center Authority, is waiting for the Legislature's direction on this issue. The Hawaii Tourism

Authority has not taken any official position on whether the responsibilities of the Convention Center Authority should be transferred or not.

We identified options in our last report

In our *Audit of the Convention Center Authority: Final Report*, Report No. 99-10, we argued that state control over the operations and performance of the convention center was necessary. We noted that unless specific provisions are made to transfer the Convention Center Authority's funds and functions to another state agency, state control over the convention center would cease with the expiration of the authority.

The first option at that time was to postpone the sunset of Chapter 206X and the Convention Center Authority and to plan for the transfer of the authority's functions at some point in the near future to another state agency. The second option was to repeal the sunset of Chapter 206X and allow the authority to retain control over the convention center indefinitely.

The third option was to transfer the functions of the Convention Center Authority to the newly created Hawaii Tourism Authority. The primary argument for placing the functions within the Hawaii Tourism Authority was that the authority had the responsibility for setting policies regarding tourism marketing and promotion in the state. However, the tourism authority had not been given specific responsibilities for the convention center.

We believed that the Legislature should postpone the sunset of Chapter 206X and specify the responsibilities of the Convention Center Authority in ensuring the orderly transfer of its functions to another agency. We noted that without a state agency to oversee the proper management of the convention center, the State's interests in the center could go unprotected.

An oversight agency needs to be chosen

Public control over the operations and performance of the convention center continues to be necessary because the Hawai'i Convention Center is a state-owned facility and serves a public purpose. Unless specific provisions are made to transfer the Convention Center Authority's funds and functions to another agency or jurisdiction, public control over the convention center may cease with the expiration of the authority.

The Legislature has options to consider

Similar options face the Legislature this session. The Legislature will need to decide this year how to ensure that public oversight of the facility

continues. Currently there are no plans or provisions for public oversight of the facility's operations after the authority expires in June. Such provisions need to be established. Also, if the authority's funds and functions are transferred, the Legislature should ensure that the Convention Center Authority and the receiving agency or jurisdiction dedicate the time and coordinated effort necessary to ensure a complete, smooth, and effective transfer that minimizes the impact upon the operations of the center. As we discussed in our previous report, a number of options are available. Three possible alternatives are discussed below.

Option 1 – Retain oversight with the Convention Center Authority.

We argued in our last report that the sunset of Chapter 206X and the Convention Center Authority should be postponed. Act 98, SLH 1999, did extend the sunset to June 30, 2000. Convention Center Authority board members and staff who favor retaining oversight responsibilities through the authority assert that a specific focus on the operations, maintenance, and promotion of the convention center is necessary. They contend a transfer to another public agency may result in a loss of such focus, or that valuable experience and knowledge about the convention center will be lost. This is particularly important given the size of the public investment in the convention center. Other individuals however are concerned that retaining oversight responsibility with the Convention Center Authority perpetuates a separation or “disjoint” between tourism promotion and convention center operations.

Option 2 – Transfer responsibilities to another agency such as the

Hawaii Tourism Authority. A primary argument in favor of this option is that the Convention Center Authority has completed its initial mandate to select a developer and oversee the construction of the convention center. The Hawaii Tourism Authority is responsible for tourism marketing and promotion in the state and thus is a viable candidate for assuming responsibility for the convention center. The Hawaii Tourism Authority has the responsibility for setting policies regarding tourism marketing and promotion in the state. During the 1999 legislative session, the director of the Department of Business, Economic Development, and Tourism testified that the Convention Center Authority's functions and responsibilities should be transferred to the Hawaii Tourism Authority to ensure that there was sufficient coordination of marketing and operations efforts.

In our last report, we noted that this option should be given serious consideration after the Hawaii Tourism Authority evolved and it became clear whether the authority had the staff and resources to oversee the convention center. The director of the Department of Business, Economic Development, and Tourism and an official from the Hawaii Tourism Authority believe that there is sufficient time to develop and implement

plans for the transfer of the Convention Center Authority's responsibilities to the Hawaii Tourism Authority. Both parties have indicated that the Hawaii Tourism Authority could adequately handle these responsibilities.

