

OVERVIEW

THE AUDITOR
STATE OF HAWAII

Financial Audit of the Department of Commerce and Consumer Affairs

Summary

The Office of the Auditor and the certified public accounting firm of Coopers & Lybrand L.L.P. conducted a financial audit of the Department of Commerce and Consumer Affairs for the fiscal year July 1, 1996 to June 30, 1997. The audit examined the financial records and systems of accounting and internal controls and tested these for compliance with applicable laws and regulations.

In the opinion of the firm, the financial statements present fairly the department's financial position and its results of operation for the fiscal year ended June 30, 1997, in conformity with generally accepted accounting principles.

Coopers & Lybrand L.L.P. noted no matters involving the internal control structure and its operation that they considered to be reportable conditions. However, the firm did note instances of noncompliance with laws and regulations applicable to the department.

Specifically, we found that the fees charged by the department's business registration and professional and vocational licensing divisions are not in compliance with Section 26-9, Hawaii Revised Statutes, that requires fees to bear a reasonable relationship between the revenue derived and the cost or value of services rendered. The department has accumulated more than \$20 million of unencumbered cash balances in three of its special fund accounts. We also found that fees assessed by the insurance division exceed its costs and at the end of June 1997 the division had over \$4 million of unencumbered cash. Finally, we found that payments received by the department in the form of checks are not deposited into the state treasury on a daily basis; interest earnings are foregone and checks can be lost or misplaced.

Recommendations and Response

We recommend that the department make the adjustments necessary to ensure that regulatory fees assessed on businesses and professions bear a reasonable relationship to the cost or value of services rendered. We also recommend that the Legislature consider transferring excess cash from the Insurance Examiners Revolving Fund to the general fund before June 30, 2000, and that the insurance commissioner establish annual no-fault insurance assessments in line with annual no-fault administrative costs. Finally, we recommend that the department ensure that all checks received by the department are deposited daily into the state treasury.



The department generally disagrees with our findings. It believes that the fees charged by the Business Registration Division and Professional and Vocational Licensing Division bear a reasonable relationship between the revenue derived and the cost or value of services rendered and are not in violation of Section 26-9, HRS. It disagrees with our premise that the aggregate cash balance of \$20 million at the end of the year resulted from fees collected in excess of the cost or value of the services rendered. It believes that the reasonable relationship test is "not between total fees collected and total expenditures, but rather the relationship between the (individual) fee assessed and the cost or value of services rendered for the process that the fee is based upon." The department also contends that much of the \$20 million accumulated cash balance was the result of the department's prudent fiscal spending. It believes that our analysis of the fund balances should have included planned or budgeted expenditures rather than actual expenditures.

The department also disagrees with our finding that the compliance resolution fees assessed on all persons licensed by the Professional and Vocational Licensing Division are excessive. It believes that our interpretation of the standard for determining fees to be incorrect, the standard for determining whether the Regulated Industries Complaints Office fees were reasonably related was incomplete or inaccurate, and that the accumulated fund balance does not in and of itself, justify our conclusion that the fees are excessive.

We generally disagree with the department's response. Since the department failed to keep detailed cost information on the cost or value of the services rendered, our methodology of comparing annual revenues to expenditures is reasonable in determining excessive fees. In addition, annual revenues for these special funds have exceeded expenditures in almost all of the past three fiscal years. The department's comment that it could have spent more is irrelevant since the fees should be based on the value of services rendered and not on services that could have been provided.

The department also disagrees with our finding that the insurance division's revolving funds have high cash balances. It believes that some reserve balance in the two revolving funds are necessary because of timing differences between the revenues collected and expenditures of the division. While we agree that some reserves are necessary because of timing differences in revenues and expenditures, a fund balance in excess of \$4 million, along with an average excess of revenues over expenditures of about \$800,000 each year over the past three fiscal years, is excessive.

Finally, the department generally agrees with our recommendation that checks received be deposited daily into the state treasury. It will reexamine its procedures and seek alternatives that will address our concerns.

We made some technical and editorial changes to our draft report for accuracy, clarity, and consistency.

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