Report on the Implementation of State Auditor's 2008 Recommendations

A Report to the Governor and the Legislature of the State of Hawai'i

Report No. 12-01
February 2012

THE AUDITOR
STATE OF HAWAI'I

Office of the Auditor

The missions of the Office of the Auditor are assigned by the Hawai‘i State Constitution (Article VII, Section 10). The primary mission is to conduct post audits of the transactions, accounts, programs, and performance of public agencies. A supplemental mission is to conduct such other investigations and prepare such additional reports as may be directed by the Legislature.

Under its assigned missions, the office conducts the following types of examinations:

1. Financial audits attest to the fairness of the financial statements of agencies. They examine the adequacy of the financial records and accounting and internal controls, and they determine the legality and propriety of expenditures.

2. Management audits, which are also referred to as performance audits, examine the effectiveness of programs or the efficiency of agencies or both. These audits are also called program audits, when they focus on whether programs are attaining the objectives and results expected of them, and operations audits, when they examine how well agencies are organized and managed and how efficiently they acquire and utilize resources.

3. Sunset evaluations evaluate new professional and occupational licensing programs to determine whether the programs should be terminated, continued, or modified. These evaluations are conducted in accordance with criteria established by statute.

4. Sunrise analyses are similar to sunset evaluations, but they apply to proposed rather than existing regulatory programs. Before a new professional and occupational licensing program can be enacted, the statutes require that the measure be analyzed by the Office of the Auditor as to its probable effects.

5. Health insurance analyses examine bills that propose to mandate certain health insurance benefits. Such bills cannot be enacted unless they are referred to the Office of the Auditor for an assessment of the social and financial impact of the proposed measure.

6. Analyses of proposed special funds and existing trust and revolving funds determine if proposals to establish these funds are existing funds meet legislative criteria.

7. Procurement compliance audits and other procurement-related monitoring assist the Legislature in overseeing government procurement practices.

8. Fiscal accountability reports analyze expenditures by the state Department of Education in various areas.

9. Special studies respond to requests from both houses of the Legislature. The studies usually address specific problems for which the Legislature is seeking solutions.

Hawai‘i’s laws provide the Auditor with broad powers to examine all books, records, files, papers, and documents and all financial affairs of every agency. The Auditor also has the authority to summon persons to produce records and to question persons under oath. However, the Office of the Auditor exercises no control function, and its authority is limited to reviewing, evaluating, and reporting on its findings and recommendations to the Legislature and the Governor.

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Report on the Implementation of State Auditor's 2008 Recommendations

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Less than one-third of 2008 recommendations have been implemented; State liable for $63 million in Superferry expenses

To ensure agency accountability over audit recommendations, the 2008 Legislature amended the Auditor's governing statute to require follow-up reporting on recommendations made in various audit reports. The purpose of this change was to apprise the Legislature of recommendations not implemented by audited agencies. Section 23-7.5, Hawaiʻi Revised Statutes, now requires the Auditor to report to the Legislature annually on each audit recommendation more than one year old that has not been implemented by the audited agency.

The review focused on the departments' implementation of audit recommendations made in calendar year 2008. We conducted interviews with department personnel, board members, and various advisory board/counsels, as applicable. We reviewed pertinent policies and procedures, reports, and other documents to assess management's claims regarding audit implementations. We conducted site visits to observe processes in place.

"Should we be spending more money on something that officially has no value to us?"

– Department of Transportation official when asked if the State was maintaining the idle and rusting barges once used in Superferry operations.

Management Audit of the Department of Education's Hawaiian Studies Program, Report No. 08-02

In our 2008 audit, we found that the role of the Hawaiian Studies Program, especially its kūpuna component, had not been clearly defined and is in need of reevaluation. Lacking accountability for the program's intended outcomes, the Department of Education was unable to show evidence of its effectiveness. In addition, vague guidelines and weak oversight over the schools that receive the bulk of the Hawaiian Studies funds had allowed resources intended to employ kūpuna to be diverted to purposes with little or no connection to a Hawaiian education.

