

AUDIT REPORT
NO. 76-2
MARCH 1976

MANAGEMENT
AUDIT
OF THE
HAWAII FOUNDATION
FOR
HISTORY
AND THE HUMANITIES

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



SUBMITTED BY THE LEGISLATIVE AUDITOR OF THE STATE OF HAWAII

THE OFFICE OF THE LEGISLATIVE AUDITOR

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

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

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

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

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



**LEGISLATIVE AUDITOR
STATE CAPITOL
HONOLULU, HAWAII 96813**

The Hawaii foundation for history and the humanities was established by the legislature in 1966 to carry out this broad and far-reaching responsibility for researching, preserving, restoring, maintaining, disseminating, and presenting significant aspects of the Hawaiian heritage of Hawaii. The foundation was also given overall responsibility for coordinating the efforts of numerous private and public agencies in historic preservation in order to bring together all these efforts into a coherent state program.

MANAGEMENT AUDIT OF THE HAWAII FOUNDATION FOR HISTORY AND THE HUMANITIES

The foundation is a unique entity, unlike any other organization in Hawaii. It has the characteristics of both a private organization, serving and supported in part by a private membership, and a public agency, with public programs and its organizational structure established by statute. It is governed by a board of trustees elected by the membership, but it is also placed in the department of budget and finance.

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

The very uniqueness of its organization presaged problems in the foundation's pursuit of its public purposes. Our audit report documents those problems which have affected the foundation's ability to fully develop and execute the public programs assigned to it. Some of these problems are traceable to the duality of public and private responsibilities and to the lack of state membership activities, but they are also traceable to the lack of guidance which should have been given to the foundation by responsible state agencies, notably the department of the attorney general and the department of budget and finance.

Submitted by the Legislative Auditor of the State of Hawaii

It is our hope that this report will provide a basis for the legislature to make the changes necessary to overcome the problems which the foundation has encountered and to achieve the statutory purposes for which it was established.

Audit Report No. 76—2

We wish to express our appreciation for the cooperation and assistance rendered to our staff by the agencies we contacted during the audit.

March 1976

FOREWORD

The Hawaii foundation for history and the humanities was established by the legislature in 1969 in response to the desire to preserve the heritage of Hawaii. To carry out this broad mission, the foundation was given wide-ranging responsibilities for researching, preserving, restoring, maintaining, disseminating, and presenting significant aspects of Hawaii's historical and cultural heritage. The foundation was also given overall responsibility for coordinating the efforts of numerous private and public agencies in historic preservation in order to bring together all these efforts into a coherent state program.

The foundation is a unique entity, unlike any other organization in Hawaii. It has the characteristics of both a private organization, serving and supported in part by a private membership of some 1500 persons, as well as a public agency, with public programs and its organizational structure established by statute. It is governed by a board of trustees elected by the membership, but it is also placed in the department of budget and finance for administrative purposes.

The very uniqueness of its organization presaged problems in the foundation's pursuit of its public purposes. Our audit report documents those problems which have affected the foundation's ability to fully develop and execute the public programs assigned to it. Some of these problems are traceable to the duality of public and private responsibilities and to the dominance of private membership activities, but they are also traceable to vagueness in the law and the lack of timely guidance which should have been given to the foundation by responsible state agencies, notably the department of the attorney general and the department of budget and finance.

It is our hope that this report will provide a basis for the legislature to make the changes necessary to overcome the problems which the foundation has encountered and to achieve the laudatory purposes for which it was established.

We wish to express our appreciation for the cooperation and assistance extended to our staff by the agencies we contacted during the audit.

Clinton T. Tanimura
Legislative Auditor
State of Hawaii

March 1976

TABLE OF CONTENTS

PART I INTRODUCTION AND BACKGROUND

<i>Chapter</i>		<i>Page</i>
1	Introduction	3
	Objectives of the Audit	3
	Scope of the Audit	3
	Organization of the Report	4
	Terminology	4
2	Background	5
	Establishment of the Foundation	5
	Organization of the Foundation	5
	Specific Functions	6

PART II FINDINGS AND RECOMMENDATIONS

3	Introduction	9
	Summary of Findings	9
4	The Administration of the State Programs for Historic Preservation	10
	Summary of Findings	10
	Introduction	10
	Historic Site Preservation	11
	Multi-Cultural Studies Program Functions ...	13
	Need for Clarity	15
	Recommendation	16

<i>Chapter</i>		<i>Page</i>
5	Foundation's Implementation of State Programs .	17
	Summary of Findings	17
	Foundation's Program Responsibility	17
	State Trust	18
	Support and Stimulate Research	18
	Centralized Repository	19
	Museum Support Program	20
	Multi-Cultural Studies Program	20
	Hawaii Historic Places Review Board	25
	Recommendations	30
6	Appropriateness of the Foundation for Programs in History and the Humanities	32
	Summary of Findings	32
	The Character of the Foundation	32
	The Private Approach in Foundation Operations	33
	Differing Programmatic Priorities	37
	An Analysis	39
	Recommendation	43
7	Financial Statements and Internal Control	44
	Summary of Findings	44
	Method of Accounting	44
	Statement of Resources, Expenditures, and Unencumbered Balances (Special Account)	45
	Statement of Cash Receipts, Disbursements, and Balances of Trust Funds	48
	Financial Controls	50

PART III RESPONSES OF THE AFFECTED AGENCIES

Comments on Agency Responses	55
Attachment No. 1	59
Attachment No. 2	61
Attachment No. 3	79

LIST OF TABLES

<i>Table No.</i>		<i>Page</i>
5.1	Total Number of Grant Requests Received and Awarded by the Foundation by Year	19
5.2	Ownership of Sample of 310 Sites Placed on the Hawaii Register	27
5.3	Sites Evaluated by the Review Board During 1971-75 . . .	29
7.1	Hawaii Foundation for History and the Humanities, Statement of Resources, Expenditures and Unencumbered Balances, Special Account, for the Year Ended June 30, 1975	46
7.2	Hawaii Foundation for History and the Humanities, Trust Funds, Statement of Cash Receipts, Disbursements, and Balances, for the Year Ended June 30, 1975	49

PART I

INTRODUCTION AND BACKGROUND

Chapter 1

INTRODUCTION

This is a report on our management audit of the Hawaii foundation for history and the humanities. It was conducted in response to House Resolution No. 646, Regular Session, 1975. The resolution requested the legislative auditor to review, among other things, (1) the organizational structure of the Hawaii foundation for history and the humanities, (2) the management and operations of the foundation, and (3) the financial affairs, including the transactions, books, and accounts of the foundation.

Objectives of the Audit

The audit had the following objectives:

1. To determine whether the structure, organization, and policies of the foundation promote the efficient and effective attainment of the objectives of the programs;

2. To evaluate whether all programs of the foundation are efficiently and effectively implemented and operated; and

3. To assess the legality and propriety of expenditures and receipts, the adequacy of the financial accounting and internal control systems and procedures, and the accuracy of the financial statements of the foundation.

Scope of the Audit

The audit covered the organization, management, and financial affairs of the Hawaii foundation for history and the humanities. The department of budget and finance and the department of land and natural resources were examined insofar as their activities had a bearing on the programs and operations of the Hawaii foundation for history and the humanities.

The foundation's policies and practices existing at the time of this audit formed the basis for our findings and recommendations. The effects of past events and conditions on the current operations were also examined. The base period for the examination of the financial statements was fiscal year 1974-75.

Organization of the Report

This report is organized into three parts.

Part I consists of this introduction and some background on the Hawaii foundation for history and the humanities.

Part II contains our findings and recommendations on the organization and management of the foundation. Our overall assessment of the foundation's performance and its future is discussed. Also included here are findings and recommendations on its financial management practices and the financial statements.

Part III contains the responses of the agencies affected by this report.

Terminology

Throughout this report, the term "foundation" refers to the Hawaii foundation for history and the humanities.

Chapter 2

BACKGROUND

This chapter contains some background information on the foundation, its organization, and its programs.

Establishment of the Foundation

The foundation is a nonprofit corporation. It was created by the legislature in 1969 for the purposes of researching Hawaiian history and disseminating the findings of such research, restoring and preserving sites, buildings, and objects of significance to Hawaii's history and culture, and presenting them for public viewing. To accomplish these purposes, the foundation was given broad powers, including the power to accept gifts of historically and culturally significant sites, buildings, and objects to be held and administered in trust for the public; to accept, hold, and administer grants, scholarships, and endowments; and to engage in museum activities and programs in support of historic preservation, restoration, research, and presentation.¹

Until 1974, the foundation operated as a semi-independent entity. In 1974, by Act 251, the foundation was placed within the department of budget and finance for administrative purposes.

Organization of the Foundation

The organization of the foundation is patterned after the National Trust for Historic Preservation which was chartered by Congress in 1949.² Like the National Trust, the foundation has a membership and a board of trustees. Presently, there are close to 1500 members. Membership is open to any resident of Hawaii upon the payment of dues prescribed by the trustees.³

¹ Act 236, S.L.H. 1969, section 1, "Statement of purpose."

² 16 USCA, Sec. 468.

³ Annual membership dues for 1975 were: \$5 - regular, \$10 - family, \$25 - sustaining, \$100 - contributing, \$500 - life, \$1000 - patron.

The board of trustees is composed of 10 members elected by the membership of the foundation plus the chairman of the state foundation on culture and the arts who serves as an ex-officio member. Each elected trustee serves a five-year term and the board members elect one of their fellow trustees as chairman. Trustees serve without compensation but are reimbursed for expenses incurred in the performance of their duties.

The board is authorized to employ a director who serves as the administrator for the foundation and is responsible for managing the programs and activities of the foundation within the policies set by the board. The board presently has in its employ an executive director and a secretary.

Specific Functions

Statutorily, the foundation is currently assigned the following specific duties:

To act as a depository of funds and gifts to be held in trust for the State and for the people of Hawaii.

To conduct research, studies, and investigations in the field of ethno history and the humanities.

To establish within the State, a centralized repository and information resource center and clearinghouse for state and private organizations, agencies, and individuals.

To establish within the foundation a review board for the Hawaii register of historic places which meets the requirements of Public Law 89-665.

To develop a continuing comprehensive museum and museum activities support program.

To develop, in cooperation with the state foundation on culture and the arts, a plan for the creation of a state trust for historic preservation.

To establish a multi-cultural studies program.

INTRODUCTION

PART II

FINDINGS AND RECOMMENDATIONS

Chapter 3

INTRODUCTION

In this part, we examine the nature of the programs administered by the Hawaii foundation for history and the humanities and the status of those programs. We also discuss the characteristics of the foundation and their impact on the foundation's operations and program perception. Finally, we observe the appropriateness of the foundation as the means by which the State's programs in history and the humanities are implemented.

Summary of Findings

1. There is a great deal of confusion as to the roles of the various governmental agencies in

the State's history and humanities program. A considerable amount of duplication in work currently exists.

2. The Hawaii foundation for history and the humanities is not progressing as rapidly as anticipated by the legislature in implementing the State's programs in history and the humanities.

3. The Hawaii foundation for history and the humanities does not appear to be an appropriate mechanism for the implementation of the State's programs in history and the humanities.

Chapter 4

THE ADMINISTRATION OF THE STATE PROGRAMS FOR HISTORIC PRESERVATION

This chapter provides an overview of the administration of the state program for historic preservation. Its focus is on the respective roles of the various state agencies in the management of this program, with particular emphasis on the role of the foundation.

Summary of Findings

In general, we find that there is much duplication in the assignment of functions for the program of historic preservation. This is especially true with respect to the foundation, *vis-a-vis* other state agencies. In a large measure, this situation has arisen because of the piecemeal fashion in which legislation has been enacted.

Introduction

Historic preservation is a subject that has commanded much attention from the legislature

over the years. Various pieces of legislation have been enacted to preserve Hawaii's history and culture. In recent times, the legislature has made several attempts to improve, clarify, and consolidate existing statutes on historic preservation.¹ Among these has been the enactment of the statute establishing the foundation. One of the original purposes of the foundation was to consolidate the activities of various public and private organizations in the area of historic preservation. Unfortunately, however, the desired result has not been achieved. There is still much confusion as to who is responsible for what.

The preservation of historical sites and the establishment of a multi-cultural studies program are two of the more important functions of the foundation. However, it is

¹For example, see Special Committee Report No. 2, House Interim Committee on Lands, February 13, 1975.

precisely in these two areas that the confusion in roles and responsibilities is most graphically illustrated.

Historic Site Preservation

The National Historic Preservation Act. In 1966, Congress enacted the National Historic Preservation Act. The act established federal guidelines and machinery for national and state efforts in historic preservation. The act assigns to the Secretary of the Interior the responsibility for maintaining a National Register of Historic Places. The register serves as the authoritative guide to properties which are to be protected from destruction from activities funded or licensed by the federal government. The sites placed on the register are also eligible for federal grants-in-aid monies for preservation and restoration work.

The federal guidelines require that each state establish a review board and appoint a historic preservation officer. The review board is responsible for nominating properties and sites of national, state, and local significance for placement on the national register. The state preservation officer is responsible for the official nomination of sites to the National Park Service of the Department of the Interior. In addition, the preservation officer is responsible for overseeing historic site surveys, the preparation of historic preservation plans, the preservation

of properties in accordance with these plans, and the federal grants-in-aid for preservation and restoration work.

Act 254, S.L.H. 1967. In response to the National Historic Preservation Act of 1966, the Hawaii legislature, in 1967, enacted Act 254. Under this act, the department of land and natural resources (DLNR) was designated the central agency for establishing a "comprehensive program for historic preservation, restoration, and presentation . . ."² This legislation followed the national trend in consolidating administrative responsibility for historic preservation in one agency. The intent of naming the DLNR as the central agency was to eliminate the duplication of efforts by various agencies that was then occurring in this area.³

Specifically, the DLNR was given the responsibility to:

a. Promote the preservation and protection of historic state sites significant to Hawaii's past by maintaining a register of such places and establishing regulations on the uses of such areas.

²Act 254, S.L.H. 1967.

³Standing Committee Report No. 365 on S.B. No. 1024, 1967.

b. Develop with the department of planning and economic development a comprehensive statewide survey of historic sites and a preservation and restoration development plan as stipulated by the Preservation Act.

c. Direct the applications for the matching grants-in-aid program from the federal government.

The department was also authorized to receive gifts and donations from public and private sources for historic preservation and restoration.

Act 216, S.L.H. 1969. The DLNR's central role in coordinating the State's historic preservation program was further emphasized two years later in 1969 when the legislature enacted Act 216. The department was given the additional responsibility for preserving information on prehistoric and historic sites, locations, and remains. The act required that any proposed construction or improvement on state, county, or private lands deemed historic or prehistoric first receive the approval of the DLNR. The DLNR was authorized to permit the owner to begin construction, to commence condemnation proceedings for the purchase of the site, or to permit archaeological investigations on the site.

Act 216 also authorized the DLNR to grant permits to persons or institutions for the examination of ruins, excavation of

archaeological sites, and the gathering of objects of antiquity upon lands owned or controlled by the State or county.