A Hawaii Tourism Authority official believes that the operational funds of the convention center should not be co-mingled with the tourism special fund because the funds have different purposes. The official asserts that the Legislature should create two special funds—one for tourism and one for operations. In addition, there are fears in the tourism industry that the convention center's debt service costs would erode the tourism special fund.

Others have expressed concern that the Hawaii Tourism Authority's charge to promote tourism in Hawaii may overshadow the specific attention needed to effectively promote the convention center. Also, the ability of the Hawaii Tourism Authority to monitor and resolve the punchlist items is open to question.

Option 3 - Transfer responsibilities to the City and County of Honolulu. A third option is to transfer oversight responsibilities to the City and County of Honolulu. This may involve selling or leasing state property to the city and county. Proposals to effect such a transfer have been made. One argument in favor of the transfer is that in other jurisdictions, city governments are typically responsible for stadiums, convention centers, and other public facilities. Mayor Jeremy Harris, in testimony before the 1998 Legislature, asserted that the city and county had the expertise to operate and maintain the convention center.

One legislator interviewed for this audit asserted that there are legitimate reasons for putting the City and County of Honolulu in charge of the center's operations because county government is capable of coordinating the development of the area surrounding the convention center. The legislator stated that if the convention center is designed to stimulate the economy, then redevelopment of the area around the area is necessary and that requires a coordination of effort between the State and the county. A concern expressed is that a transfer to the City and County of Honolulu would result in the loss of the convention center's statewide economic support orientation.

Should a different oversight agency be selected, a transfer mechanism needs to be established

During the 2000 legislative session, the Legislature may decide to transfer oversight functions to another agency or jurisdiction. If such a decision is made, a mechanism needs to be developed to ensure the orderly transfer of these functions. A deputy attorney general confirms that details of the transfer need to be statutorily defined. For instance, statutory language should clearly specify that all rights, powers, functions, and duties of the

Convention Center Authority are transferred. In addition, it should also address how officers and employees of the authority are to be transferred. Statutory language could also clarify that all rules, policies, procedures, guidelines, and other materials adopted by the authority to implement the provisions of Chapter 206X remain in full force until amended or repealed by the receiving agency or jurisdiction.

It is also important to specify that all deeds, leases, contracts, loans, agreements, permits, or other documents entered into or on behalf of the Convention Center Authority are reenacted or made applicable to the receiving agency or jurisdiction and remain in full force and effect. Finally, all appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property of the Convention Center Authority should be clearly transferred to the receiving agency.

Also, should the Legislature select another agency or jurisdiction to assume oversight responsibilities, the selected agency or jurisdiction will be responsible for protecting the public's interest in the convention center. That agency or jurisdiction needs to establish a complete set of management controls to ensure that the convention center is properly managed, operated, and maintained. These controls include but are not limited to a systematic monitoring of the accomplishments of the convention center, the proper review and approval of expenses to ensure fiscal accountability, procedures to ensure a consistent adherence to the State Procurement Code, and a rigorous evaluation of any private contractor's performance.

Three punchlist items are unresolved

In our *Audit Report of the Convention Center Authority: First Report—Design and Construction of the Convention Center*, Report No. 98-16, we recommended that the authority continue to identify problems that may be the fault of the design/builder, ensure that the burden of rectifying any new problems attributable to the design/builder falls on the design/builder, and monitor the design/builder's progress in rectifying design and construction flaws. In response to the report, the Convention Center Authority stated that it would continue to aggressively pursue the timely completion of the outstanding items in the best interest of the State.

The Convention Center Authority and its consultant engineer (Rider Hunt) have monitored the punchlist and warranty items and have been successful in finding a resolution to virtually all items. However, three important and potentially costly punchlist items are currently unresolved.

Rooftop terrace concrete cracks

The contractor has admitted that the cracks in the concrete non-structural wearing slab are due to a poor concrete job and has suggested a topping to

architecturally conceal the cracks. The authority has taken the position that badly cracked portions of the slab should be removed or replaced, or alternatively, a tile-wearing surface should be installed on the entire concrete slab surface. The authority reports that the problem is not structural but cosmetic. The contractor has asked the authority to view coating installations. The authority will be viewing the coatings and determining if any are acceptable.