Since our audit, there has been varied success in implementing the recommendations for the Hawaiian Studies Program. The Board of Education amended Board Policy 2104, its policy governing the program, which thereby addressed the leadership issues that we uncovered. However, the recommendations at the department and program levels remain open, with little progress made. Most notably, the past issue of tightening controls over the use of Hawaiian Studies Program funds still remains. With a reported annual budget of $2.6 million in the last fiscal year, the department and the Hawaiian Studies Program administrator need to develop a means to ensure accountability over funds. We determined that 8 out of 23 recommendations were implemented.

Financial and Management Audit of the Molokaʻi Irrigation System, Report No. 08-03

The Molokaʻi Irrigation System transports approximately 1.4 billion gallons of water annually from the eastern end of Molokaʻi to the central farming areas. The system consists of collection dams and deep wells; a transmission tunnel, pipes, and flume; a reservoir; and distribution pipes to customers.

In Report No. 08-03, we found that while it inherited a broken system, the Department of Agriculture had done little to learn about system problems or to create a plan to address them. Among the many problems we found was a lack of procedures over maintenance and a lack of appropriate tools and equipment contributed to the decline of an already broken system. For example, the system's flow of water would increase if at least some of the air-relief valves were replaced. At the time of our field work, 16 of 17 valves were inoperable. Exacerbating the problem was the large workload shared among a small staff.

Beginning in August 2007, the department began making headway to foster a positive relationship with MIS users by way of "road map" meetings. Additionally, the department implemented a number of recommendations that were made in our report. Some examples include formalizing procedures over operations and maintenance, acquiring needed materials and supplies, evaluating large-scale projects and entering into contracts to pursue those projects, and working with the Legislature to make statutory changes specific to the system's advisory board. Of Report No. 08-03's 17 recommendations, we determined that 13 were fully implemented.

Financial Review of the Hawai'i Health Systems Corporation, Report No. 08-08

The Hawai'i Health Systems Corporation (HHSC), the fourth-largest public hospital system in the nation, operates 13 public health facilities in five regions within the state. These public health facilities, along with an affiliate facility on O'ahu, provide essential safety-net hospital and longer-term services. In Report No. 08-08, we found that the corporation's procurement and asset management policies and practices did not comply with applicable state laws. We also found that the corporation's inattention to information technology management exposed its sensitive information to unnecessary risk.

In 2007, in an effort to provide HHSC with the appropriate flexibility and autonomy to respond to the health care needs of its specific communities, the Legislature enacted Act 290, which established regional system boards. As a result, since HHSC is a different entity from the one that we reported on in 2008, we turned our focus from following-up on our specific report recommendations to analyzing the impact of Act 290 and subsequent legislation on the corporation. For example, we found instances in which corporate and regional roles and responsibilities are not clearly delineated. In addition, the corporate management office's power to intervene and assist other regions when warranted has been curtailed. The corporation acknowledges there are areas for improvement but would like to address these shortcomings through collaborative internal policy development.

Performance Audit on the State Administration's Actions Exempting Certain Harbor Improvements to Facilitate Large Capacity Ferry Vessels from the Requirements of the Hawai'i Environmental Impact Statements Law, Report No. 08-09 and Report No. 08-11

The Hawaii Superferry, Inc. was an inter-island ferry service that was to sail between the islands of O'ahu, Maui, Kaua'i, and Hawai'i. Initially, Hawaii Superferry, Inc. planned to operate in three of the state's harbors: Honolulu Harbor on O'ahu, Kahului Harbor on Maui, and Nāwiliwili Harbor on Kaua'i. Service to Kawaihae Harbor on the Big Island would have started in 2009 after a second ferry was completed.