Act 236, S.L.H. 1969. In spite of the reemphasis given by Act 216 to the role of the DLNR in the State's historic preservation program, in that same year, the legislature passed Act 236 creating the Hawaii foundation for history and the humanities. Act 236 gave to the foundation, *inter alia*, the following responsibilities:

- To expedite state historic preservation and restoration projects;

- To hold in trust all donations of privately owned land, historical collections, or other gifts made to it for the preservation of Hawaiian history and heritage;

- To encourage archaeological research and studies by local museums;

- To review the work of the DLNR pertaining to historical objects and sites and surveys and preservation plans;

- To approve properties for nomination to the national register; and

To designate and approve places of historic interest and erect signs for public recognition of such.⁴

In effect, Act 236 negated the prior legislative intent to eliminate duplication of efforts by state agencies in historic preservation since the act made no changes to the statute which vested similar responsibilities in the DLNR.

Act 202, S.L.H. 1971. In 1971, the intent to eliminate duplication was further eroded when the legislature, by Act 202, established within the foundation, the review board for the Hawaii register of historic places. The review board was given the function of evaluating and nominating sites to the National Register of Historic Places in accordance with federal guidelines and of ordering and entering historical and archaeological sites into the Hawaii register of historic places. However, the state preservation officer and members of the historic preservation staff remained in the DLNR, even though, as it turned out, the review board depended largely on the work of the preservation officer and preservation staff.

The act further added to the duplication of efforts by stipulating that the foundation establish a center for salvage research in areas designated by the department of land and natural resources as endangered areas, a responsibility previously assigned to the DLNR by Act 216.

Act 251, S.L.H. 1974. The results of Acts 236 and 202 were to vest in the foundation and the DLNR coincident responsibilities for Hawaii's preservation program. This led to the enactment of Act 251, S.L.H. 1974, which amended the prior laws on the foundation. Although this legislation (Act 251) was supposed to eliminate duplication, in fact, this has not occurred. For example, the foundation is still assigned the following responsibilities, which are also performed by the DLNR:

a. The acquisition of property by gift, devise, or purchase, and the holding of such properties in trust for the State.

b. The conduct of research, studies, and investigations in archaeology and museum support programs.

c. Maintenance of a register of historic areas, buildings, and sites.

Multi-Cultural Studies Program Functions

The multi-cultural studies program presently functioning under the auspices of the foundation was statutorily established by Act 251, S.L.H. 1974. However, the program and the foundation's involvement in it preceded Act 251.

⁴Standing Committee Report No. 513 on H.B. No. 1131, 1969.

Initially, the program was established in 1971 by Act 163 and placed in the governor's office for implementation. The act called for the collection and preservation of Hawaii's social and cultural history; the subsidy of studies among ethnic groups wishing to start their own programs; and the creation of a centralized repository of multi-cultural materials. The governor was authorized to contract with the foundation, the university of Hawaii, or any private or public organization for carrying out the purposes of this act.

In 1972, based on a proposal submitted by the foundation, the governor contracted with the foundation. According to the proposal, the foundation would establish an ethnic research and resource center within the foundation to implement the ethnic studies program. The proposal also included provisions for a staff and a separate board of directors for the center. Upon receiving a contract from the governor's office, the foundation proceeded to carry out the program.

Act 251, in 1974, officially recognized the foundation's involvement in the program.⁵ The act amended the statute relating to the foundation by including the multi-cultural studies program as a part of the foundation's responsibility.⁶ Despite Act 251, however, doubts remained as to the role of the foundation in this program. *First*, Act 251 did not amend or repeal Act 163 which had initially established

the ethnic studies program in the governor's office.⁷ *Second*, no specific appropriation for the program was attached to Act 251 or included in the foundation's operating budget. Consequently, the program has continued to be funded by contract with the governor's office. Thus, as of 1974, there were at least two agencies with responsibility for the ethnic studies (i.e., multi-cultural studies) program. Further confusion in responsibility came in 1975.

In 1975, the House Committee on Culture and the Arts concluded that the multi-cultural studies program under the foundation had not developed as fully as intended by statute. It noted the presence of a philosophical difference on an approach to history between the foundation's board of trustees and the board of directors of the Multi-Cultural Center; the lack of emphasis given by the foundation to developing an oral history program; and the absence of an organizational structure within the foundation for efficient operation of the multi-cultural studies program.⁸

⁵Standing Committee Report No. 792 on S.B. No. 459, 1974.

⁶The multi-cultural studies program established in 1974 was essentially identical to the ethnic studies program established by Act 163 in 1971.

⁷See chapter 9C, HRS.

⁸Conference Committee Report No. 12 on H.B. No. 91, 1975.

The committee proposed the enactment of H.B. No. 91 to transfer the multi-cultural studies program from the foundation to the university of Hawaii's ethnic studies program. The bill was passed by the legislature but was vetoed by the governor, resulting in the program being retained by the foundation.

In passing H.B. No. 91, the legislature did not provide any funding to the university of Hawaii but, instead, appropriated (in the General Appropriations Act) a sum for the program to the state foundation on culture and the arts with a proviso that the funds be allotted to the university's ethnic studies unit.⁹ Portions of the funds have since been released to the university of Hawaii's ethnic studies unit which has embarked on its own oral history project. Concurrently, in fiscal year 1975-76, the foundation has continued its multi-cultural studies program on funds encumbered from a contract with the governor's office. Consequently, at present three agencies are involved in a multi-cultural studies program, and the program is being funded through two different sources.

One further observation is in order. The state foundation on culture and the arts is encouraging similar activities under its state-wide expansion arts program. The state foundation on culture and the arts has co-sponsored many activities which are aimed at "preserving, practicing, perfecting, and presenting" the traditional ethnic arts, crafts,

customs and mores of the ethnic groups of Hawaii. These activities are similar to those undertaken by the Multi-Cultural Center. For example, workshops such as lauhala plaiting have been held by the state foundation on culture and the arts, while the Multi-Cultural Center has filmed the same subject. Similarly, the ethnic studies repository function assigned to the foundation is also being carried out by the state archives, the university of Hawaii, and the state library system.

Need for Clarity

It appears that there is a need to clarify the roles and responsibilities of the various agencies involved in the historic preservation program. By clarification we do not mean that one single agency should be exclusively responsible. Given the nature of the subject, the involvement of various governmental agencies is perhaps inevitable, if not desirable. However, who is responsible for what specific functions, activities, and aspects of the program should be made as clear as possible.

⁹Act 195, S.L.H. 1975.

Recommendation

In a subsequent chapter, we note what role, if any, should be assigned to the foundation.

Subject to our observations in that chapter, we recommend that the legislature clarify the roles and responsibilities of the agencies for the implementation of the state program in history and humanities.

Chapter 5

FOUNDATION'S IMPLEMENTATION OF STATE PROGRAMS

The Hawaii foundation for history and the humanities is assigned the responsibility for the implementation of a number of state programs. We examine in this chapter the progress made by the foundation in carrying out this responsibility since its creation in 1969.

Summary of Findings

Our general finding is that the foundation has not effectively implemented the programs over which it has responsibility. Progress has been extremely slow in meeting legislative expectations in virtually all program areas.

Foundation's Program Responsibility

As noted earlier, the Hawaii foundation for history and the humanities is assigned the following seven basic duties by statute:

- . To act as a depository of funds and gifts to be held in trust for the State and the people of Hawaii.
- . To conduct research, studies, and investigations in the field of ethno history and the humanities.
- . To establish within the State a centralized repository and information resource center and clearinghouse for state and private organizations, agencies, and individuals.
- . To establish within the foundation a review board for the Hawaii register of historic places which meets the requirements of Public Law 89-665.
- . To develop a continuing comprehensive museum and museum activities support program.

To develop, in cooperation with the state foundation on culture and the arts, a plan for the creation of a state trust for historic preservation.

To establish a multi-cultural studies program.

To date, the foundation has not been able to implement satisfactorily any of the above. The status of implementation of the programs entrusted to the foundation is described below.

State Trust

The foundation is supposed to serve as a depository for donations of historic sites and to develop, in cooperation with the state foundation on culture and the arts, a plan for the creation of a historic preservation trust. There is no evidence as yet to indicate that these functions are being carried out, or that the foundation is even planning to give these functions some attention within the next six years.

In the case of the depository function, at least three sites have been offered to the foundation. However, the foundation has been unable to take positive action as it is only now starting to develop the criteria for determining the types and kinds of sites it is willing to accept, the procedures for accepting sites, and the condi-

tions and stipulations under which it will maintain and manage donated properties.

As for the state trust for historic preservation, the legislature in 1969 enacted legislation requiring that the foundation in cooperation with the state foundation on culture and the arts develop a plan for the creation of a historic trust. The law stipulated that the plan be presented to the legislature at its 1970 session. A plan was submitted to the governor and the legislature in 1970. However, in early 1973, the board decided to have the plan revised. At the time of the audit, the plan had not yet been revised.

Support and Stimulate Research

The foundation's attempts to meet its statutory obligations to stimulate research and studies in the field of ethno history and the humanities have been, at best, minimal.

In 1972, the board established a grants-in-aid program to award grants to qualified individuals and organizations for original research and writing on the history of Hawaii, its ethnic groups, archaeological diggings, and other related subjects. However, a review of the foundation's annual reports for the years 1973 through 1975 reveals that only one grant was awarded in 1973, seven in 1974, and none in 1975. Table 5.1 shows the number of grant

requests received by the foundation and the number actually awarded between 1973 and 1975.

Table 5.1
**Total Number of Grant Requests Received and
Awarded by the Foundation by Year**

<i>Year</i>	<i>Requests received</i>	<i>Grants awarded</i>
1973	63	1
1974	87	7
1975	33	0
Total	183	8

Centralized Repository

The foundation is assigned the duty to “establish a centralized repository and information resource center and clearinghouse for state and private organizations.” In essence, this calls for the maintenance of an up-to-date inventory of all organizations, groups, and individuals with interests and/or objectives similar to those of the foundation. The purpose of this inventory is to facilitate cooperation and coordination between and among groups and

organizations involved in historic and cultural preservation as well as to prevent any duplication of effort among the various organizations.

At present, the foundation’s centralized repository and information resource center and clearinghouse consist of only a card file of organizations and individuals in the field of humanities and historic preservation. These organizations are filed by ethnic group, i.e., Black, Chinese, European, Filipino, Hawaiian, etc., as well as by “other subject matters” such as senior citizens, teachers, administrators. This file, established in 1973, is neither comprehensive nor current. For example, a rough count of the cards revealed approximately 465 organizations and individuals. However, the executive director estimates that there are presently about 800 Hawaiian organizations alone. Additionally, in the majority of cases, the cards contain minimal information, only the name of the organization or individual, the name of the organization’s contact person, and the address and telephone number. Only a few contain information on the nature or the objective of the organization. Moreover, the file has not been updated since 1973. The information on the cards is outdated and utterly useless to anyone in need of information on these organizations and groups. The executive director herself does not rely on the file, but instead relies on her own personal knowledge of organizations.

In the absence of the most rudimentary tool for implementing a repository and clearing-house operation, i.e., an inventory, it is obvious that the foundation has made little headway in this area. Needless to say, other repository functions such as the receipt and the dissemination of cultural materials and other information resources are nonexistent.

Museum Support Program

The foundation has the duty to develop a continuing comprehensive museum and museum support program. In this program, it is authorized to:

- (1) Provide matching grants-in-aid to governmental or private agencies;
- (2) Provide technical assistance and staff development and training opportunities; and
- (3) Assist in the training of competent museum personnel and in the development of employment and career opportunities in museum and related fields.

Although in 1975 the foundation reported to the House Committee on Culture and the Arts that a "museum support program" is one of its ongoing programs, there is in fact no real organized activity in this area. The foundation's

efforts have been limited to the following three undertakings:

- . Fiscal support for a meeting of the Hawaii Museums Association.
- . Publication of a museums directory prepared by the Hawaii Museums Association.
- . Travel grants for neighbor island participants in the American Association for State and Local History Workshop.

Multi-Cultural Studies Program

As already noted, the multi-cultural studies program was statutorily established within the foundation in 1974 by Act 251. It had previously been assigned to the office of the governor in 1971. Even while the program was in the office of the governor and before the enactment of Act 251, the foundation had been running the program under contract with the governor's office. The foundation operated the program through the Multi-Cultural Center (previously known as the ethnic research and resource center). Up until January 1976, the Multi-Cultural Center was an arm of the foundation. The Multi-Cultural Center was incorporated as a separate non-profit, private organization in January 1976. It continues to implement the multi-cultural studies program for the foundation under a subcontract with the

foundation. Our discussion of the multi-cultural studies program covers generally the period before the Multi-Cultural Center's incorporation.

Failure to provide administrative support and direction. Although the foundation relegated the duty of implementing the multi-cultural studies program to the Multi-Cultural Center, the foundation, as the organization legally charged with the responsibility for the multi-cultural studies program, was supposed to provide adequate administrative support and direction to the Multi-Cultural Center. However, the foundation has continuously failed to provide such administrative support and direction. Consequently, it has contributed greatly to the failure of the multi-cultural studies program to develop into an effective and meaningful program.

The problem of administrative support has been raised repeatedly. However, despite many promises by the foundation, no meaningful support has been forthcoming. For instance, although the foundation trustees agreed to have its main office handle the fiscal accounts and personnel matters for the Multi-Cultural Center, the foundation has not provided these services.

Insignificant progress of the multi-cultural studies program. Under the foundation's management, very little, if anything, of significance has been produced in the multi-cultural studies program, even after the

expenditure of over \$130,000 in public funds as of January 31, 1976.¹ We cite several indicators that demonstrate this.

1. Oral history tapings. One of the primary reasons for establishing the multi-cultural studies program was the recognition that there are many gaps in Hawaii's recorded history and the absence of historical information relating to the contributions of the various immigrant ethnic groups to the growth of Hawaii. In many cases, the gaps and lack of information can only be filled through oral communications with older persons who possess knowledge of the past. Consequently, a high priority has been placed by the legislature on the taping of oral history. As of today, however, the "gaps" and information lack in Hawaii's history have not been identified. Projects have been undertaken without an ascertainment of what kinds of historical information are needed and from whom they should be collected.

Moreover, tapes have been made without determining first whether the information to be sought had already been gathered. For instance, an oral history project focusing on the plantation experiences of various ethnic groups was planned for FY 1974-75. However, it does not appear that any attempt had been first made

¹\$100,000 was appropriated by Act 163, S.L.H. 1971. \$50,000 more was made available by Act 218, S.L.H. 1973. According to figures submitted by the Multi-Cultural Center, the center has approximately \$16,565 in unexpended funds from Act 218.

to review the 70 hours of interviews with Filipino and Japanese plantation workers in Hawaii which had previously been taped and are in the hands of the Multi-Cultural Center's collection of history tapes.² For another example, some tapings were made describing cultural customs which are already available and recorded in books.

Furthermore, our sampling of the tapes at the Multi-Cultural Center revealed that, in many cases, tapings were recorded as oral history when they in fact were not. For example, tapes made to describe cultural articles contained in trunks were filed as oral history tapings.

Another deficiency in oral history taping is that the oral history tapes have been considered as ends in themselves rather than as means to an end, i.e., to add to a body of knowledge. Consequently, the Multi-Cultural Center has failed to institute specific procedures to assure the availability of information gained from the tapings. Many tapes remain untranscribed; not all of the tapes are accompanied by legal agreements signed by the interviewees to permit the use of the tapes by researchers; none of the tapes have been indexed although this is especially critical for identifying the information that has been obtained and making the material readily available to users; and not a single manuscript has been produced and made available to the public and to researchers.