Ballroom floor vibrations

Convention attendees dancing in the ballroom have reported strong vibrations in the ballroom floor. The Convention Center Authority's structural consultant feels that the ballroom floor does not meet the requirements for ballroom usage. Although there is no danger of collapse, dancers are not comfortable with the vibrations. The design/builder is in agreement with the Convention Center Authority on the need to stiffen the struts in the ballroom. Designs for stiffening the ballroom floor are being reviewed and the authority reports that this issue seems to be close to resolution.

Rooftop terrace noise

The Convention Center Authority maintains that it was promised a rooftop terrace that could be used for luaus and light shows, among other types of events. The design/builder maintains that an operational rooftop was furnished. The design/builder also asserts that the responsibility for controlling whether noise exceeds Department of Health limits belongs to the Convention Center Authority. The authority has purchased a customized sound system to minimize the impact of amplified sound on the surrounding neighborhood. However, the Convention Center Authority reports that more customized equipment may be necessary. The Convention Center Authority also reports that it will hold the design/builder responsible until the Department of Health agrees that the rooftop terrace is in compliance with its noise standards.

The Convention Center Authority also reports that SMG intends to apply for an extension of the convention center's liquor license. Currently, the convention center holds a liquor license, but the rooftop terrace is excluded. Until the application for the license is extended to the rooftop terrace, the convention center can apply for one-day permits that allow alcoholic beverages to be served on the terrace on a temporary basis.

The authority's deputy attorney general advises that the authority is not in a position to tell the design/builder how to repair or fix a problem, only that the problem needs to be fixed. If the authority tells the design/builder how to fix the problem and the "fix" is wrong, the State will be liable for the costs of repairing the "fix."

Operations could be affected

If these issues are not resolved, the operations of the convention center could be negatively affected. Associations may not book conventions and shows at the convention center if they are unable to use the rooftop terrace or the ballroom for their functions. There is some question as to whether the rooftop terrace is practical, if events held on the terrace are unable to meet the guidelines established by the community task force and adopted by the authority. Consequently, the convention center could lose more money than anticipated. Other costs may also be assumed. If the authority chooses to take the design/builder to court, there is no guarantee that the authority will prevail. In addition, the authority may have attorney fees to cover, regardless of the outcome. If the authority does not require the design/builder to address all remaining punchlist items, then the State may have to pay for the costs of all repairs or enhancements to the convention center.

If oversight functions are transferred, responsibility for resolving the punchlist items will need to be addressed

Should these punchlist items not be resolved by June 30, 2000 and should the Legislature decide to transfer oversight functions to another agency or jurisdiction, the punchlist items will still be issues to be resolved. The receiving agency must have the expertise or contract with consultants who have the expertise to monitor and ensure that the design/builder meets the terms of its construction contract. Otherwise, a failure to fully ensure the design/builder's compliance places the State at financial risk.

Other issues also pose potential financial risk for the State

We found two issues outside the control of the Convention Center Authority that place the State at some financial risk. The first issue concerns a potential gap in the provisions of the State Procurement Code; the second arises from a provision established by the Legislature in Act 98, SLH 1999.

The State Procurement Code does not apply to contractors reimbursed for their expenses

Currently, the State Procurement Code applies only to state and county agencies. It does not apply to contractors reimbursed by the State for their expenses. In this audit we found that the Convention Center Authority reimburses the expenses of the convention center operator, SMG. Contractors, such as SMG, because they are reimbursed for their expenses, have little incentive to monitor such expenditures. In addition, should such contractors procure goods or services from other vendors, there is no apparent incentive for them to secure goods and services at the best price. This places the State at a disadvantage. In addition, it may contravene the spirit and intent of the State Procurement Code.

Act 98, SLH 1999, places the State at risk

We also found a potential risk in a provision established by Act 98, SLH 1999. This act revised Section 206X-10.5, HRS, which governs the Convention Center Capital and Operations Special Fund, and stipulated that “net” rather than “gross” revenues from convention center operations are to be deposited into the special fund. “Gross revenues” are all revenues from convention center operations or events. “Net revenues” refers to the amount remaining after the costs of goods and other expenses directly related to an event are deducted from gross revenues.