In Report No. 08-09, we found that the state Department of Transportation abandoned efforts to require an environmental review for harbor improvements needed to accommodate the ferry service. Instead, the department took advantage of the State's flawed EIS law and rules, invoking its exemption determination list and bypassing environmental review. Driving this process was Hawaii Superferry, Inc. and its claim that it had to have all environmental clearances in place by June 30, 2005. In our audit, we concluded that efforts to support Hawaii Superferry, Inc.'s interests may have compromised the State's environmental policy. We determined that three of the 21 recommendations made in Report No. 08-09 and Report No. 08-11 were implemented.

During the course of following up on recommendations, we found that the Office of the Governor did not respond to the Environmental Council's request for comment on proposed rule changes in January 2008. The then-governor's inaction on the matter eventually led to the council's disbandment in July 2009. We also found that the State of Hawai'i will be paying approximately $63 million in Superferry-related expenses, which inlcudes $60 million for the general obligation bond liability and related interest through fiscal year end 2028. Other significant expenses include $443,000 to repair the barge and pier at Kahului Harbor, $500,000 for tug services in Kahului Harbor from December 2007 through September 2008, and $14,000 to relocate the Maui barge *Manaiakalani* to Honolulu Harbor. The *Manaiakalani*, along with the Honolulu barge *Kapilinakai*, and the Big Island barge *Kūpa'a*, are all docked in Honolulu Harbor, idle and rusting. Because the barges were built for the specific needs of Hawaii Superferry, Inc., the vessels cannot be repurposed by the State in their present configurations. While the department intends to sell the barges, plans were put on hold.

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"This administration does not have much of an appetite for dealing with these rules."

– Environmental Council member after voting to postpone all future meetings until conditions improved.

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Submitted by

THE AUDITOR
STATE OF HAWAI‘I

Report No. 12-01
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Foreword

This is a report on the follow-up review of the implementation of audit recommendations made to various entities in calendar year 2008. We conducted the follow-up pursuant to Section 23-7.5, Hawai‘i Revised Statutes, which requires the Auditor to report to the Legislature on each recommendation that the Auditor has made that is more than one year old and that has not been implemented by the audited agency.

We wish to express our appreciation for the cooperation and assistance extended to us by the Department of Education, Department of Agriculture, Department of Transportation, the Hawai‘i Health Systems Corporation, Department of Health, the Office of Environmental Quality Control, the Environmental Council, and others whom we contacted during the course of the follow-up review.

Marion M. Higa
State Auditor

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Chapter 1
Introduction

To ensure agency accountability over audit recommendations, the 2008 Legislature amended the Auditor's governing statute to require follow-up reporting on recommendations made in various audit reports. The purpose of this change was to apprise the Legislature of recommendations not implemented by audited agencies. Section 23-7.5, Hawai'i Revised Statutes (HRS), now requires the Auditor to report to the Legislature annually on each audit recommendation more than one-year old that has not been implemented by the audited agency.

Legislative request

The 2008 Legislature intended to provide itself with greater oversight over the implementation of audit recommendations. Act 36, Session Laws of Hawaii (SLH) 2008 was modeled after a 2006 California law that took effect in 2007. Under that program, the respective committee chairs used the agencies' claims of progress in their budget discussions.

The Hawai'i Legislature requested the Auditor to report annually, for each unimplemented recommendation: 1) the agency that was audited; 2) the title and number of the audit report that contained the recommendation; 3) brief description of the recommendation; 4) the date the audit report was issued; and 5) the most recent explanation provided by the agency to the Auditor regarding the status of the recommendation.

In addition, agencies that are notified by the Auditor that a recommendation is not considered implemented must submit a written report to the Auditor, the Senate president, and the speaker of the House. This written report must be submitted within 30 days of being notified by the Auditor. The report must also include an explanation of why the recommendation was not implemented and the estimated date when the recommendation will be implemented.