Finally, there is no useful physical inventory of the oral history tapes in the possession of the Multi-Cultural Center. On one day, we counted 24 reel to reel tapes and 90 cassette tapes. Five days later, 29 additional tapes were located. The Multi-Cultural Center's report to the eighth legislature stated that 109 tapes had been catalogued.³ However, we have been unable to ascertain the actual number of oral history tapes held by the center. Correspondingly, there is no complete listing of individuals who have actually been interviewed under the oral history program. The recently released holdings inventory lists 76 individuals.⁴ The 1975 annual report of the foundation states that 103 individuals were interviewed from FY 1972 to the end of FY 1975.⁵ The identities of many of these individuals are unknown. Hence, it is unclear how the center was even able to arrive at the figure cited in the annual report since there are no available records.

²The Ethnic Research and Resource Center's *3d Quarter Report, January - March 1973* reported that these tapes had been duplicated and placed within the Multi-Cultural Center.

³Report to the Eighth Legislature, 1976, on the status of the multi-cultural studies program of the foundation as implemented by the Multi-Cultural Center.

⁴Multi-Cultural Center's oral history holdings list.

⁵1975 *Hawaii Foundation for History and the Humanities Annual Report*, p. 23.

2. **Duplication of existing materials.** A letter clarifying the foundation's proposal submitted to the governor which resulted in the foundation's securing a contract in 1972 to conduct the multi-cultural studies program stated that "the work by the [Multi-Cultural] center will not duplicate work at the archives, libraries, and museums."⁶ In fact, however, a good deal of the work of the center has duplicated that of the archives, libraries, and museums. For example, a number of photographs held by the center are reproductions of those maintained by the state archivist.

3. **Failure to complete projects.** The Multi-Cultural Center has often initiated or announced its intention to start projects said to have high priority, only to abandon or fail to complete them. The "directory of ethnic organizations" was one of these projects. It was initiated in 1973. In February 1975, it was reported that the directory would be completed around March 1, 1975.⁷ Then, in April 1975, it was stated that the directory was scheduled for publication in June 1975.⁸ Although the information has been collected and some of the consultants paid, the directory remains unpublished.

Another project that was not completed was the *Handbook Guide for Oral History Taping*. Indeed, in this case, there is no indication that any work was ever initiated although the project was announced in both the center's

program activity plan and in testimony presented to the House Committee on Culture and the Arts.⁹

4. **Non-utility of specific projects.** A number of products have been accepted and paid for by the Multi-Cultural Center, but because of inadequate quality, have not been utilized. The following are examples:

a. The "Coming of Hawaii's People," is a slide/sound presentation which was accepted by the center in 1973 and had been in circulation. However, the presentation was recently removed from circulation because the center board noted that corrections were needed in the script and credit slides.¹⁰

⁶Letter from the president of the foundation to Governor John A. Burns, July 27, 1972.

⁷Testimony presented by the director of the Multi-Cultural Center to the House Committee on Culture and the Arts, February 12, 1975.

⁸1974 Hawaii Foundation for History and the Humanities Annual Report, p. 38.

⁹Testimony presented by the director of the Multi-Cultural Center to the House Committee on Culture and the Arts, February 12, 1975.

¹⁰Minutes of the Multi-Cultural Center committee meeting, June 6, 1975.

b. "Haole in Hawaii" is another slide/sound presentation which was accepted by the center in January 1974. The acceptance, however, was conditioned on the consultant agreeing to make significant revisions in the presentation. Since then, much time and effort have been spent in making the revisions. The title itself has been changed from "Haole in Hawaii" to "Malihini in Hawaii," to "Caucasian in Hawaii."¹¹ The slide/show, however, has yet to be placed on the circulation list.

c. The "Grandmother's Trunk" is a project consisting of 16 trunks containing items representative of four ethnic groups. The trunks have been judged to lack the desired quality. However, since the consultant had completed the project and met the requirements of the contract, he was paid his contract sum of \$4,665.¹² As yet not all of the trunks have been made available for loan.¹³

5. Failure to establish working relationships. One of the purposes of the multi-cultural studies program is to encourage the ethno historical and multi-cultural activities of all ethnic groups.¹⁴ There are a number of groups other than the foundation involved in ethno history. The various units of the university of Hawaii are among these groups. However, the Multi-Cultural Center has established very few working relationships with these groups. Consequently, efforts are being duplicated.

For example, in 1974, the general assistance center of the Pacific, university of Hawaii, met with the foundation to explain its program of developing and preparing materials on ethnic groups for distribution and use in the schools. Nothing appears to have resulted from this meeting for, in 1975, both the Multi-Cultural Center and the general assistance center of the Pacific (UH) produced cultural artifact kits for various ethnic groups.

Questionable property rights. The multi-cultural studies program produces tapes, writings, and other property. It appears that these property items were intended to be available to researchers, scholars, and the public.¹⁵ However, the right of the State to these items and to the contents of tapes and writings is very much in doubt. Neither the foundation nor the Multi-Cultural Center has

¹¹Minutes of the Multi-Cultural Center committee meeting, March 17, 1975.

¹²Minutes of the Multi-Cultural Center committee meeting, August 27, 1975.

¹³The secretary of the Multi-Cultural Center confirmed that, as of February 12, 1976, eight trunks have not been available for circulation.

¹⁴Section 6-16.6, Hawaii Revised Statutes.

¹⁵See, for instance, section 6-16.2(8), HRS, and the contracts between the foundation and the governor for fiscal years 1972-73, 1973-74, and 1974-75.

taken adequate steps to establish the proprietary rights of the State.

Take, for instance, the tapes made in oral history. The release agreement form which each interviewee is supposedly asked to sign is contradictory in its provision regarding control over the contents of the interview. It states at one point that the contents of the interviews belong to the Multi-Cultural Center of the Hawaii foundation for history and the humanities, but then it states in another part that the interviewee retains the right to the contents. The form fails to delineate or specify what actual use, if any, the Multi-Cultural Center can make of the tapes and what publication and reproduction rights are reserved to the center.

The release agreement form mentions the Multi-Cultural Center and, in passing, the foundation. It does not mention the State at all. Thus, assuming that the release agreement is tightened to protect the center, a further question is raised as to whether the rights reserved by the center would inure to the benefit of the foundation and the State. In the past, some discussion on the relative rights of the center *vis-a-vis* the foundation and the State in the materials developed and property acquired by the center appear to have occurred with no definite resolution of the question. This question is even more important now since the center was incorporated as a private corporation

in January 1976. The latest foundation subcontract with the center makes no mention of the State's right to the property acquired by the center.

Hawaii Historic Places Review Board

Under Act 251, S.L.H. 1974, the review board within the foundation is required to "maintain the Hawaii register of historic places, including all those listed on the national register of historic places and [establish and maintain] a program of notification and publication regarding properties on the register." This function has not been successfully discharged. The particulars follow.

Inadequate maintenance of the Hawaii register. The review board is supported in its work by the Hawaii register staff situated in the parks division of the department of land and natural resources.¹⁶ The Hawaii register staff surveys archaeological and historical sites and prepares site reports detailing the significance and value of surveyed properties. These reports form the basis of the review board's evaluation of sites and nomination for placement on the Hawaii and national registers of historic places.

¹⁶It should be noted that the Hawaii register staff is not staff to the review board but is part of the state preservation officer's staff in DLNR.

The maintenance of the Hawaii register by the review board involves the filing and retention of the site reports prepared by the Hawaii register staff. In addition, if some Hawaii register sites are nominated for placement and are subsequently placed on the National Register of Historic Places,¹⁷ all pertinent forms submitted to the national register must also be filed with the appropriate site reports.

It is clear, of course, that for the Hawaii register to be useful, the information on file should be accurate and up-to-date. The information provides the Hawaii register staff with the basis for determining whether a proposed private, federal, or state construction, alteration, or improvement project on a designated historic site will have any adverse effect on its historic value. However, the Hawaii register now maintained by the review board is far from complete or up-to-date.

The lack of staff support has contributed to the inadequacy in the maintenance of the register. The review board is authorized one staff assistant position to assist it in its work. The board has been without a staff assistant since the last one resigned in September 1974. Since the review board is a voluntary, unsalaried body, it requires paid staff support to perform the recordkeeping tasks necessary in maintaining the register.

When the last staff assistant resigned, the

review board had sought to have the foundation fill the vacant position. However, despite the availability of funds, no staff assistant was hired for the board. This caused the legislature at the 1975 session to eliminate the staff assistant position and to establish instead a secretarial position in the department of land and natural resources for the specific purpose of assisting the review board. At this writing, the review board is interviewing applicants for the position.

Notification to property owners. Once a site has been placed on the Hawaii register, it is incumbent on the review board to notify the owners of the property of the historic designation of the site. The notification includes the citation of the appropriate law authorizing the designation and a warning that before any construction, alteration, or improvement on the site can be undertaken, the owner must give the department of land and natural resources three months' notice of the owner's intention.¹⁸

¹⁷All sites placed on the national register are placed on the Hawaii register, but not all sites on the Hawaii register are necessarily on the national register.

¹⁸Section 6-11(c), HRS, requires that "[b]efore any construction, alteration, or improvement of any nature whatsoever is undertaken or commended on a designated private prehistoric or historic site by any person, he shall give to the department [of land and natural resources] three months notice of intention to construct, alter, or improve the site." At the end of the three-month period, the department can condemn the property for its purchase, permit the owner to begin construction, alteration, or improvement, or undertake or permit the gathering of any historical information.

The review board has not promptly notified the owners in all cases. There is currently a file of unnotified cases dating back to 1971. As far as we could determine through the minutes of the review board meetings, the backlog of cases where owners have not been notified involves some 580 sites.

The sites belong to private individuals and the federal, state, and county governments. Table 5.2 shows the ownership of the sample of the sites we examined. The table shows that 513 property owners were not notified of the historic designation of their sites.

It appears that the board's failure to promptly notify property owners of their sites' historic designation is due not only to the lack of staff support but also to the incompleteness of the information in site report forms. For instance, the sample of site report forms examined revealed numerous cases in which the names of property owners as well as the tax map key numbers were unrecorded. The tax map key is needed to identify the site location and owner. While the Hawaii register staff is responsible for filling out the site report forms, it is the responsibility of the board to review and evaluate the information contained in these reports. Without complete information, the notification process cannot be properly carried out. Thus, the board should return any and all incomplete site reports to the register staff prior to making its decision.

Table 5.2

Ownership of Sample of 310 Sites
Placed on the Hawaii Register

<i>Type of owner</i>	<i>Number of sites</i>	<i>Number of owners</i>
Private	184	508
Federal	12	1
State	107	1
Counties	7	3
Total	310	513

Moreover, by accepting these incomplete site report forms, the board has made it impossible for DLNR to transmit the required information to the director of taxation as required by section 6-11, HRS. Consequently, the director of the department of taxation has also been unable to clearly designate on all tax maps of the State the locations of all prehistoric and historic sites.

The board's failure to notify property owners that their parcels or that specific sites on their parcels have been placed on the Hawaii register could be detrimental to the preservation of valuable historical and archaeological sites. These property owners, unaware of the historic designation and the protection accorded under state law could be destroying sites without the knowledge of the department of land and natural resources.

Under a new federal regulation which will take effect on April 1, 1976, "each state is required to notify property owners in writing at least once, of the State's intent to nominate a property (to the national register) and to allow a reasonable opportunity for the presentation of written comments concerning the property's significance prior to review board consideration.¹⁹ It is difficult to imagine how this federal requirement can be met when the board is unable at present to notify owners of properties actually designated as historic sites.

Failure to adopt rules and regulations. The work of the Hawaii historic places review board affects private and public property rights. It thus would seem that the board would operate under rules and regulations established pursuant to chapter 91, HRS, the Hawaii Administrative Procedure Act (APA). For instance, chapter 91 requires among other things that every government agency:

"(1) Adopt as a rule a description of the methods whereby the public may obtain information or make submittals or requests."²⁰

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

That rules and regulations would be appropriate for the review board was recognized by the legislature, for it specifically empowered the board to adopt rules and regulations governing its work.

Thus far, however, the board has not adopted rules and regulations to govern all facets of its work which affects the public.

In May 1974, the board prepared a one-page document entitled: "Working Draft of the Policies and Procedures of the Review Board." An examination of these policies and procedures reveals that they relate primarily to the processing of site report forms and deal with such internal matters as the types of reports required and the kinds of forms to be used in evaluating certain sites. In our opinion, these policies and procedures are totally inadequate as general operating procedures much less as rules and regulations which meet the requirements of the APA. To date, these policies and procedures remain in "draft" form.

Lack of support from the Hawaii register staff. As already noted, the Hawaii register staff

¹⁹*Federal Register*, volume 41, no. 6, January 9, 1976.

²⁰Section 91-1, HRS, defines a "rule" as "each agency statement of general or particular applicability and future effect that implements, interprets, or prescribes law or policy, or describes the organization, procedure or practice requirements of any agency."

in the department of land and natural resources is responsible for surveying archaeological and historical sites and preparing site reports for evaluation by the review board.

It appears that the register staff has not been able to survey sites and prepare site reports with sufficient speed as to enable the review board to do its job of evaluating sites and nominating them for inclusion in the Hawaii and national registers. One reason for this lack of speed is the fact that the register staff is limited in number and it has other duties to perform. The register staff is responsible for the review of construction, alteration, or improvement projects on sites on the Hawaii Register of Historic Places. The staff must also review construction projects within the State that are under federal control or that are funded or licensed by an agency of the federal government to determine whether these projects would have any adverse effect on any historic or archaeological site on the national register or on any potential national register site.

The project review program has grown to become one of the Hawaii register staff's primary tasks.²¹ Given the existing staff, as the caseload for the review program increases as more sites are placed on the Hawaii and national registers, less time is available for the surveying and processing of sites for the review board to evaluate. Compared to previous years, the review board evaluated the lowest average

number of sites per meeting during 1975. As shown in table 5.3, in 1975, the review board evaluated on the average only 2.1 sites per meeting.

Table 5.3
Sites Evaluated by the Review Board
During 1971-75

Year	Number of review board meetings	Number of sites evaluated	Average number of sites/ meeting
1971	21	185	8.8
1972	26	106	4.1
1973	23	165	7.2
1974	25	402	16.1
1975*	13	27	2.1
Total	108	885	

*Minutes for June 28, September 22, December 3, and December 29 meetings were not available. No meetings were held in October and November.

²¹Historic Preservation Program Report as of November 1974, division of state parks, outdoor recreation and historic sites, department of land and natural resources.

The number of sites which still remain to be evaluated by the review board can only be estimated. According to figures provided by the Hawaii register staff, there are approximately 6400 known historical and archaeological sites on the islands of Hawaii, Maui, Molokai, Lanai, Kauai, and Oahu. The review board has reviewed approximately 885 sites. Some of the remaining sites which need to be processed and evaluated will eventually be grouped into districts or combined into one single site report and will be considered as such by the review board. It has been estimated that after certain individual sites have been grouped into one site report or into historic or archaeological districts, the review board will have some 950 to 1000 sites left to consider.²²

The survey and registration of these sites form the data base for the historic preservation program. The longer it takes to survey and register these sites, the greater is the delay in the placement of eligible sites on the Hawaii and national registers which would afford protection of the sites from adverse effects.

Recommendations

Obviously, if the foundation is to meet the responsibilities imposed on it by law, it must begin to focus its attention to those responsibilities. In the next chapter, however, we raise some questions as to whether the

foundation, given its character, will ever be able to do so.