The Convention Center Authority has been developing amendments to the Hawaii Administrative Rules to allow SMG to offset revenues against expenses. These amendments were approved at a September 1999 board meeting. The authority also reports meeting with an accounting firm to develop the necessary safeguards to implement the procedure.

Allowing SMG to deposit net rather than gross revenues gives SMG greater spending flexibility. Also, event expenses are not counted against the operator’s annual expenditure ceiling.

The authority expressed concerns about the provision because it may be more difficult to monitor contractor expenditures accurately. In addition, “net revenues” needs to be clearly delineated. The authority has been developing procedures to be incorporated in the authority’s administrative rules. However, the rules have not been finalized and still must be presented at a public hearing.

We believe that the “net revenues” provision creates a potential for SMG or any center operator to abuse contract terms by concealing the nature and amount of the actual expenditures for any given event. State control over contractor expenses is reduced as a result of this provision. We believe the “net revenues” provision in Section 206X-10.5, HRS, should be repealed. Gross revenues, rather than net revenues, should be deposited into the Convention Center Capital and Operations Special Fund.

Other Issues Are Being Addressed

We found that other issues potentially affecting the authority’s relationship with the community are being monitored or are being addressed. As a public entity, the Convention Center Authority, with the mandate to protect and preserve the interests of the State, also is tasked with the duty of being genuinely responsive to the needs and concerns of the community surrounding the convention center. We found in our last report that despite formal mechanisms to obtain community input and to address community concerns, some neighborhood residents believed that the authority had not adequately responded to their concerns. In this

audit, we found that the authority and SMG have mechanisms in place to receive and to respond to the concerns of neighborhood residents and organizations. We also found that the authority and SMG are monitoring traffic and noise issues.

Gaining public trust and confidence is paramount

An important criterion that we identified in our last report still holds. We noted that in order to increase public trust and confidence through interactions with individuals and groups outside the organization, public agencies should make the following commitments:

- Involve stakeholder groups in discussions before key decisions are made through frequent, open, and prompt contact;
- Carry out agreements in a timely manner unless modified through an open process established in advance;
- Consistently and respectfully reach out to state and community leaders and to the general public to inform, consult, and collaborate with them about the technical and operational aspects of agency activities;
- Maintain a presence of key agency leaders who make themselves visible and accessible to citizens at important field sites; and
- Secure benefits for affected communities along with the resources that might be needed to detect and respond to unexpected costs arising from actions taken by the agency.

Some mechanisms are in place

Convention Center Authority personnel assert that the authority's relationship with the community is on good ground. We found that the authority and SMG have mechanisms in place to solicit and respond to neighborhood concerns. These include Convention Center Board meetings at which community members can address the authority and identify issues, attending neighborhood board meetings, and Hawai'i Convention Center Joint Advisory Council meetings. The authority also reports disseminating newsletters and posting information notices in condominium complexes. In addition, SMG reports that its senior staff meet bi-monthly with the presidents of 13 surrounding condominiums to listen to their concerns, advise them of upcoming events, and maintain a healthy dialogue with the community.

As noted in our last report, some neighborhood residents feared that adjoining streets would not be able to accommodate additional traffic and that excessive noise would be generated by that traffic. Authority staff acknowledge that community concerns about the impact of noise and traffic are valid and that a continuing effort on the authority's part to

reach out to and interact with the community is needed. In addition, community concerns about noise from events on the rooftop terrace may affect the authority's ability to come to a full resolution on the use of the rooftop.

Some steps have been taken to address traffic issues

Some steps have been taken to address traffic issues and to respond to community concerns about traffic. SMG developed a transportation operating manual to define the transportation responsibilities and requirements for events held at the convention center. The manual covers issues such as freight delivery, bus and shuttle service, and on- and off-site parking. For example, freight deliveries are allowed at the Kahakai entrance only between the hours of 7:00 a.m. and 10:00 p.m. Deliveries between 10:00 p.m. and 7:00 a.m. need to be made through the Kalakaua entrance to the convention center.