Objectives of the Review

1. Validate claims made by departments regarding implemented audit recommendations.

2. Report to the Legislature on audit recommendations not yet implemented.

Criteria

We used the following criteria in the conduct of our review:

- Chapter 23, *Auditor*, HRS

- *GAO-07-731G Government Auditing Standards*, U.S. Government Accountability Office, July 2007 Revision

U.S. General Accounting Office, *How to Get Action on Audit Recommendations*, July 1991

The U.S. Government Accountability Office (GAO) offers useful criteria for our purposes, as it also reports on the status of recommendations that have not been fully implemented. Its reports are intended to "help congressional and agency leaders determine the actions necessary to implement the open recommendations so that desired improvements to government operations can be achieved." Some highlights of the GAO monitoring system include:

- Monitoring and follow-up are done by staff members responsible for, and knowledgeable about, the recommendation.

- Each recommendation is followed up on an ongoing basis—with at least semi-annual updates. An individual recommendation follow-up plan is developed for each assignment.

- Results intended by each recommendation and the benefits expected from its implementation are defined as a basis for determining the adequacy of implementation.

Scope and Methodology

We based our scope and methodology on GAO guidelines on follow-up systems found in *How to Get Action on Audit Recommendations*, published in July 1991. According to the GAO, saving tax dollars, improving programs and operations, and providing better service to the public comprise audit work's "bottom line." Recommendations are the vehicles by which these objectives are sought. But it is action on recommendations—not the recommendations themselves—that helps the government work better at less cost. Effective follow-up is essential to get the full benefits of audit work.

The review focused on the departments' implementation of audit recommendations. We conducted interviews with department personnel, board members, and various advisory boards and councils, as applicable. We reviewed pertinent policies and procedures, reports, and other documents to assess management's claims regarding audit implementations. We conducted site visits to observe processes in place. Our review focused on audit reports issued in calendar year 2008.

This review was conducted between July 2011 and November 2011. Our work followed standard office procedures for conducting audits, pursuant to the Office of the Auditor's *Manual of Guides*, and also followed generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings, and conclusions based on our objectives.

Determining progress

The rate of progress of a recommendation's implementation depends on the type of recommendation. While some fall fully within the purview of the audited agency and can be addressed relatively quickly, others may deal with complex problems and involve multiple agencies, resulting in a long implementation period. Therefore, ample time should be afforded to agencies implementing recommendations in order for a follow-up system to be useful and relevant. In addition, the GAO has found that action on recommendations usually occurs within the first three years. After that time, few recommendations are implemented.

With those observations in mind, we decided that an active follow-up effort would be most effective and relevant if conducted three years after the publication of the initial audit report. Too short of an interval between audit report and follow-up might not give agencies enough time to implement a complex recommendation. Too long a time period and agencies might lose valuable personnel and institutional knowledge to conduct an adequate follow-up.

Reports that our office issued in 2008 include sunrise reports, sunset evaluations, a study related to mandatory health insurance coverage, a task force report, and various reviews and audits. Because the recommendations made in sunrise reports, sunset evaluations, mandatory health insurance coverage, and the task force report relate to specific legislation and not operations of agencies and departments, we conclude that Act 36 does not apply to these reports. As a result, we have the following reports for review of audit recommendation implementation:

1. Report No. 08-02: *Management Audit of the Department of Education's Hawaiian Studies Program*

2. Report No. 08-03: *Financial and Management Audit of the Moloka'i Irrigation System*

3. Report No. 08-08: *Financial Review of the Hawai'i Health Systems Corporation*

4. Report No. 08-09: *Performance Audit on the State Administration's Actions Exempting Certain Harbor Improvements to Facilitate Large Capacity Ferry Vessels from the Requirements of the Hawai'i Environmental Impact Statements Law: Phase I*

5. Report No. 08-11: *Performance Audit on the State Administration's Actions Exempting Certain Harbor Improvements to Facilitate Large Capacity Ferry Vessels from the Requirements of the Hawai'i Environmental Impact Statements Law: Phase II*

Similar to our original efforts in 2008, our review procedures included interviews with selected administrators, managers, and staff from the respective agencies. We examined the various agencies' policies and procedures and relevant documents and records to assess and evaluate whether agency actions adequately fulfilled our recommendations. Our review efforts are limited to the inquiry, testing, and reporting of the implementation of recommendations made in the above mentioned reports. We did not explore new issues or revisit old ones that have nothing to do with our original recommendations. Site visits and observations were conducted as needed to achieve our objectives.