Subject to our observations contained in chapter 6, we recommend as follows:

- 1. The foundation complete the establishment of necessary criteria in all program areas assigned to it and begin a real implementation of the programs.*

- 2. In the program of multi-cultural studies, the foundation provide the necessary staff support to the Multi-Cultural Center as promised, and the Multi-Cultural Center establish necessary criteria and working procedures to avoid duplicating work of others, determine needs for historical taping, and generally to facilitate the production of useful oral history tapes. In addition the foundation should take steps to ensure the proprietary rights of the foundation and the State in the materials collected on Hawaii history.*

- 3. In the case of the Hawaii historic places review board, the foundation establish rules and regulations to govern its operations, following the procedures set forth in the Hawaii*

²²Several sites may be combined into one site report. This is done when the sites are closely related to each other. In some cases, districts may be created out of several sites when it can be justified. For example, such districts as the Kealahou Bay Archaeological and Historic District and the Chinatown Historical District may contain dozens of individual sites.

Administrative Procedure Act, and assist in expediting its review of historical sites. We further recommend that the Hawaii register staff of the department of land and natural resources allocate its resources and staff as to enable the review board to perform efficiently and expeditiously its responsibility

in the evaluation and nomination of sites for placement on the Hawaii and national registers.

4. The responsibility for recordkeeping functions, i.e., the maintenance of the register and the notification of owners, be assigned to the department of land and natural resources.

Chapter 6

APPROPRIATENESS OF THE FOUNDATION FOR PROGRAMS IN HISTORY AND THE HUMANITIES

In chapter 5, we noted the lack of progress on the part of the foundation in implementing the programs assigned to it by statute. In this chapter, we note the cause of this situation and examine the appropriateness of the foundation for carrying out the state programs in the field of history and the humanities.

Summary of Findings

1. The foundation, being a membership-corporate form of organization, is an inappropriate vehicle for the implementation of the state history and humanities program as a whole.
2. The role of the foundation should be circumscribed and the various programs now lodged in the foundation transferred to other state agencies.

The Character of the Foundation

When the Hawaii foundation for history and the humanities was created in 1969, the legislature clearly intended the foundation to be a state agency. Thus House Standing Committee Report No. 513 issued on the bill creating the foundation noted that the purpose of the bill was "to create a complementary and collaborative *State of Hawaii official agency* for historic preservation, restoration, presentation, museum activities and support programs" [Emphasis supplied.] That this was indeed the intent of the legislature was confirmed by the attorney general when in November 1973, he advised the foundation trustees that the foundation was not a public corporation but a quasi-state agency, and, as in the case of other state agencies, the foundation was subject to the State's Administrative Procedure Act and the foundation employees were entitled to benefits under the State's retirement system.

Starting from the premise that the foundation is a state agency, the legislature vested in the foundation responsibilities for wide-ranging programs in the history and humanities area just as if it were another state agency. Indeed, it appears that the legislature sought to make the foundation the leading state agency for the state programs in history and the humanities.

However, in creating the foundation, the legislature clothed the foundation with attributes of a private organization. It authorized the foundation to have a membership consisting of dues-paying individuals and vested in this membership the power to elect the foundation's board of trustees. In this respect, the legislature has caused the foundation to be like other private associations, clubs, and societies.

In effect, the legislature created a dues-paying membership organization but expected it to behave like other state agencies, and vested it with responsibility for a variety of state programs. However, once having clothed the foundation with attributes of a private membership organization, it was far too much to expect the foundation to behave like any other state agency. From the outset, the foundation has sought to chart its own independent course and to act in a manner similar to other membership organizations but alien to the manner of behavior of a state agency. It has

sought an identity of its own in terms of both operations and programs.

The Private Approach in Foundation Operations

At the outset when it was first organized, the foundation inserted in its constitution the statement that the foundation is "...incorporated in the State of Hawaii as a non-profit, autonomous, private organization."¹ In accordance with this perception of its own character, the foundation during the period 1969 to 1974:

- . Filed payroll tax returns with the federal government.
- . Paid all of the fringe benefit costs for its employees, i.e., health insurance premiums, federal social security insurance, workmen's compensation, and temporary disability insurance.
- . Disregarded laws and administrative policies governing state agencies by creating positions without legislative approval, making organizational changes without the

¹Article III, constitution and by-laws of the foundation, adopted April 24, 1970.

governor's approval,² and expending monies without following state policies and regulations governing the expenditure of funds.

Further, the foundation signed the contract with the governor's office in 1972 to carry out the ethnic studies program for the governor's office as an "independent consultant," and the payments under the contract to the foundation were made subject to the conditions of section 103-53, HRS, which provides that payment in final settlement of a contract will not be made until the consultant receives a tax clearance from the director of taxation that all delinquent taxes levied or accrued under state statutes against the consultant have been paid. This condition is only applicable to private contractors and consultants.³

In 1974, the legislature enacted Act 251 in an effort to reemphasize the state agency status of the foundation. The act changed the description of the foundation from an "educational, nonprofit corporation" to an "educational nonprofit public corporation." It placed the foundation within the department of budget and finance for administrative purposes. The act also specifically exempted the foundation's employees from the civil service law (chapter 76) and the compensation law governing civil service employees (chapter 77) and thereby by implication noted that the foundation's employees are state employees.

The passage of Act 251, however, did little to change the conduct of the foundation. It has continued to act as if it were a private organization. *First*, it sought to continue to treat its employees as non-state employees until the attorney general in January 1975 advised the trustees that the foundation is a state instrumentality and thus its employees are state employees.⁴

Second, the foundation has managed its finances outside the fiscal apparatus of the State. It has opened several bank accounts under its own name into which it has deposited all funds it has received, including the amounts appropriated by the legislature for the operations of the foundation. It is true, of course, that the statute permits the foundation

²The internal organizational matters, including the establishment (or abolishment) of divisions or other administrative units within state agencies and quasi-public institutions supported in whole or in part by state funds are governed by administrative directive No. 12 (dated January 25, 1965). The directive sets forth the policies and procedures for effectuating internal organizational changes within the executive departments and quasi-public institutions and requires that all changes in organization be implemented only after they are reviewed by the director of finance and approved by the governor.

³The attorney general unwittingly contributed to the behavior of the foundation as a private corporation in this matter when he approved the contract "as to form."

⁴Memorandum to the attorney general from a deputy attorney general; subject: Status of the employees of the Hawaii Foundation for History and the Humanities, January 23, 1975.

to set up a special account for depositing moneys and to disburse funds in such account upon warrants signed by the president and one other trustee. But this authorization is only with respect to "moneys received from either public or private contracts, or from private or public grants, awards, or gifts."⁵ All other funds of the foundation, as a public agency, are subject to the requirements of section 37-54, HRS, which provide that "all state funds shall be deposited in the state treasury."

Unfortunately, the attorney general by his ruling issued on April 10, 1975 (upon the inquiry of the state director of finance) has unintentionally contributed to the foundation's practice of utilizing its own bank accounts for all funds. The attorney general stated in the ruling that "[i]n view of the provisions of Section 6-16 (HRS) the foundation may legally continue to maintain its own bank account and need not deposit the funds it received from the sources indicated in Section 6-16 in the State treasury." Although the attorney general specifically referred to funds "received from the sources indicated in section 6-16," his ruling has been construed by the foundation as allowing the foundation to continue to maintain its separate bank accounts for all funds.

Third, although Act 251 had placed the foundation under the administrative supervision of the department of budget and finance, the foundation has not always recognized the

authority of the director of finance. For instance, although the director of finance has the approving authority over the employment, appointment, promotion, transfer, demotion, and discharge of the officers and employees of the foundation, the foundation in August 1975 sought to discharge the executive director without the approval of the director of finance.⁶

Fourth, it will be recalled that when the foundation contracted with the governor's office in 1972 for the ethnic studies program assigned to the governor's office by Act 163, S.L.H. 1971, the foundation created the ethnic research and resource center (later known as the Multi-Cultural Center) as a separate entity to perform the work required under its contract with the governor's office. This in itself was a behavior unlike that of a state agency. No state agency is authorized to create other entities for the purpose of performing work entrusted to the agency, particularly when the control over the entity created is vested in a board of directors separate and apart from the officers of the creating agency, and the entity created is allowed to employ a separate staff.

⁵Section 6-16.7, HRS.

⁶Subsequent to the vote of the board of trustees to ask for the resignation of the executive director, the director of finance reversed the decision of the board and caused the executive director to be retained.

Even after Act 251 officially established the multi-cultural studies program as part of the foundation, the foundation continued to treat the Multi-Cultural Center as if it were an entity separate and apart from the foundation, although there are indications that there were some uncertainties regarding the status of the center. Indeed, the center itself perceived the center to be a separate organizational entity. On September 19, 1974, the center directors incorporated as a nonprofit, private organization, without informing the foundation. The corporate status of the center remained undisclosed until January 1975 when the directors voted to dissolve the corporation. The center was apparently incorporated to limit the personal liability of the directors. Incorporation was thought necessary to provide the directors of the center immunity from personal liability inasmuch as the center was being treated as an entity separate and apart from the foundation.

The center remained a corporate entity until February 1975, when it was dissolved. The reason for the dissolution is not entirely clear. According to one account, the dissolution was the result of an informal ruling by a deputy attorney general that incorporation of an entity receiving state funds is illegal unless specifically authorized by statute. According to another account, a deputy attorney general informally notified a board member that incorporation for the purpose of limiting personal liability was unnecessary since the center was a part of the

foundation and, as such, its directors would be covered under the umbrella of the foundation. Under either account, it appears that it was the feeling of the office of the attorney general that the center was a state agency or a part of a state agency.

In September 1975, the foundation's board voted to recognize the center as a project of the foundation. The center became officially known as the Multi-Cultural Center, a project of the foundation, and was placed, for organizational purposes, under the jurisdiction of a subcommittee of the foundation.

Although the trustees of the foundation had moved to integrate the center into the foundation "programmatically" and "administratively" meaning that program planning and implementation would be performed by the foundation's staff and handled by the main office, in practice, the center has continued to be treated by the foundation as a separate entity. For example, the center has continued to be responsible for developing its own programs and program activities with little input from the foundation. In addition, the foundation made a distinction between the employment status of its staff and the staff of the center. The trustees considered the foundation's director and staff to be "state employees," but considered the center employees as "foundation employees." As foundation employees, "the HFHH would be

responsible for meeting the same requirements as any private employer, i.e., FICA, TDI (temporary disability insurance), unemployment insurance, workmen's compensation, and other benefits as agreed upon with the employees...."⁷ Further, the center was directed to process its own federal and state withholding taxes.⁸ The effect of this was that the foundation considered itself as a "private employer" and the center a separate entity.

On January 5, 1976, apparently on the advice of the deputy attorney general assigned to render legal advice to the foundation, the center again was incorporated as a non-profit corporation with its own board of directors. The foundation then entered into a contractual agreement with the center for the purposes of carrying out the terms of the contract previously negotiated between the governor and the foundation.

Differing Programmatic Priorities

In terms of programs, the foundation has pursued those activities which in its judgment merited attention. The priorities of the foundation have differed markedly from those of the legislature. In the previous chapter we noted how deficient the foundation has been in implementing the legislatively mandated programs. These deficiencies have been the result of the differing priorities of the foundation. The

priorities of the foundation have been in the main on those programs beneficial to the membership of the foundation rather than to the public at large.

In its submission to the House Committee on Culture and the Arts in February 1975, the foundation listed the following activities as having priority among all the things the foundation does:

- . Membership program
- . Publication—"Hawaii Heritage News"
- . Field trips — monthly
- . Lecture series — monthly
- . Cultural campouts
- . Museum support program
- . Grants-in-aid program
- . Information packets
- . Publication of museums directory

⁷Letter to the director of finance, department of budget and finance, from the president of the Hawaii foundation for history and the humanities, June 26, 1975.

⁸Memorandum from the executive director of the foundation to the project director of the Multi-Cultural Center, September 9, 1975.

. Resource file on agencies and individuals in related fields

. Junior membership—junior historian program

Seven of the above eleven are activities directed towards the foundation members. The membership program is designed to recruit new members. Field trips, lecture series, cultural campouts, and junior membership program are excursions and recreational and educational events for members. Information packets are collections of reading materials that furnish members with background information on the locations covered on field trips and outings; and Hawaii Heritage News is a monthly publication for members which focuses on past membership events, information on upcoming events, and recruitment of new members.

In performance, the staff of the foundation has devoted most of its time to membership matters. In fact, the inordinate amount of time spent by the staff on membership matters was a subject of great debate among the foundation board of trustees in 1975. The matter boiled over into a stormy controversy between the trustees and the foundation's executive director, resulting in an almost complete cessation of communications between the trustees and the director and a request by the trustees for the director's resignation.⁹ Given the mood of the membership, it is unclear as to how much more attention the trustees could have caused the

foundation to pay to legislatively mandated programs, even if they had won their skirmish with the executive director. Even while the trustees were concerned about the lack of fulfillment of legislative expectations and were deliberating on the matter, the membership itself was debating on the use of membership dues. Some members felt that all of the membership dues should be used for membership programs rather than for grants-in-aid programs and general operations as was (and is) the prevailing practice.

Not only has most of the time of the foundation's staff been spent on membership programs, but the staff time of the Multi-Cultural Center has also been used for membership programs at the expense of the multi-cultural studies program which was (and is) the primary mission of the center. The center staff's work on the Hawaii Heritage News and on project Holo-Holo are illustrations.

. *Hawaii Heritage News*. Hawaii Heritage News was originated by the Multi-Cultural Center. Published monthly, it was initially intended as a way of communicating with and coordinating work among groups and individuals involved in ethno history as well as helping to keep interested people abreast

⁹This request was overturned by the director of finance.

of current work in ethnic studies.¹⁰ The foundation had its own newsletter "Foundation Footnotes," which was used for communicating with the membership. Sometime later, the two publications were combined. This resulted in a change in the objective of the Hawaii Heritage News from facilitating research and coordinating work in the field of ethno history to that of providing benefits to the members of the foundation. But this was not all. As was the case initially, after the merger, Hawaii Heritage News continued to be put out by the center staff, consuming about two weeks every month of the center director's time.

Project Holo-Holo. Project Holo-Holo, consists of monthly field trips to historical and cultural sites. It was initiated jointly by the Multi-Cultural Center and the review board in 1973 "to help foundation members in familiarizing themselves with different aspects of Hawaii's historic and cultural background."¹¹ The center was responsible for hosting a holo-holo every other month. The field trips also included information packets for participants prepared by the Multi-Cultural Center director. This project has consumed about one week of the center director's time every other month.

While the Hawaii Heritage News and the

holo-holos were extremely valuable in meeting the membership needs of the foundation, they contributed little toward meeting the legislative intent of the multi-cultural studies program. The priority placed upon the Hawaii Heritage News and the holo-holo project became particularly evident upon the resignation of the director of the Multi-Cultural Center in September 1973. All activities for the multi-cultural studies program came to a halt until a new director was selected, except for the Hawaii Heritage News and the Holo-Holo projects.

The newsletter and holo-holo projects have since been assumed by the foundation and its staff, but the staff and resources of the Multi-Cultural Center had been expended on these projects for nearly two years. Thus, involvement in these projects has set the staff of the center back two years in meeting legislative intent in the multi-cultural studies program.

An Analysis

That the foundation has sought to operate like a private organization and to emphasize those programs that are beneficial to its

¹⁰First quarterly report of the Ethnic Research and Resource Center.