With regard to bus and shuttle service, the contracted bus company must provide on-site dispatchers at the convention center. The on-site dispatchers are to be in radio contact with the drivers to direct and control bus traffic to minimize impact on surrounding streets. Buses also cannot be queued on Atkinson Drive, and the primary drop-off point is the bus lane in front of the convention center.

In addition, the City and County of Honolulu has imposed some requirements on the convention center to minimize the traffic impact on the surrounding community. City and county officials report that the convention center has adhered to these requirements.

Post-event critiques by convention center personnel, staff from the Convention Center Authority, bus companies, event planners, and city and county personnel are held to review noise and traffic issues. The convention center also maintains a "complaint log" and a 24-hour security line to which neighbors can call to report problems. During the 1999 calendar year, 15 complaints were logged as of August 16, 1999. The security and transportation manager reported fewer than 20 complaints as of October 1999.

The convention center reportedly has complied with traffic requirements

The city and county Department of Transportation Services imposes a number of requirements on the convention center to minimize the impact of traffic and noise from conventions. One requirement is to obtain street usage permits as necessary. Another is to use traffic control personnel to oversee or monitor traffic during events at the convention center. An SMG manager requests street usage permits from the city and county Department of Transportation Services to facilitate the flow of traffic around the convention center during events. For example, a permit is

needed to restrict parking on the east side of Atkinson Drive to provide a dedicated lane on Atkinson Drive for convention center traffic. Traffic control personnel (Honolulu Police Department Special Duty Officers) also provide pedestrian and vehicular traffic control during events.

Prior to each event in which bus or shuttle service is provided to attendees, the convention center operator is required to submit traffic operating plans to the city and county prior to the event. The convention center reports that the city has not denied any of these plans to date.

The city and county Department of Transportation Services also imposed a specific requirement for the American Dental Association Convention. The convention center operator was required to hire a traffic consultant to develop a traffic study prior to that convention. This was the first time the city and county required a traffic study prior to a convention.

The city and county approved a plan for that convention to unload and load buses on Atkinson Drive as well as on Kalakaua Avenue and close the porte cochere to vehicular traffic. The porte cochere is the primary drop-off point for buses fronting the convention center. It can accommodate approximately eight buses in designated stalls. Prior to the convention, some neighborhood residents were concerned about the closure of the porte cochere and the unloading/loading zones on Atkinson Drive.

No major problems with the American Dental Association convention were noted

The American Dental Association convention was the largest convention at the convention center to date. A city and county official reports that an extraordinary effort on the part of state and local government agencies was needed to assure that the convention met the needs of the association and that it did not adversely affect the community around the convention center. Included in this effort was a neighborhood meeting in which the Convention Center Authority informed the community about the traffic plan for the convention and the potential impact of traffic and noise on the community.

We reviewed that traffic plan, monitored traffic around the convention center, and spoke to community residents during the convention. We found no major problems with the implementation of the traffic plan. Neighborhood residents interviewed during and after the convention voiced no complaints about the traffic or noise during the convention. Neither the convention center operator nor the city and county Department of Transportation Services has reported receiving a complaint about the convention. However, some business operators reported that “local business” suffered during the convention because local residents were warned to stay away from the convention center area.

Reports in the media termed the convention a “success” and the Convention Center Authority received a congratulatory letter from the association that called the convention “a stunning success.” Although the convention was by reported accounts a “successful one,” that may be due in part to the efforts provided by the State, the city and county, and volunteers. It is not clear whether such levels of effort will be needed for future events of the size and scope of the American Dental Association.

Concerns about rooftop terrace noise require the authority to adopt measures

Concerns about noise from events on the rooftop terrace have prompted the authority and the convention center operator to adopt measures to address the issue. A consulting firm conducts noise tests on the rooftop terrace during the events held at the convention center and reports after each event to the authority and the convention center operator. The consultant monitored the noise on the rooftop terrace during the entire American Dental Association and reported no significant noise on the rooftop during the convention. However, we note that the terrace was open only during the day, no amplified music was provided, and no liquor was served.