Identifying key recommendations

The extent of work that staff do to verify implementation depends on the significance of individual recommendations. The GAO notes that while all audit recommendations should be aggressively pursued, some recommendations are so significant that added steps are needed to get them implemented. The significance of a recommendation depends on the subject matter and the specific situation. Significance can be assessed in terms of dollars. However, dollars are only one measure of significance, and not necessarily the most important one. For instance, recommendations that are needed to ensure safe operations may often take precedence, since implementing such a recommendation could prevent the loss of life, substantial bodily injury, or environmental contamination.

Closing recommendations

As per GAO guidelines, we will close recommendations for the following reasons:

- The recommendation was effectively implemented;
- An alternative action was taken that achieved the intended results;
- Circumstances have so changed that the recommendation is no longer valid; or

- The recommendation was not implemented despite the use of all feasible strategies.

Definition of terms

Closed Recommendation has been addressed, implemented, or is no longer applicable.

In progress The implementation of the recommendation is not completed, but the agency has taken actions toward implementation.

Open but will be pursued The implementation of the recommendation has not been completed, but the agency has adequately demonstrated an intent to pursue implementation of the recommendation or an alternative action that will address the objective of the recommendation.

Open but will be discussed The implementation of the recommendation is not completed, but the agency indicates the recommendation will be discussed with no guarantee of implementation.

Open and likely not to be pursued The implementation of the recommendation is not completed, and the agency has no intention of pursuing implementation of the recommendation.

Summary of recommendations

Our review covered a total of 78 recommendations. The results of our review indicated that 24 were closed (31 percent), 5 were in progress (6 percent), 14 were open but will be pursued (18 percent), 11 were open but will be discussed (14 percent), 5 were open and likely not to be pursued (6 percent), and 19 were considered not applicable (24 percent). Our report details more information regarding each specific recommendation, the status, and actions related to the recommendation. The following table lists the reports reviewed and the recommendations' status.

REPORT NO.	REPORT NAME	STATUS OF RECOMMENDATIONS						
		CLOSED	IN PROGRESS	OPEN BUT WILL BE PURSUED	OPEN BUT WILL BE DISCUSSED	OPEN AND LIKELY NOT TO BE PURSUED	N/A	TOTAL
08-02	*Management Audit of the Department of Education's Hawaiian Studies Program*							
	Board of Education	6					1	7
	Department of Education			2	1	1		4
	Office of Curriculum, Instruction, and Student Support			1		1		2
	Hawaiian Studies Program Administrator	1		7	1			9
	Legislature	1						1
08-03	*Financial and Management Audit of the Moloka‘i Irrigation System*	13		1	1	2		17
08-08	*Financial Review of the Hawai‘i Health Systems Corporation*						17	17
08-09	*Performance Audit on the State Administration's Actions Exempting Certain Harbor Improvements To Facilitate Large Capacity Ferry Vessels From the Requirements of the Hawai‘i Environmental Impact Statements Law: Phase I*							
	Environmental Council			2	3	1		6
	Office of Environmental Quality Control		4					4
	Department of Transportation	1						1
	Legislature				1		1	2
08-11	*Performance Audit on the State Administration's Actions Exempting Certain Harbor Improvements To Facilitate Large Capacity Ferry Vessels From the Requirements of the Hawai‘i Environmental Impact Statements Law: Phase II*							
	Office of Environmental Quality Control		1					1
	Environmental Council			1	3			4
	Department of Transportation	2			1			3
	TOTAL	**24**	**5**	**14**	**11**	**5**	**19**	**78**