¹¹1973 *Hawaii Foundation for History and the Humanities Annual Report*, p. 28.

members rather than those mandated by the legislature should not be surprising. The foundation's mode of operation and directions mirror the aims and understanding of the membership. The board of trustees is, after all, elected by the membership and the foundation staff is in turn chosen by the trustees.

The concept of membership-corporate responsibility and the concept of state control are basically incompatible. The act of clothing an entity with the attributes of membership and corporation implies that the members of the corporation are to have a voice in how things are to be run and what is to be done within the framework of the mission of the organization; and the broader the mission entrusted to the organization, the greater is the flexibility presumably vested in the membership. What this means is that unless government is prepared to leave much of the control and direction in the hands of the membership-corporation, that form of organization is not the route to pursue in implementing governmental programs.

In the case of the foundation, the legislature appears to have vested in the foundation a rather broad mission—to recover, restore, preserve, maintain, and present the history and culture of Hawaii. By the same token, however, it assigned to the foundation responsibility for some rather specific programs with full expectation that the foundation would pay attention to and implement those programs

within the basic mission framework of the organization. By assigning specific programs for implementation, in effect the legislature has sought to direct and control, rather than leaving to the foundation itself, what ought to be done to achieve the purpose of the organization.

This does not mean that a membership-corporation is not a suitable device for carrying out state programs; nor does it mean that the legislature, having set up a membership-corporation might not be able to chart the direction of the corporation. What it does mean is that unless the legislature is willing to permit the membership-corporation to exercise its own judgment as to the programs to be implemented and the manner of its operations, the mission of the membership-corporation ought to be narrowly circumscribed rather than broadly defined. An illustration will serve to make the thrust of this comment clear.

The National Trust for Historic Preservation in the United States is a charitable, educational, non-profit corporation established by the Congress. The Hawaii foundation was ostensibly patterned after this national trust. Thus the national trust, like the Hawaii foundation, is a membership-corporation, with the members electing the board of trustees of the national trust. However, unlike the Hawaii foundation, the national trust has but a singular, narrowly circumscribed mission—to preserve and

maintain sites, buildings, and objects significant in American history and culture. It is true that the national trust is authorized to (1) accept donations of historical sites, buildings, and objects and to preserve and administer them for public benefit; (2) to contract with others respecting the protection, preservation, maintenance, or operation of any other historic site, building, or object; and (3) to administer gifts of money, securities or other property for the purpose of carrying out the program of preserving historical sites, buildings, and objects. But these powers are incidental to and in support of the same singular basic purpose of the trust—to protect, preserve, and maintain historical sites, buildings, and objects.

The situation of the Hawaii foundation is vastly different from that of the national trust. The mission of the foundation is broad—to retrieve, restore, preserve, and maintain the history and culture of Hawaii. Under this mission, the program possibilities are numerous. Historic site and building preservation is but only one of such possibilities. It is precisely the availability of such numerous possible programs that gives rise to problems. Understandably, from time to time, legislative judgment is made as to what programs and activities contribute to the broad aims of the foundation, but the foundation in turn, based on its membership conception of what is important, is itself capable of generating programs within the framework of its mission. Program possibilities

are fairly wide open particularly in this area of Hawaiian history and culture, for the area is a relatively new one, with no common agreement as yet as to what constitutes Hawaiian history and culture or what their components ought to be.

In light of the foregoing, it appears that a membership-corporate entity is not the appropriate medium through which the state program in Hawaii history and culture as a whole should be pursued. We think that the assignment now apparently given to the foundation for this area as a whole should be withdrawn. It may well be that the foundation as a membership-corporation could continue to be vested with the responsibility for preserving, protecting, and maintaining historic sites, buildings, and objects. This is a rather specific program and the kind that a private organization could and often does perform. Indeed, the only reason for the creation of a corporate body by government to perform this function is to ensure that the sites, buildings, and objects are available to the general public, rather than only to a private group. All other functions, however, should be transferred to other state agencies over which the executive and the legislature can exercise the control they desire.

In the following paragraphs, we note where some of the programs now in the foundation might be transferred for administration.

Research, studies, and investigations in the fields of ethno.history and the humanities.

This program is now in part being pursued by the university of Hawaii's ethnic studies program. It is, for instance, involved in the conduct of an oral history project. The emphasis of the program is on research, and thus it appears that the transfer of the program from the foundation and its Multi-Cultural Center to the academic atmosphere of the university would be appropriate.

We note, that the function of research, studies, and investigations in the field of ethno history and culture is also assigned to the governor's office. We believe that this assignment should be terminated and the university be made exclusively responsible for the program.

Review board. The Hawaii historic places review board function of the foundation is principally to evaluate and nominate historical sites and buildings for placement on the Hawaii and national registers and to maintain an up-to-date listing of all sites placed on the registers. Since a great deal of this function is dependent on the surveys and examinations conducted by the register staff now in the department of land and natural resources, the entire review board function could appropriately be placed in the department of land and natural resources.

Museum support program. The museum support program should be assigned to the state foundation for culture and the arts since that agency is eligible for grants in this area from the National Endowment for the Arts.

Information center and clearinghouse. The information center and clearinghouse functions can be assigned to the existing special Hawaiiana units in the state library system and the university of Hawaii libraries.

This leaves the foundation with responsibility over the restoration, preservation, and maintenance of historic sites, buildings, and objects.

One further observation is pertinent here. There is currently no state agency to which the responsibility for the whole of the State's program in history and the humanities can be conveniently assigned. This is one reason why the responsibility was lodged in the foundation in the first place. As noted, of course, the foundation, being a membership organization, cannot readily be treated like any other state agency and thus the responsibility for the whole of the program cannot be neatly placed there. However, overall responsibility and coordination of programs in history and the humanities need to be clarified and established.

The State's interest in the preservation of Hawaii's history and culture, or at least a record of them, has become keen in only recent years. Perhaps, it is in a sense an awareness of the need to augment some of the functions now being performed by, for example, the state archives. For this reason, there is no state agency at present to which the program area for history and the humanities can be neatly assigned. It would seem that this problem is one to which the state government reorganization committee could devote some of its time.

Recommendation

We recommend as follows:

1. *The Hawaii foundation for history and the humanities be vested with the single function of accepting, restoring, preserving, and maintaining prehistoric (archaeological) and historic sites, buildings, and objects for the public benefit in the same manner as is the National Trust for Historic Preservation.*

2. *The program for research, studies, and investigations in the field of ethno history and the humanities be assigned solely to the university of Hawaii.*

3. *The museum support program be assigned to the state foundation for culture and the arts.*

4. *The information center and clearing-house functions be assigned to the Hawaiiiana units in the state library system and the university of Hawaii libraries.*

5. *All other functions for historic preservation now assigned to the foundation be transferred to the department of land and natural resources.*

6. *The state government reorganization committee include in its study the placement of the lead responsibility for the State's programs in history and the humanities.*

Chapter 7

FINANCIAL STATEMENTS AND INTERNAL CONTROL

This chapter contains the results of our examination of the financial statements of the Hawaii foundation for history and the humanities for the fiscal year July 1, 1974 to June 30, 1975. It includes a brief description of the financial statements and our opinions regarding the reasonable accuracy of the financial statements of the various funds maintained by the foundation. Our findings and recommendations on the foundation's financial accounting practices and its system of internal control are also presented here.

Summary of Findings

Our findings and conclusions are as follows:

1. The financial statements of the foundation presented in this chapter are reasonably accurate.

2. The foundation has not complied with the financial reporting requirements im-

posed by law on funds not deposited into the state treasury.

3. No inventory report on property has been filed by the foundation as required by statute.

Method of Accounting

The foundation maintains its accounts and prepares its financial statements on a modified cash basis of accounting. Generally, under this basis, revenue is recognized when actually received in cash and expenditures are recognized at the time liabilities are paid, except for the encumbrance of funds for commitments. Commitments are recorded at the time contracts are awarded and orders for services, equipment, construction, and supplies are placed.

Capital assets purchased by the foundation are recorded as operating expenditures and are not shown as assets on the financial statements of the foundation. These capital expenditures

are accounted for as part of the statewide general fixed asset group of accounts. Depreciation on these assets is generally not recorded by the State.

In accordance with the practice followed by other state agencies, the foundation does not reflect in its financial statements any earned vacation and sick leave credits. Vacation credits of state employees, although technically accrued when earned, are recorded as expenditures and charged against the foundation's funds only when the vacations are taken or claimed (in cases of employment termination). Sick leave credits, although accrued, can only be applied when an employee is ill; there is no cash payoff for unused, accrued sick leave credits upon the termination of employment.

All full-time state employees of the foundation are required by section 88-42 of the Hawaii Revised Statutes to become members of the employees' retirement system of the State. The system requires contributions to be made by both the employee and the employer (State). The employer's share of the contribution for the foundation's employees is appropriated annually to the department of budget and finance and is not reflected in the financial statements of the foundation.

Statement of Resources, Expenditures, and Unencumbered Balances (Special Account)

The foundation's statement of resources,

expenditures, and unencumbered balances (special account) for the year ended June 30, 1975 is shown in table 7.1.¹

Opinion on statement. In our opinion, the foundation's statement of resources, expenditures, and unencumbered balances (special account) reflects fairly the resources that were made available to and the expenditures that were made by the foundation during the fiscal year ended June 30, 1975.

General description of the statement. The statement presents a summary of the special account transactions of the foundation for the year ended June 30, 1975. The special account is used to account for all resources not specifically reserved for special purposes. The statement presented in table 7.1 reflects only the special account resources and expenditures of the foundation. A discussion of the special account resources that were made available to the foundation and the expenditures made by it follows:

1. Resources. a. State general fund appropriation. For the fiscal period beginning July 1, 1974 and ending June 30, 1975, the state legislature, by Act 218, S.L.H. 1973, appropriated \$40,000 from the general fund

¹The balance of the appropriation made under Act 202, S.L.H. 1971, which is accounted for in the state treasury is displayed in this special account financial statement to reflect all financial transactions of the foundation.

Table 7.1

**Hawaii Foundation for History and the Humanities
Statement of Resources, Expenditures and Unencumbered Balances
Special Account
For the Year Ended June 30, 1975**

	<i>Total</i>	<i>Hawaii Foundation operations</i>	<i>Review board</i>	<i>Multi- Cultural Center</i>
Resources				
Appropriations				
Act 218, SLH 1973	\$ 40,000	\$27,300	\$12,700	\$ -
Contractual receipts	35,416	-	-	35,416
Membership dues	3,472	3,472	-	-
Other receipts	5,085	3,910	-	1,175
Balances - July 1, 1974				
Bank special account	42,300	5,297	10,175	26,828
State treasury - Act 202, SLH 1971	27,350	23,050	4,300	-
Total resources	\$153,623	\$63,029	\$27,175	\$63,419
Expenditures				
Personal services	\$ 49,934	\$27,791	\$ 2,622	\$19,521
Other current expenses	54,047	15,034	11,881	27,132
Equipment	5,344	690	2,157	2,497
Total expenditures	\$109,325	\$43,515	\$16,660	\$49,150
Excess of resources over expenditures	\$ 44,298	\$19,514	\$10,515	\$14,269
Lapses	10,515	-	10,515	-
Balances - June 30, 1975				
Bank special account	\$ 16,433	\$ 2,164	\$ -	\$14,269
State treasury - Act 202, SLH 1971	17,350	17,350	-	-
Total balances	\$ 33,783	\$19,514	\$ -	\$14,269

revenues of the State for the operations of the foundation. Of the \$40,000 appropriation, \$27,300 was allocated to finance the expenditures of the foundation, while the balance of \$12,700 was allocated for the Hawaii historic places review board.

b. Contractual receipts. During the fiscal year, the foundation received \$35,416 under contract with the office of the governor. Under the contract, the foundation was engaged to provide the services necessary for an ethnic studies program and the maintenance of a centralized repository for cultural studies, arts, and artifacts. These funds were used by the foundation to finance the Multi-Cultural Center.

c. Membership dues. The foundation collected \$7536 in membership dues during the 1974-75 fiscal year. Of that amount, \$3472 was allocated for the general use of the foundation and \$4064 was allocated for the grants-in-aid program of the foundation. The latter portion is accounted for in the foundation's trust fund.

d. Other receipts. During the fiscal year ended June 30, 1975, the foundation received a total of \$5085 for activities sponsored and for other services provided by the foundation.

e. Beginning balances. At July 1, 1974, the foundation had a total of \$69,650 in funds carried over from the prior fiscal year. Of this

total, \$42,300 represented funds which were maintained in private bank checking accounts, while the remaining \$27,350 represented state funds in the state treasury appropriated to the foundation under Act 202, S.L.H. 1971.

2. Expenditures. Expenditures are actual disbursements of funds in payment for goods received and/or services performed. During the fiscal year ended June 30, 1975, the foundation expended a total of \$109,325. The major categories of expenses included in the \$109,325 are as follows:

a. Personal services. This includes salaries, overtime pay, employer's portion of social security (FICA), medical, automobile allowance, workmen's compensation insurance, and temporary disability insurance. The total was \$49,934 or approximately 46 percent of the foundation's total operating expenditures.

b. Other current expenses. This category of expenses includes all expenditures other than those included in personal services and equipment. It includes expenditures for travel, postage, printing, and supplies. For the fiscal year ended June 30, 1975, the foundation incurred a total of \$54,047 in other current expenses.

c. Equipment. The foundation expended a total of \$5344 for the purchase of equipment during the fiscal year. The equipment purchased

included such items as office furniture and equipment.

3. Excess of resources over expenditures. In the fiscal year ended June 30, 1975, the total resources available to the foundation exceeded the total expenditures by \$44,298 (\$153,623 - \$109,325).

4. Lapsed balance. Of the total \$44,298 excess remaining at the close of the fiscal year, the sum of \$10,515 lapsed and was returned to the state general fund. Most of the lapsed amount represents the unexpended and unencumbered state general funds appropriated to the foundation for the fiscal year ended June 30, 1974.

5. Unencumbered balances. The un-lapsed and unencumbered balance of \$33,783 includes \$16,433 of foundation funds maintained in private bank checking accounts and \$17,350 of state-appropriated funds maintained in the state treasury. These state funds were originally appropriated by the legislature by Act 202, S.L.H. 1971.

Statement of Cash Receipts, Disbursements, and Balances of Trust Funds

The foundation's statement of cash receipts, disbursements, and balances of trust

funds for the year ended June 30, 1975 is shown in table 7.2.

Opinion on statement. In our opinion, the statement shown in table 7.2 presents fairly the receipts, disbursements, and balances of the trust funds of the foundation for the year ended June 30, 1975.

General description of the statement. The foundation has established two trust funds to manage and account for funds designated for specific purposes. The statement of cash receipts, disbursements, and balances of trust funds summarizes the results of the cash transactions of each of these funds during the fiscal year. These two trust accounts are maintained in bank accounts under the name of the foundation and, thus, are not included in the state trust funds. A description of each of the trust funds follows.

a. Grant-in-aid fund. This fund was established by the foundation to account for the monies to support its grants-in-aid program. The foundation sets aside all life and patron membership contributions and one-half of all other annual membership contributions into this fund. These funds are invested to earn interest in a savings and loan passbook account until such time as they are needed for a project grant award. During the fiscal year ended June 30, 1975, the grant-in-aid fund received a total of \$4064 in membership contributions

and earned a total of \$400 in interest. There were no withdrawals from this fund during the fiscal year.

b. **Publication fund.** This fund was established by the foundation to pay for the cost

of publishing the research products resulting from the foundation's grant-in-aid projects. This fund was started in December 1973, when the foundation received a \$825 gift from the Association of Hawaiian Civic Clubs. These funds have also been invested in a savings and

Table 7.2

Hawaii Foundation for History and the Humanities
Trust Funds

Statement of Cash Receipts, Disbursements, and Balances
For the Year Ended June 30, 1975

	Total	Grant-in-aid account	Publication account
Cash — July 1, 1974			
Bank savings account	\$ 7,059	\$ 6,223	\$836
Receipts:			
Membership dues	\$ 4,064	4,064	— \$ —
Interest	445	400	45
	\$ 4,509	\$ 4,464	\$ 45
Disbursements	\$ --	--	--
Cash — June 30, 1975			
Bank savings account	\$11,568	\$10,687	\$881

loan passbook account which, during the fiscal year ended June 30, 1975, earned interest totaling \$45.