Noise policies and procedures have been developed and installed

Act 265, SLH 1999, clarifies that the Department of Health has jurisdiction over noise issues regarding the convention center. The authority adopted rooftop terrace guidelines in December 1998. These stipulate that noise should be held to a level no greater than 60 decibels by the time it reaches nearby residents. Also, center events on the rooftop terrace must end by 10:00 p.m., sound level measurements must be continued, event notices are to be distributed to neighboring residential complexes and designated personnel are to receive noise complaints. Noise measuring devices are installed on the north, southwest, northwest, and south sides of the rooftop terrace to measure/monitor noise levels traveling from the rooftop terrace towards neighboring apartment buildings. The noise monitoring consultant uses an automated sound level management system, which generates a report that compares sound levels to sound limits. In addition, speakers that confine sound to cone-shaped areas have been installed.

Other tests still need to be conducted

Although the Convention Center authority committed itself to conducting a total of six sound tests on the rooftop terrace, not all of them have been conducted. The first sound test was conducted at the Miss Universe Coronation Ball on May 12, 1998. The second was conducted on August 20, 1998 during a rooftop luau for the Telemedicine Conference and the third was conducted on August 23, 1998 during the American

Federation of State, County and Municipal Employees (AFSCME) convention. Another noise test was conducted on May 15, 1999 during the Galileo International Conference. We note that additional tests are still needed.

Conclusion

In this, our third report on the Convention Center Authority, we reviewed various outstanding issues and problems facing the authority and the convention center. Although the authority has taken steps to address its areas of responsibility, it needs to improve efforts in two important respects. Failure to address these can place the State at risk. Although the authority and/or SMG, the operator, have worked toward minimizing traffic and noise impacts from conventions, a continued focus on these issues is still needed. Finally, the future of the authority is unknown. However, oversight of the convention center and its operations are required to protect the public's interests.

Recommendations

1. The Convention Center Authority should:
 - a. Clearly delineate the convention center operator's specific objectives and responsibilities;
 - b. Clearly define and communicate the level of performance it expects from the convention center operator; and
 - c. Develop and implement an evaluation mechanism that uses clear and consistent measurement criteria.
2. The Board of the Convention Center Authority should ensure that the authority abides by all aspects of the State Procurement Code.
3. The Legislature should determine which agency should assume oversight responsibilities for the convention center. If the Legislature determines that an agency or jurisdiction other than the Convention Center Authority should assume oversight responsibilities, an appropriate transition period should be accommodated.
4. The Convention Center Authority should resolve remaining punchlist and warranty items to ensure that all state interests in the convention center are protected and to ensure that the design/builder assumes all costs for which it is responsible. If the remaining items are not resolved and the Convention Center Authority sunsets on June 30, 2000, the Legislature should ensure that mechanisms are in place to continue the State's responsibility to monitor the resolution of punchlist items.

5. The Legislature should consider amending Section 206X-10.5, HRS, by stipulating that gross revenues rather than net revenues be deposited into the Convention Center Capital and Operations Special Fund.

Response of the Affected Agency

Comments on Agency Response

We transmitted a draft of this report to the Convention Center Authority on February 16, 2000. A copy of the transmittal letter to the authority is included as Attachment 1. The authority's response is included as Attachment 2.

The Convention Center Authority responded that it is in general agreement with the findings and the need to further strengthen the procedures in evaluating SMG's performance and strict adherence to the procurement code. The authority also reports having already commenced strengthening the evaluation of SMG to include process and outcome evaluations. With regard to procurement code conformance, the authority expressed concern that the two violations had occurred and reported that corrective measures have already been issued to staff.

The authority also felt that the Legislature should ensure that the policies, procedures, functions, and safeguards adopted by the authority be incorporated into a transfer of oversight responsibilities to another agency or jurisdiction should that transfer occur. The authority noted that care should be taken to ensure that such conditions exist for future success.

The director of the Department of Business, Economic Development, and Tourism also provided an unsolicited response to the report. The department's comments are included as Attachment 3.

Finally, we made some minor editorial changes to the draft in response to comments received.