Financial Controls

This section discusses the deficiencies in the foundation's method of financial accounting and system of internal control. In general, we find that the foundation has not been complying with financial and inventory reporting requirements.

Noncompliance with special account reporting requirements. Act 251, S.L.H. 1974, authorized the foundation to maintain special accounts outside of the state treasury for "moneys received either from public or private grants, awards, or gifts." As such, the foundation utilizes private bank checking accounts to deposit all of the funds received by the foundation and for making disbursements of such funds for foundation expenditures.

We find that the foundation has not been filing the monthly financial receipt and disbursement report to the state comptroller required by section 40-81, HRS, which states:

"All state officers, departments, boards, bureaus, commissions, or agencies collecting or receiving any moneys not required by law to be deposited in the state treasury shall report to the comptroller all receipts and disbursements on account thereof not later than the tenth day of each month on such

forms and under such rules and regulations as may be prescribed by the comptroller."

Recommendation. We recommend that the foundation comply with the reporting requirements for special account funds not required by law to be deposited in the state treasury.

Noncompliance with inventory filing requirements. Under section 106-1, HRS, all persons or agencies of a public character are required to file annually with the state comptroller a sworn return or inventory containing a full, true, and correct list of all state property in their possession, custody, or control as of July 1. The filing of such returns with the comptroller is required on or before September 15 of each year.

As late as January 15, 1976, the foundation had not submitted an inventory listing of all state property under its control. The foundation's reason for non-filing is that it was unaware of the inventory filing requirement and, thus, had not taken a physical inventory of all of its property.

We emphasize that all governmental departments or agencies should have a physical inventory taken of all property, at least once a year. Such a practice is necessary to verify the existence and effective working condition of each property item under its custody. This can only be accomplished by making an actual

physical inspection of each property and comparing it against the property records which list all of the property items that the agency is supposed to have under its control and also checking the operational efficiency of each item. Without a physical inspection, there is no assurance that all assets under the custody of an agency actually exist or need some repair.

The question of an inventory is especially critical now that the Multi-Cultural Center has incorporated as a separate, private organization. Equipment purchased with state funds are

presently being retained by the center. An inventory should be taken to establish the State's property rights.

***Recommendations.** We recommend that the foundation take a physical inventory of its property annually and take all steps necessary to ensure compliance with the inventory filing requirements of the statute. In addition, we recommend that the foundation establish the State's property rights to the equipment retained by the Multi-Cultural Center.*

COMMENTS ON AGENCY RESPONSES

A preliminary draft of this audit report was transmitted to the Hawaii foundation for history and the humanities, the department of budget and finance, the department of land and natural resources, and the Multi-Cultural Center for their comments on our findings and recommendations.

A copy of the transmittal letter to the foundation is included as attachment 1. Similar letters were sent to the other agencies and the Multi-Cultural Center. The response of the Hawaii foundation for history and the humanities, along with its enclosures, is included as attachment 2 of this part. The response of the department of budget and finance is included as attachment 3. No response was received from the department of land and natural resources.

Comments on the Foundation's Response

In his response, the chairman of the foundation summarizes the difficulties that have beset the foundation. He notes that the hybrid nature of the organization as a state agency with a membership body troubled the board from the start. Although the board had every intent of meeting its legislated duties, it was frustrated by the foundation's hazy legal status and the "benign neglect" of the State. He acknowledges that there was a feeling that the foundation had moved too far in the membership direction, to the neglect of other important activities, and he believes that the immediate task facing the foundation is "that of harnessing and directing the members' energies into proper programs of the Foundation." We agree.

With regard to the Multi-Cultural Center, the chairman of the board of the center notes that its program is community-oriented and that it has been successful in meeting community needs. As a community-oriented program, the center's activities are more closely aligned to those sponsored by the state foundation on culture and the arts. The latter sponsors numerous people-oriented projects relating to the preservation and practice of traditional arts, crafts, customs, and lores of the various ethnic groups in Hawaii. Therefore, it would be more appropriate for the center to seek support for its activities from the state foundation on culture and the arts.

The first duty of the multi-cultural studies program is: "Recording Hawaii's social and cultural history through collection and preservation of oral or written communications with Kamaaina Hawaiians and experts." This is primarily a research-oriented program which can be better accommodated in the academic environment of the university of Hawaii.

Responses from others within the foundation, which were included by the foundation as attachments to its response, deal primarily with minor points in the preliminary draft and clarification of and reasons for specific actions taken by the foundation.

Comments on the Response from the Department of Budget and Finance

The director of finance furnished a response to the audit, which in essence contends that the recommendations in the report lack overall consistency and questions the compatibility of a membership-type organization with public functions. We discuss these in turn.

Inconsistency in recommendations. The director states:

"First, there appears to be some lack of overall consistency in the recommendations. We note, for example, that in Chapter 4, the Audit recommends that the Legislature clarify the roles and responsibilities in the State historic preservation program. However, in Chapter 6, the Audit makes specific recommendations for the transfer of many of the Foundation's functions to other State agencies"

We do not see any inconsistency in our recommendations. We state clearly in chapters 4 and 5 that the recommendations are subject to our recommendations in chapter 6 of this report. In chapter 4, we recommend that the legislature clarify the roles and responsibilities of the agencies involved in the state program in history and the humanities. In chapter 5, we specify the actions to be taken by the foundation under its existing responsibilities. Then, in chapter 6, we recommend that many of the functions presently assigned to the foundation be reassigned to other agencies. Until such reassignment of functions occurs, however, the founda-

tion must still proceed to execute its statutory duties. To do nothing should surely not be acceptable to the director of finance, who has the dual statutory responsibilities of exercising administrative supervision over the department as well as overseeing the execution of state programs.

Compatibility of membership organization with public functions. As for the question of membership, the director states:

“While the State provides much of the funding, the membership determines that there may be something inherently incompatible in such an arrangement to the extent that no common purpose or direction can be forthcoming so long as it remains thus.”

The director suggests that membership activities are inappropriate and that they are *inherently* incompatible with the implementation of a program in the public interest. However, the director fails to state the department’s position on whether there should or should not be a membership or what the appropriate course of action should be in resolving this matter.

We, on the other hand, see nothing *inherently* incompatible between the interests of a membership organization and the interests of the State—witness the National Trust for Historic Preservation. There are numerous other examples of membership organizations that have contributed of their time and resources to programs that benefit the general public.

The director also notes:

“The Audit addresses the problem of non-implementation of programs mandated by law by removing those duties from the foundation; in essence, the Audit rewards the foundation for non-compliance by reducing its duties and advocating its continued existence as a membership-corporate organization with a simpler mission.”

The director appears to have missed the point. It is not a question of reward or punishment, but merely a question of what productive purposes the foundation can serve.

Finally, the director states that:

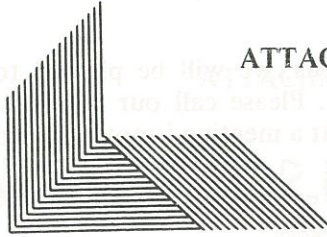
“We question whether the transfer of functions to other State agencies will in itself resolve the problems of the foundation.”

We did not state that the foundation will become effective once its mission is simplified. What we have said is that the function of accepting, preserving, restoring, and maintaining historically and culturally significant sites is one that is appropriate to a publicly supported membership organization, one that has been effectively carried out by other similar organizations, and that the foundation should be given the opportunity to do this.

[References in the original copy of the agencies' comments to the audit report's page numbers correspond with the pagination contained in the preliminary report. However, the numbering in this final report differs from that of the preliminary report. Thus, for the convenience of the reader, all page references contained in the original of the agencies' comments have been altered to conform to the numbering in this final report.]

ATTACHMENT NO. 1

THE OFFICE OF THE AUDITOR
STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813



CLINTON T. TANIMURA
AUDITOR
RALPH W. KONDO
DEPUTY AUDITOR

March 8, 1976

Mr. Kenneth Brown, President
Board of Trustees
Hawaii Foundation for History
and the Humanities
State of Hawaii
Honolulu, Hawaii

C O P Y

Dear Mr. Brown:

Enclosed is a copy of our preliminary report of the *Management Audit of the Hawaii Foundation on History and the Humanities*.

The term "preliminary" indicates that the report has not been released for general distribution. Copies of the preliminary report have been transmitted to the governor, the presiding officers of both houses of the legislature, the director of finance, the chairman of the board of land and natural resources, and the director of the Multi-Cultural Center.

The report contains a number of recommendations to which I would appreciate receiving your written comments. Please submit your comments to us by March 15, 1976. They will be incorporated into the final report which will be released shortly thereafter.

Should you wish to discuss the report with us, we will be pleased to meet with you, at our office, on or before March 11, 1976. Please call our office to set an appointment. A "no call" will be assumed to mean that a meeting is not required.

We appreciate the assistance and cooperation extended to us by the staff of the Hawaii foundation for history and the humanities.

Sincerely,

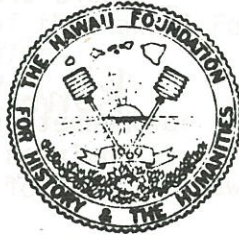


Clinton T. Tanimura
Legislative Auditor

Enclosure

ATTACHMENT NO. 2

HAWAII FOUNDATION FOR HISTORY & THE HUMANITIES



RECEIVED

MAR 12 5 17 PM '76

OFC. OF THE AUDITOR
STATE OF HAWAII

March 12, 1976

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

Dear Mr. Tanimura:

Thank you for transmitting your preliminary report of the Management Audit of the Hawaii Foundation for History and the Humanities, and for the opportunity of discussing it with you and your staff, as well as this opportunity to submit written comments. These comments are organized to speak to our concerns about the major ongoing activities of the Foundation as follows:

The Review Board

The Multi-Cultural Center

Membership

They then conclude with comments from the former Treasurer and some general observations about the history of the Foundation and some conclusions.

Yours truly,


Kenneth F. Brown
Kenneth F. Brown
Chairman
Board of Trustees

March 10, 1976

HAWAII HISTORIC PLACES REVIEW BOARD

Comments on the "Management Audit of the Hawaii Foundation for History and the Humanities"--(Preliminary, March 1975)

- 1) Report should be dated March 1976 on cover sheet.
- 2) Name should read Hawaii Historic Places Review Board [page 25].
- 3) Date statute took effect should be so noted [page 25, paragraph 3].
- 4) To avoid confusion in the interest of clarity, all reference to "Hawaii Register Staff" should read "State Preservation Office Staff" [page 25, paragraph 4] and elsewhere).
- 5) Add County in "proposed private, federal, state, or county construction" for consistency with statement made in [page 26, paragraph 2].
- 6) All reference to "staff support" and "staff assistant" here and henceforth should be preceded by "Review Board" for clarity [page 26, paragraph 4] and elsewhere).
- 7) "Secretarial" position should read "Clerk-Stenographer II." We had hoped for an administrative secretary position but Civil Service classification at this lower rated position makes it difficult to find someone to meet our needs. Although, a Clerk-Stenographer II position was provided us at 2/3 time (which DLNR converted to fulltime), several months elapsed during which time we were asked to provide a job description to meet our needs, the DPS people then reviewed our submittal and approved it but disapproved our request for exempt status. During the last two months, we have been interviewing applicants.

Further, since only \$15,000 of the appropriated \$25,000 has been allocated to us, we voted to suspend our budgeted honorarium so that we could hire someone to assist in site notification. In the last two months we have hired such a

person on a part-time basis, but since our other position is still unfilled, this person is presently getting our records together in preparation for site notification.

- 8) The prompt notification implied should be directed to instances after statute implementation.
- 9) The statement that "the foundation failed to hire a staff assistant for the board" is not true. The Foundation did hire two individuals on separate occasions but they both resigned after approximately two weeks of employment [page 26, paragraph 4].
- 10) It is DLNR's, the preparer's, responsibility to provide the information necessary for subsequent transmittal to the Director of Taxation. I assume this incomplete information alluded to is the unrecorded tax map key numbers in the preceding paragraph [page 27, paragraph 4].
- 11) I believe we have asked the Attorney General's Office many months ago through then Foundation President Edward Greaney for assistance on this matter. Further, according to Mrs. Meheula, the A.G.'s Office specifically asked the Foundation not to consider the matter of rules and regulations for the Review Board last year when the Foundation had a public hearing (?) on theirs.

At present we have a committee looking into the formulation of adequate rules and regulations [page 28, paragraph 2].

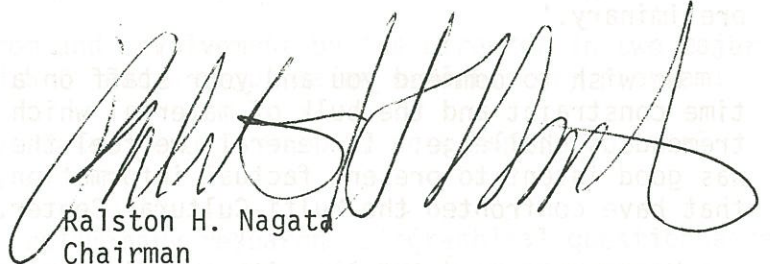
- 12) Though the project review program should continue to be a primary task, we have been informed that a backlog of other required activities, and chronic shortage of adequate staffing for the assigned workload has caused the State Preservation Office to divert staffing priorities to other areas.

This move could be detrimental to our site review work if sites are not received regularly [page 29, paragraph 2].

- 13) Besides the numbers given here, further review is often given to registered or formerly rejected sites on the strength of new information, continual dis-

covery of formally unknown archaeological sites, and the continuous aging of historical buildings to meet the 50-year minimum age requirement for standard register consideration [page 30, paragraph 1].

- 14) Add and archaeological to "Historic _____ sites." Problem of where this body would stand, thus clarified, in relation to existing private or governmental organization structures, e.g. supreme, coexistence or competing. (Recommendation 1, [page 43]).



Ralston H. Nagata
Chairman

Hawaii Historic Places Review Board

March 12, 1976

MULTI-CULTURAL CENTER

Thank you for this opportunity to respond to the recommendations contained in the 'management audit of the Hawaii Foundation for History and the Humanities, preliminary.'

We wish to commend you and your staff on a job well done. We realize the time constraint and the bulk of material which had to be researched presented a tremendous challenge. In general, we feel the report was well organized, there was good intent to present factual information, and it presents real problems that have confronted the Multi-Cultural Center.

We cannot agree totally with the findings presented as it omitted relevant information which was made available to your staff and therefore beg disagreement with some of the findings.

As regards the Auditor's recommendation [on page 30] regarding the Multi-Cultural Center, we agree with your recommendations and have begun implementation of your recommendations.

However [on page 43], if your recommendation is that the multi-cultural program be transferred to the University of Hawaii, we beg to disagree for the following reasons:

1. Legislators who were architects of the original legislation, Act 163, have stated to Center personnel that the intent of the act was to create a community based/non-academic program to encourage involvement by common, everyday persons in the preservation of Hawaii's multi-cultural heritage, especially the collection of historical information which is disappearing and at present unavailable in printed material.

2. The University of Hawaii by virtue of its creation and existence as a place of higher learning and academic research can and has conducted "research,

studies, and investigations in the field of ethnohistory and the humanities," and further assignment to this end is redundant.

3. The Multi-Cultural Center has been involved in oral history since 1972 and has achieved a viable program with the following distinctions:

- a. recordings in English, Hawaiian, and various mother-country languages (Japanese, Ilocano, Tagalog, Visayan, Portuguese);

- b. received assistance from and involvement by the Director in two major oral history programs in the U.S.A. and a major Asian oral history program;

- c. ability to sponsor two statewide Oral History Workshops, the total attendance exceeding 400 persons;

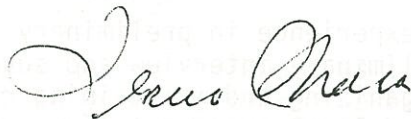
- d. has the experience in preliminary research, biographical questionnaire formulation, preliminary interview and survey work, actual tape recordings, transcribing, organizing and maintaining records, manuscripts and tape, review of transcripts and legal agreement formulation.

The Center acknowledges the existence in Hawaii of other oral history programs; however, we have received numerous requests for assistance from every Island and many groups and persons on Oahu including the newly funded University of Hawaii Ethnic Studies program.

4. The program in Oral History being pursued by the University of Hawaii, Manoa Ethnic Studies program received its funds in January 1976 and is now planning to conduct its first oral history project in Waialua. Ethnic Studies plans include the eventual duplication of the Center's program activities. However, persons presently involved as consultants, volunteers and supporters of the Center have voiced opinions to the Governor and Legislators opposing the transfer of the multi-cultural program to Ethnic Studies. Among the reasons cited were: physical inaccessibility to the University of Hawaii, difficulty in obtaining present information from the University of Hawaii, the political activism of Manoa Ethnic Studies program, the non-permanent, provisional status of its program and staff personnel. In addition, they regret seeing a program in which they could and have become involved - a program which has been able to fulfill their needs, and a

program that has successfully contributed toward multi-cultural understanding and appreciation - transferred from the non-academic community to the highly academic University of Hawaii.

We feel that this hard stand against the transfer of the multi-cultural program to the University of Hawaii is justified. The Center has been a success in large measure as a result of extensive volunteer assistance in its program and support from all segments of Hawaii's community - from University of Hawaii professors, the business community which makes available our facilities, persons of all ethnic group in Hawaii, youngsters and our elders. We could not live up to their support, interest, and assistance without voicing our strong disagreement if your recommendation is that the multi-cultural program be transferred to the University of Hawaii.



Teruo Ihara
Chairman
Board of Directors
Multi-Cultural Center

March 12, 1976

Membership:

The 1,200 members are a valuable resource and strength to the Foundation. Their talents and energy represent strong grass roots support for the people-oriented programs of the Foundation. It is fervently to be hoped that any changes in the form or mission of the Foundation will not ignore or vitiate the membership program. To do so would be very regrettable in these days when too many people are "turned off."

March 12, 1976

Comments from the former Treasurer:

The Report has stated many facts that cannot be refuted, but standing alone they do not give a true picture of the dilemma the Foundation was in. For example, it is noted that the Foundation paid fringe benefits for employees, but it does not note that this was necessary as it could not get a clear opinion from the Attorney General's Office on its status. If an employee had been injured and the Foundation did not have workmen's compensation, there was no assurance that the State would cover this. In fact, when an employee of the Center left and filed for unemployment, the Governor's Office account was charged, but the Foundation was informed that this was not correct and it should repay that fund. If the Center employees were State employees, there would have been no question but that the State unemployment fund covered them. With this kind of a decision, there was nothing to do but consider the Center employees as employees of the corporation. If they were not corporation employees, but were State employees, then no one could have been hired to carry out the contract as there were no positions authorization by the legislators. Regardless of what it did, the Foundation would have been wrong.

Another point that is not made clear is that the National Trust for Historic Preservation is an independent corporation chartered by Congress, in the same way the Boy Scouts are. They are not and have never been a Federal agency. Since the National Historic Preservation Act was passed, some Federal funds go to them to carry out certain programs. It is a contractual relationship, and the National Trust continues to be controlled by a board of trustees elected by the membership.

When the Hawaii Foundation was created, the comparison was made between the two agencies and the trustees were justified in believing that they too were operating an independent corporation. Likewise, the Foundation in the first five years received a state subsidy, and it was so noted on the appropriation act of the legislature. It was indicated in the same way subsidies were given to hospitals, the symphony, Bishop Museum and other independent corporations. None of these are subject to State laws on reporting, organizational structure, personnel; the Auditor from hindsight is now saying that the Foundation was different and should have complied with such laws.

It was not until the 1975 appropriation that the Foundation carried a program number with a position count rather than the indication that it was a subsidy.

Multi-cultural studies. [p.15,par.1]. "The committee proposed the enactment of H.R. 91." This is not an accurate statement. HR 91, Historic Preservation, was a bill to clarify the State's historic preservation program, aimed primarily at historic sites. The Foundation was in the bill only because it was part of Chapter 6, and the sections were to be renumbered. It was under the jurisdiction of the House Committee on Water, Land Use Development and Hawaiian Homes, and the changes concerning the multi-cultural studies were made while the bill was in conference committee. It was probably done at the insistence of the chairman of the Committee on Culture and Arts, but this was not his bill and it was not the sole purpose of the bill.

[p. 15, par. 3]. The comparison between the programs of the State Foundation and the Center is not an accurate one. Culture and Arts has stressed person-to-person transmittal of the culture, such as lauhala plaiting; the Center has tried to capture this knowledge in a more permanent form, such as slide/sound shows so that the information will be available in the future and so that it can be disseminated through schools and libraries in a form that is available at all times, not just when the skilled performer is available. In addition, neither the State archives nor the State library system attempts to collect ethnic materials that are not published or a part of the State's official records. If the repository function was intended to include active collecting of personal papers and records of ethnic organizations, then there is no overlap with these agencies. As far as I know, the university is not doing this either. The only overlap would be with oral history.

[p.18]. What is the basis of the statement that the Trust Plan was to be revised? I don't recall any such action.

[p.24]Duplication. The Center has duplicated such things as photographs in other collections, but with a definite purpose. Most agencies, including the Archives, do not circulate their photographs, and the Center built up a duplicate set that could be used by schools, libraries and other agencies for display purposes. It served a very useful educational purpose, and saved many others from having to duplicate for short term use.

Failure to Complete. This stresses the negative too much and lists the incomplete projects. It completely ignores the fact that there were many that were completed and were successful. I suspect that an audit of any State agency would show incomplete or unsatisfactory projects which had been proposed. The slide shows which were successfully completed and reproduced by the DOE for use in schools and used on ETV should be mentioned, not just the failures. If the Center had not taken some chances on the projects, nothing would have been achieved. There were more completed and successful than there were incomplete.

[page 25, paragraph 2]. Something seems to be missing here as the sentence does not make sense.

Chapter 6., [p.33, par. 3]. The report is correct in stating that it "was far too much to expect the foundation to behave like any other state agency," and yet it goes on and criticizes it for doing just that.

The report should recognize the fact that the Foundation between 1969 and 1974 continuously tried to find out whether or not it should pay these benefits, and never did get a satisfactory answer.

I question whether or not the Foundation "disregarded laws." As long as it was on a subsidy basis, there were no position counts in the appropriation act, and it is hard to understand how it was to function and expend the funds if it couldn't hire personnel. As for n.2, internal organization, there never were any "divisions" created. Such things as the "center" were created to carry out the contract with the governor, and the center positions had to be created as the Foundation staff was not sufficient. Furthermore, there couldn't have been a "position count" for this as it was not part of the operating budget.

[p.34]. Funding. Budget and Finance made the direct allotment to the Foundation of the funds. If this was contrary to law, why did they do it? Apparently, this was the usual method of handling subsidies and was correct up until the 1975 appropriation. After this, both B & F and the Foundation apparently construed it as continuing to be correct, much to the surprise of the Foundation's treasurer. If the Foundation was at fault, it was because it presumed that B & F knew the laws on fiscal matters better than they did.

[p. 35]. Third, Personnel. The circumstances of the attempt to dismiss the director are necessary to clarify this statement. The executive director had resigned, and the trustees had scheduled a meeting to accept the resignation. The resignation was withdrawn at the same time as the meeting was scheduled, but the majority of the trustees did not believe that they could continue to operate with the threat of another resignation hanging over their heads. In addition, the Deputy Director of Finance was kept informed of all the procedures and at no time was it suggested that the Director of Finance had to give prior approval to an action that had not yet been voted on by the trustees.

Analysis.[pp.40,41]. Again the National Trust is used as a comparison with the Foundation. It can only be compared IF the Foundation is chartered by the state, in the same way that the University Research Corporation is chartered - as a distinct corporation not subject to state funding or regulation.

Review Board. Placing the Review Board under the Department of Land and Natural Resources would create a difficult situation, since they are called upon to review the work of one of the programs under the Department - historic preservation. The federal regulations on the historic preservation plan require that the Review Board pass independent judgment on the department's plan, and this would be difficult if the Board was under the control of the Department.

Recommendations. It does not really matter where these functions are assigned. If they are not properly funded, and positions are not made available to carry them out, Hawaii will not have a program, and the legislature should recognize this fact. These functions can only be carried out if the agencies receive the necessary resources, and each could require as much funding as the Foundation was given to carry out the whole. To spread them around will probably mean that none of them will be accomplished because they will be a small responsibility in large agencies. Hopefully the reorganization committee will take a look at the overall need insofar as Hawaii's history is concerned, and come up with something that is clearly a state agency.

Finally, while there is some indication that the auditors knew that there were almost insurmountable conflicts built into the law creating the Foundation, there is no recognition of the fact that the law included many more "powers and duties"

than could possibly have been carried out with the appropriations made. The intent seemed to be for the membership to eventually fund these activities, but there is no justification for asking members to finance what amounted to mandates from the legislature.

Agnes Conrad

Agnes Conrad
Former Trustee

March 12, 1976

General observations:

The management audit of the Hawaii Foundation for History and the Humanities by the Legislative Auditor of the State of Hawaii grasps rather well the shortcomings of the act that created the foundation and the subsequent amendments intended to correct certain ambiguities. These uncertainties in the law have placed great obstacles in the operation of the foundation. However, the investigation appears to have misinterpreted certain parts of the law. This is not surprising because the Attorney General's Office has had difficulty in determining the precise meaning of parts of the law. The foundation had to wait for months, sometimes in vain for opinions on certain sections of the law so that the actions by the trustees would be legal and proper. The inability of the Attorney General's Office to render certain opinions attests to the ambiguity of the law. This made it difficult for the foundation to act in certain instances. For example, no one could determine until 1975 following passage of the 1974 amendment whether the foundation was required to comply with the requirements of the unemployment insurance, workmen's compensation and temporary disability insurance laws. Although the Auditor's investigators have determined that the foundation has been a state agency all along, the actions of the Legislature made it appear at least that the foundation was an independent organization until the amendment passed during the session of 1974. Those who were involved in the passage of the original act that set up the foundation reported that the legislative intent was to create an independent organization. That appears to have been proven by the Legislature which classified the appropriations for the foundation beginning in fiscal 1972 as "subsidy."

With the foundation's inability to get a firm opinion as to its status, trustees decided to have a bill passed that would change its status to a State agency unequivocally. This action was taken to be able to provide its employees the benefits that other State employees enjoyed which the foundation couldn't provide as an independent organization. However, the act (251) which resulted was still very ambiguous as to language. The Attorney General's Office was unable to give the foundation an opinion that the law unequivocally said that the foundation was a State agency, even though it worked on this problem through 1974 when that State administration went out of office.

It was not until the early days of the present Administration that the foundation received an opinion that the act could be interpreted to mean that the foundation is now a State agency. Therefore, the foundation, by the opinion of the Attorney General, has been a State agency for only a few months when the Auditor's representatives began their investigation of the foundation.

The investigators have listed carefully the mandate of the Legislature and the programs it expected the foundation to pursue. They have determined that the foundation has not carried out most of the programs mandated by the original act. This may be true but taken in context, it may become apparent to most that the foundation was expected to carry through a host of programs without funding. For example, the management audit says merely that the Legislature approved \$40,000 for fiscal 1975, of which some \$27,000 was for the foundation. When you consider that employment costs took almost \$25,000 of that total, only \$2,000 or so remained for programs for the year. The foundation has never received extravagant funding and it didn't expect to since it was an independent organization. By the same token, the foundation was unable to undertake projects it would have like to do, for reasons of poverty.

March 12, 1976

Observations by the Chairman:

The hybrid nature of the Foundation, that is, the fact of its being both a "membership" and a "state" body, seems to have troubled the Board from the start.

In retrospect, it looks as though they examined their dilemma and decided to turn first in the direction of taking on as many of their legislated duties as they could, without emphasis on building membership. For many reasons, including hazy legal status and "benign neglect" by the State, the Board was frustrated in this first initiative.

The next move was towards emphasis on membership. In the minds of some of the Trustees, the hiring of the present Director exemplified this move. It seemed to them that, from a strong membership base, the Foundation could "lift off" into a trajectory enabling it to overcome the legal and financial obstacles it had earlier discovered.

In mid-course of this initiative, some Board members started to feel that things had moved too far in the membership direction, to the neglect of other important activities. Feelings on either side of this issue solidified into deep convictions, impasse was reached, and the rest is history, as far as the involvement of the Legislature and Legislative Auditor are concerned.

At the present, the impasse on the Board is broken, and the Foundation has moved to clarify relationships between its various parts, and with the Department to which it is assigned. Memberships remains important, and the task now facing us is that of harnessing and directing the members' energies into proper programs of the Foundation.

Kenneth F. Brown
Kenneth F. Brown

March 12, 1976

Conclusions:

Ethno-history activities (the Multi-Cultural Center) - the responsibility for implementation should be left with the Foundation.

Membership activities should be fostered, to the end that members can contribute to the advancement of History & Humanities. (One very significant measure of any program is the number of people it touches.)

The Review Board should remain with the Foundation, rather than be transferred to the Department of Land and Natural Resources, where they would be passing judgment on the Department's plan.

The other missions of the Foundation should be clarified and then limited to those which the Legislature chooses to fund, or which are appropriate membership activities; and the roles of the various agencies involved in similar programs be clearly defined.

GEORGE R. ARIYOSHI
GOVERNOR

ATTACHMENT NO. 3



STATE FOUNDATION ON CULTURE AND THE ARTS
COMMISSION ON THE STATUS OF WOMEN
STATE COMMISSION ON AGING
EMPLOYEES' RETIREMENT SYSTEM
EMPLOYEES' GROUP MEDICAL AND
HOSPITAL CARE INSURANCE PLAN
STADIUM AUTHORITY
INSTITUTE FOR MANAGEMENT AND
ANALYSIS IN GOVERNMENT
FOUNDATION FOR HISTORY AND
THE HUMANITIES

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE

STATE CAPITOL
P. O. BOX 150
HONOLULU, HAWAII 96810

March 12, 1976

EILEEN R. ANDERSON
DIRECTOR

JENSEN S. L. HEE
DEPUTY DIRECTOR

DIVISIONS:
BUDGET PLANNING AND MANAGEMENT
ELECTRONIC DATA PROCESSING
FINANCE

Mr. Clinton Tanimura
Legislative Auditor
State Capitol
Honolulu, Hawaii 96813

Dear Mr. Tanimura:

Thank you for the opportunity to comment on your preliminary report on the Hawaii Foundation for History and the Humanities. We are cognizant of the time and effort which goes into a study of this nature and appreciate the work of your office.