ATTACHMENT 1

STATE OF HAWAII
OFFICE OF THE AUDITOR
465 S. King Street, Room 500
Honolulu, Hawaii 96813-2917



MARION M. HIGA
State Auditor
(808) 587-0800
FAX: (808) 587-0830

February 16, 2000

COPY

Mr. Guy K. Fujimura, Chair
Convention Center Authority
Hawai'i Convention Center Building
1801 Kalakaua Avenue
Honolulu, Hawaii 96815

Dear Mr. Fujimura:

Enclosed for your information is copy number 6 of our draft report, *Audit of the Convention Center Authority*. We ask that you telephone us by Friday, February 18, 2000, on whether or not you intend to comment on our recommendations. If you wish your comments to be included in the report, please submit them no later than Wednesday, February 23, 2000.

The Governor and presiding officers of the two houses of the Legislature have also been provided copies of this draft report.

Since this report is not in final form and changes may be made to it, access to the report should be restricted to those assisting you in preparing your response. Public release of the report will be made solely by our office and only after the report is published in its final form.

Sincerely,

A handwritten signature in cursive script, appearing to read "Marion M. Higa".

Marion M. Higa
State Auditor

Enclosures



Convention Center Authority

1801 KALAKAUA AVENUE HAWAII CONVENTION CENTER BUILDING HONOLULU, HAWAII 96815
TELEPHONE: (808) 973-9790 FAX: (808) 973-9794

February 22, 2000

Ms. Marion Higa
State Auditor
Office of the Auditor
465 S. King Street, Room 500
Honolulu, Hawaii 96813-2917

RECEIVED
FEB 24 2 56 PM '00
OFC. OF THE AUDITOR
STATE OF HAWAII

Dear Ms. Higa:

Subject: *Audit of the Convention Center Authority* (February 2000)

Thank you for the advance copies of the draft report, *Audit of the Convention Center Authority*.

The CCA is in general agreement with the findings and the need to further strengthen the procedures in evaluating SMG's performance and strict adherence to the procurement code.

The CCA has already commenced the strengthening and evaluation of SMG to include process and outcome evaluations and will be adopting a set of clear objectives, responsibilities, standards and procedures to be followed, at the next regularly scheduled CCA Board meeting. We will work with our deputy attorney general to ascertain the best documentation to convey the standards and procedures to SMG.

In the area of procurement code conformance, the CCA is certainly concerned that these two violations had occurred and corrective measures have been issued to the staff, which will be formally adopted by CCA Board action. As a point of clarification, these two violations were due to judgments of the purchasing agent and were not intentional violations of the purchasing code. In the instance of the purchase of retrofits, the purchasing agent felt the substituted product was an equal; and therefore, there was no need for an addenda or need for further action. In the case of the lobby cooling contract extenuating circumstances of a small window of work opportunity and the need to airship materials caused the early issuance of the notice to proceed. The complete results of the investigation of the two purchasing code violations will be available after CCA Board action.

With reference to the audit concern that the procurement code does not apply to contractors reimbursed for their expenses, the CCA imposes the same state procurement standards upon SMG as it does for the CCA staff, and reference to a \$100,000 limited approval for SMG is evidence of that policy's effect. The SMG purchasing procedures are reviewed periodically by the CCA to ensure conformance with the procurement code.

Ms. Marion Higa
Office of the Auditor
February 22, 2000
Page 2

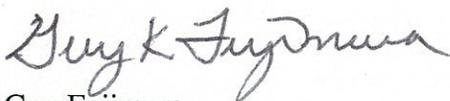
The CCA will forward the strengthened objectives, responsibilities, standards and procedures for evaluation, as well as the revised procurement code conformance policy to your office, upon adoption by the CCA Board. Any comments that you or your staff may have on the evaluation submittal will be appreciated.

At the meeting arranged by your staff with members of the CCA Board on February 14, 2000, to discuss the audit report, the CCA Board did have some suggestions that members strongly feel should be incorporated in the audit report regarding the options proposed to the Legislature. Since all of the audits of the CCA have concluded that the CCA is a functioning agency that has no major compliance issues, the CCA Board feels that the organizational philosophy of "on time and on budget," should be carried forward in addition to the suggestions of the Office of the Auditor.

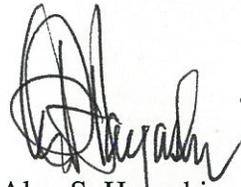
Specifically, the CCA Board has suggested that the proposed options relating to transfer to either HTA or the City and County be clarified to incorporate those policies, procedures, functions and safeguards that presently exist with the CCA organization, that have enabled the CCA to successfully accomplish its functions and purposes. Should the Legislature consider one of the options other than continuing the CCA, it should be made clear that care should be taken to ensure that the above conditions exist for future success.

Thank you for an objective, constructive report and the recommendations that will further protect the State of Hawaii. Please extend our appreciation to Van Lee, Robert McClelland, and Ryan Tanaka for their courtesy and cooperation during the audit. The CCA is dedicated to the protection of the state and the Hawai'i Convention Center, an economic asset, which we all have worked so hard to make successful.

Sincerely,



Guy Fujimura
Chair



Alan S. Hayashi
Executive Director

GF/ASH/eu:4476.2000audit

c: CCA Board
CCA Staff

BENJAMIN J. CAYETANO

GOVERNOR

SEIJI F. NAYA

DIRECTOR

PHILIP J. BOSSERT

DEPUTY DIRECTOR

DAVID W. BLANE

DIRECTOR, OFFICE OF PLANNING



DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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February 23, 2000

Ms. Marion M. Higa
State Auditor
Office of the Auditor
465 South King St., Room 500
Honolulu, Hawaii 96813-2917

RECEIVED
FEB 23 2 26 PM '00
OFC. OF THE AUDITOR
STATE OF HAWAII

Dear Ms. Higa:

I am in receipt of copy number 15 from Governor Cayetano of your draft report, Audit of the Convention Center Authority (CCA). As the agency, to which the CCA is attached for administrative purposes, I offer the following comments.

I am pleased to hear that management controls regarding the operation of the center are generally in place and the only major unresolved issue is the selection of an agency to oversee the future operations of the center.

I agree with your statement "vigilance is required to protect state interests in the convention center". In this regard, Governor Cayetano requested that SB 2776 and HB 2435 be introduced in the Legislature this year. These measures transfer the functions and funding responsibilities of the Convention Center Authority (CCA) to the Hawaii Tourism Authority (HTA).

As you indicate in your report, the CCA created primarily for the purpose of formulating a convention center development plan and supervising the construction of the facility. The Authority has completed its initial mandate and its duties over the past two years have consisted of a successful "shakedown" period that included the hosting of a large convention to fully test procedures designed to handle large conventions.

During this period, CCA was able to assess the initial efforts developed to mitigate negative impacts on the local community. As you point out, community relations will continue to be a critical aspect of duties necessary for the successful operation of the center.

Working closely with the Legislature this past year, we have been able to resolve one of the remaining key issues that has prevented us from selecting an agency to oversee the future operations of the center. Based on our financial plans, the monies in

the convention center special fund are sufficient to cover debt service and operations' shortfall without any additional general fund infusion. This was a result of several of our recent actions including the re-scheduling of debt service for the convention center.

The most critical of remaining tasks to ensure the success of the center concerns the marketing aspect. In this regard, the streamlining and integration of CCA into HTA is critical. The HTA is the lead State agency for the formulation of tourism strategy maintaining the contract with the Hawaii Visitor and Convention Bureau for marketing the State in general and the convention center specifically. It makes good business sense to have the oversight of marketing and operations coordinated with as few agencies as possible.

Also, in the interest of efficiency and effectiveness, all responsibilities associated with the convention center should fall under the purview of one agency. As the lead state agency for tourism, it is appropriate that these responsibilities be assigned to the HTA. In general, the transition from a role as a development or construction agency to the operation of a large facility will allow for increases in cost efficiency. In addition, many of the duties of the two agencies are very similar and could be streamlined for additional savings. I conservatively estimate that the cost savings from both HTA and CCA could be as high as \$150,000 annually.

Also included in SB 2776 and HB 2435 are provisions that would increase the size of the HTA board by 3 general public members. To address the concerns in our community regarding continuity and expertise relevant to the convention center, Governor Cayetano has stated that he will nominate new members to HTA who have a background in meetings and conventions.

Please call me if there are any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Seiji F. Naya", with a long horizontal flourish extending to the right.

Seiji F. Naya