The study is particularly clear and exhaustive in its treatment of the confusion which exists with respect to the several roles and responsibilities inherent in the total program and the need to clarify the situation if significant progress is to be made. The Audit's assessment of the Foundation's shortcomings in the implementation of its programs, particularly the Multi-Cultural Center and the Hawaii Historic Places Review Board will provide a valuable guide to the administration for the eventual improvement of those programs.

RECEIVED
MAR 12 5 17 PM '76
OFC. OF THE AUDITOR
STATE OF HAWAII

On the other hand, we would like to point out some concerns we have with respect to certain aspects of the study. First, there appears to be some lack of overall consistency in the recommendations. We note, for example, that in Chapter 4, the Audit recommends that the Legislature clarify the roles and responsibilities in the State historic preservation program. However, in Chapter 6, the audit makes specific recommendations for the transfer of many of the Foundation's functions to other State agencies and also recommends that the State reorganization committee study the "placement of the lead responsibility for the State's programs in history and the humanities." It is unclear from reviewing the Audit, therefore, as to what sequence of actions is actually being recommended.

A similar inconsistency appears in the following. In Chapter 5, the recommendation is made that the "Foundation complete the establishment of necessary criteria in all program areas assigned to it and begin a real implementation of the programs." Yet, in Chapter 6, the Audit states that the foundation "is an inappropriate vehicle for the implementation of the State history and humanities program as a whole" and, therefore, recommends the transfer of all functions, except one, to other State agencies. The Audit notes that the recommendations in Chapter 5 are subject to the observations contained in Chapter 6. It is unclear, however, how Chapter 5 recommendations logically relate to those in Chapter 6. If the foundation is able "to begin a real implementation of the programs," should the programs be transferred to other State agencies? If, as the Audit concludes, the foundation, because of its organization, is incapable of implementing the State's history and humanities program, can it be logically expected of the foundation "to begin a real implementation of its programs?"

This department's overriding concern, however, is the Audit's analysis of the basic problem of the foundation and the proposed solution.

In Chapter 6, the Audit states: "That the foundation has sought to operate like a private organization and to emphasize those programs that are beneficial to its members rather than those mandated by the legisla-

ture should not be surprising." The Audit suggests that the broad mission of the foundation--to retrieve, restore, preserve, and maintain the history and culture of Hawaii--allows room for numerous program possibilities and "it is precisely the availability of such numerous possible programs that give rise to problems." The Audit contends that "the foundation . . . based on its membership conception of what is important, is itself capable of generating programs within the framework of its missions," and these programs may not necessarily agree with the legislature's judgment of what programs are pertinent or desirable.

The Audit therefore recommends that the foundation be given the sole and limited responsibility over the "restoration, preservation, and maintenance of historic sites, building, and object." Taking the National Trust for Historic Preservation of the United States as a model, the Audit suggests that the foundation could continue as a membership-corporation with a specific mission and be successful. The other duties of the foundation would be transferred to other State agencies.

We question whether the transfer of functions to other State agencies will in itself resolve the problems of the foundation. As noted by the Audit, the foundation presently is not carrying out the functions mandated by the legislature, and instead is carrying out "activities directed towards the foundation members."

The Audit is silent about the merits or appropriateness of membership activities and whether such activities would be a proper part of the foundation in its more limited form. Apparently, the reasoning is that the limited mission of the foundation would circumscribe the variety, nature, extent and frequency of membership activities.

We question this premise. If, indeed, the foundation presently is not carrying out the statutory functions now but instead is implementing membership activities, there is little to suggest that, given the membership-corporate nature of the foundation, the foundation will not continue its membership activities at the expense of its statutory functions. There is little to suggest that the foundation, because of its membership-

corporate organization, could not interpret even its limited mission to the primary benefit of its membership rather than to the State as a whole.

The Audit addresses the problem of non-implementation of programs mandated by law by removing those duties from the foundation; in essence the Audit rewards the foundation for non-compliance by reducing its duties and advocating its continued existence as a membership-corporate organization with a simpler mission.

This office agrees that part of the problem faced by the foundation is its broad mission, but we also believe that the membership-corporate nature of the foundation also contributes to the problems faced in the past. The foundation serves two target groups, its membership and the State in general. Yet, while the State provides much of the funding, the membership determines the policies and selects the foundation's policy-making board. We believe that there may be something inherently incompatible in such an arrangement to the extent that no common purpose or direction can be forthcoming so long as it remains thus.

As noted on page [39], the Audit states: "While the Hawaii Heritage News and the holo-holos were extremely valuable in meeting the membership needs of the foundation, they contribute little toward meeting the legislative intent of the multi-cultural studies program." The Audit goes on to say that "The newsletter and holo-holo projects have since been assumed by the foundation and its staff" On page [38], the Audit notes that "In performance, the staff of the foundation has devoted most of its time to membership matters." This office questions the reasoning of the Audit which would reduce the statutory tasks of the foundation and yet is silent on the future disposition of membership activities that now dominate the foundation's resources and staff.

While the above comments have highlighted our major concerns, we would like to further comment, within the context of the preceding discussion, on the specific recommendations made.

Chapter 4 The Administration of the State Programs for Historic Preservation

Recommendation

In a subsequent chapter, we note what role, if any, should be assigned to the Foundation. Subject to our observations in that chapter, we recommend that the Legislature clarify the roles and responsibilities of the agencies for the implementation of the State program in history and humanities.

Comments

In Chapter 6, the Auditor recommends that "the State government reorganization committee include in its study the placement of the lead responsibility for the State's programs in history and the humanities." It would be logical for the State reorganization committee to review the situation prior to legislative action.

Chapter 5 Foundation's Implementation of State Programs

1. The Foundation complete the establishment of necessary criteria in all program areas assigned to it and begin a real implementation of the program.

Comments

Questionable. In Chapter 6, the Audit would retain only the "function of restoring, preserving, and maintaining historic sites, buildings, and objects for the public benefit" for the foundation: other functions will be assigned to other State agencies. While it will be necessary to establish criteria for the program areas, it would be illogical for the foundation to do so for program areas that will be transferred to other State agencies. This office concurs that criteria for program areas to be retained by the foundation should be developed.

2. In the program of multi-cultural studies, the foundation should provide the necessary staff support to the Multi-Cultural Center as promised.

Comments

Concur. However, this office questions whether the recommendations has any relevant bearing now since the Multi-Cultural Center (MCC) and the foundation have changed from what existed during the time period covered by this report.

3. In the case of the Hawaii Historic Places Review Board, the Foundation establishes rules and regulations to govern its operations following the procedures set forth in the Hawaii Administrative Procedure Act, and expedite its review of historic sites, keep an up-to-date register of Hawaii historic places, and establish procedures for prompt notification of owners of property selected as historical and archaeological sites.

Comments

Concur. As noted previously, it is questioned whether the Foundation should proceed if the review board is to be transferred to the Department of Land and Natural Resources. Presumably, if the Foundation is able to carry out the recommendation, then there would be little reason to transfer the review board to DLNR. However, regardless of where the review board is assigned, such procedure should be developed.

We further recommend that the Hawaii register staff of the Department of Land and Natural Resources allocate its resources and staff as to enable the review board to perform efficiently and expeditiously its responsibility in the evaluation and nomination of sites for placement on the Hawaii and national registers.

Comments

Concur. It will be necessary, however, to evaluate the function and funding of the Hawaii register staff. The staff is presently project-funded and subject to yearly renewal procedures. Consideration should also be given to possibly integrating the staff (located in DLNR) and the governing board (located in the Foundation).

Chapter 6 Appropriateness of the Foundation for Programs in History and the Humanities

Recommendation

1. The Hawaii Foundation for History and the Humanities be vested with the sole function of restoring, preserving, and maintaining historic sites, buildings and objects for the public benefit in the same manner as is the National Trust for Historic Preservation

Comments

This office would question the wholesale transfer of all other functions until the issue of membership activities is resolved. The capability of the foundation to conduct mandated functions cannot be reasonably measured until the foundation is released from its current obligations to its members and is able to devote its resources and staff solely to implementing mandated programs. This office would recommend a review and adjustment of the membership-corporate organization of the foundation be conducted prior to the reassignment of functions.

In addition, it would be appropriate to resolve the issue of the placement of lead responsibility for the State programs in history and humanities prior to the disposal of functions among various agencies. Resolution of this issue itself is the Audit's recommendation number six.

2. The program for research, studies and investigations in the field of ethnohistory and the humanities be assigned solely to the University of Hawaii

Comments

This office concurs with the logic of the recommendation, but questions the specific recommendation for placement of the program in the Ethnic Studies Program. It appears that the Audit's reasoning is based on the fact that the Ethnic Studies Program is implementing an oral history project. It should be noted that the Ethnic Studies Program is primarily an instructional, not a research, program. If this function is to be transferred to the University, it would be appropriate for the University itself to determine the actual placement of the program within its organization.

3. The museum support program be assigned to the State Foundation on Culture and the Arts

Comments

Questionable. It appears that the sole rationale for this recommendation is that the State Foundation on Culture and the Arts "is eligible for grants in this area from the National Endowment for the Arts." It should be noted that there is nothing to preclude the successful application of the foundation for a National Endowment for the Arts grant for the Promotion of the Arts - Museum (45.012). If grant eligibility is the principal justification for this recommendation, it would be as logical to place this program at the University, since the University is eligible for grants in this area from the National Endowment for the Humanities (45.112 Promotion of the Humanities - Museum Personnel Development).

4. All other functions for historic preservation now assigned to the foundation (primarily the function of the Hawaii Historic Places Review Board) be transferred to the Department of Land and Natural Resources

Comments

We agree that the staff (in the DLNR) and the Board (in the HFHH), should be located in the same organization either in DLNR or the Foundation, however, a case could be made for transferring the staff from DLNR to the Board in the Foundation, rather than vice-versa as the Audit recommends.

5. The State government reorganization committee include in its study in the placement of the lead responsibility for the State's programs in history and the humanities

Comments

This office concurs provided that such placement does not result in the establishment of an additional State agency.

This concludes our comments on the preliminary audit and again we thank you for the opportunity to respond to your report on the foundation. It is hoped that this report will serve as the first step towards the improvement of the foundation and the State historic preservation program as a whole.

Very truly yours,


Eileen R. Anderson

PUBLISHED REPORTS OF THE LEGISLATIVE AUDITOR

AUDIT REPORTS

- 1966 1. Examination of the Office of the Revisor of Statutes, 66 pp. (out of print).
- 1967 1. Overtime in the State Government, 107 pp.
2. Management Audit of Kula Sanatorium, 136 pp.
- 1968 1. Financial Audit of the Department of Health for the Fiscal Year Ended June 30, 1967, v.p. (out of print).
2. Financial Audit of the Department of Planning and Economic Development for the Fiscal Year Ended June 30, 1967, v.p. (out of print).
3. Financial Audit of the Department of Regulatory Agencies for the Fiscal Year Ended June 30, 1967, v.p. (out of print).
4. Financial Audit of the Department of Hawaiian Home Lands for the Fiscal Year Ended June 30, 1967, 54 pp.
5. Financial Audit of the Oahu Transportation Study for the Period July 1, 1962 to August 31, 1967, 68 pp.
6. Financial Audit of the Hawaii Visitors Bureau for the Period July 1, 1966 to January 31, 1968, 69 pp. (out of print).
7. State Capital Improvements Planning Process, 55 pp. (out of print).
8. Financial Audit of the Hilo Hospital for the Fiscal Year Ended June 30, 1967, 43 pp. (out of print).
9. Financial Audit of the Hawaii Visitors Bureau for the Period July 1, 1967 to June 30, 1968, 42 pp.
- 1969 1. Financial Audit of the General Fund, State of Hawaii, for the Fiscal Year Ended June 30, 1968, v.p. (out of print).
2. Financial Audit of the Judicial Branch, State of Hawaii, for the Fiscal Year Ended June 30, 1968, v.p. (out of print).
3. Financial Audit of the State Department of Budget and Finance for the Fiscal Year Ended June 30, 1968, v.p.
4. General Audit of the Department of Personnel Services, State of Hawaii, 129 pp. (out of print).
5. A Summary of the General Audit of the Department of Personnel Services, 53 pp.
6. Financial Audit of the Samuel Mahelona Memorial Hospital for the Fiscal Year Ended June 30, 1968, 34 pp.
7. Financial Audit of the Honokaa Hospital for the Fiscal Year Ended June 30, 1968, 41 pp.
8. Financial Audit of the Kohala Hospital for the Fiscal Year Ended June 30, 1968, 34 pp.
9. Financial Audit of the Kona Hospital for the Fiscal Year Ended June 30, 1968, 44 pp.
10. Financial Audit of the Kauai Veterans Memorial Hospital for the Fiscal Year Ended June 30, 1968, 30 pp.
11. An Overview of the Audits of the Act 97 Hospitals, 18 pp.
- 1970 1. Management Audit of the Department of Water County of Kauai, 65 pp.
2. Audit of the Kamehameha Day Celebration Commission, 47 pp.
3. Audit of the Medical Assistance Program of the State of Hawaii, 392 pp.
- 1971 1. Financial Audit of the State School Lunch Services Program, Department of Education for the Fiscal Year Ended June 30, 1970, v.p. (out of print).
2. Audit of the County/State Hospital Program, 124 pp. (out of print).
3. Audit of the State Vendor Payment Process, 63 pp.
4. Audit of the Hawaii Educational Television System, 153 pp.
- 1972 1. Audit of the Office of the Public Defender, 39 pp.
2. Financial Audit of the Department of Agriculture for the Fiscal Year Ended June 30, 1971, v.p.
3. Financial Audit of the Department of Labor and Industrial Relations for the Fiscal Year Ended June 30, 1971, v.p.
4. Audit of Utility Facility Relocation in Street Widening Projects, 73 pp.
5. Audit of the School Construction Program of the State of Hawaii, 297 pp.
- 1973 1. Management Audit of the Department of Education, 410 pp.
2. Audit of the University of Hawaii's Faculty Workload, 61 pp. (out of print).
3. Financial Audit of the Department of Education, 73 pp. (out of print).
- 1974 1. Financial Audit of the Department of Regulatory Agencies, 67 pp.
2. Financial Audit of the State Department of Defense and Civil Air Patrol (Hawaii Wing), 52 pp.
- 1975 1. Financial Audit of the Hawaii Housing Authority, 78 pp.
2. Program Audit of the School Health Services Pilot Project, 80 pp.
3. Management Audit of the Public Utilities Program — Vol. I: The Organization for the General Management of the Public Utilities Program, 154 pp.
4. Management Audit of the Public Utilities Program — Vol. II: The Regulation of Public Utilities, 193 pp.
5. Financial Audit of the Department of Taxation, 53 pp.
- 1976 1. Management Audit of the Recreational Boating Program, 121 pp.

SEE REVERSE SIDE FOR SPECIAL REPORTS