Chapter 2

Management Audit of the Department of Education's Hawaiian Studies Program

Report No. 08-02

During the late 1960s and early 1970s, Hawaiʻi experienced a grassroots movement to revitalize the native Hawaiian culture. This led to demands for Hawaiʻi-oriented courses in Hawaiʻi's public schools and colleges. At the same time, proponents of the movement acknowledged a risk of losing native knowledge of the Hawaiian language, culture, and history permanently with many traditional kūpuna (Hawaiian for grandparent or elder) being of advanced age and rapidly dwindling in numbers. This prompted the 1978 Constitutional Convention to propose a Hawaiian Education Program, which, upon approval by the voters, became Article X, Section 4, of the State Constitution. This requires the State to promote the study of Hawaiian culture, history, and language and provide for a Hawaiian education program consisting of language, culture, and history in the public schools.

The Department of Education's efforts to comply with the constitutional requirements started in 1979 with a Kūpuna Program pilot project developed by the Queen Liliʻuokalani Trust. In 1981, the Department of Education adopted this kūpuna-based program as its Hawaiian Studies Program, gradually implementing it statewide to serve students in grades K-6. The program consists of kūpuna and makua (parent)—culturally competent, native resources—who, through their teaching and leadership alongside regular teachers, seek to preserve the native language, values, history, and culture of Hawaiʻi with all students. Program activities include support training for regular classroom teachers to incorporate Hawaiian cultural and historical content in a standards-based curriculum.

The Hawaiian Studies Program is administered by the Hawaiian Studies and Language Programs Section within the Department of Education's Office of Curriculum, Instruction, and Student Support. Report 08-02, *Management Audit of the Department of Education's Hawaiian Studies Program* was requested by the 2007 Legislature in Senate Concurrent Resolution No. 74, Senate Draft 1 (SD 1). The resolution asked for a financial, program, and management audit of the Hawaiian Studies Program. The request primarily focused on the program's kūpuna component, which employs traditional kūpuna and individuals with knowledge of Hawaiian language and culture to provide educational services to public school children in grades K-6. Specifically, the resolution cited concerns relating to:

- Funding, including allegations that moneys are diverted to purposes not related to Hawaiian studies;

- Employment conditions of kūpuna, including complaints of inappropriate assignments and compensation inconsistencies; and

- Leadership, oversight, and support, including outdated curriculum and schools lacking the services of kūpuna.

Weaknesses in the kūpuna component lead to questionable effectiveness in the Hawaiian Studies Program

In our 2008 audit, we found that the role of the Hawaiian Studies Program, especially its kūpuna component, had not been clearly defined and is in need of reevaluation. Lacking accountability for the program's intended outcomes, the Department of Education was unable to show evidence of its effectiveness. In addition, vague guidelines and weak oversight over the schools that receive the bulk of the Hawaiian Studies funds have allowed resources intended to employ kūpuna to be diverted to purposes with little or no connection to a Hawaiian education.

We found that longstanding stakeholder dissatisfaction with the program—particularly its centerpiece, the kūpuna component—can be traced to a lack of leadership and guidance by the Board of Education and the Department of Education in providing direction and focus to the program. The board and department leadership had accepted unworkable plans and failed to establish a process to determine the effectiveness of kūpuna, leaving the program without direction and in decline for more than a decade. The program had also struggled to adapt to changing priorities and strategic directions affecting the entire public school system, such as the federal No Child Left Behind initiative and the State's Reinventing Education Act of 2004.

On the operational level, a lack of guidance and oversight permitted schools to receive funding without accounting for predetermined deliverables and even divert funding for unauthorized purposes. We found expenditures for office supplies, computers, and furniture made with program funds that did not meet spending guidelines. While most of the funding for the Hawaiian Studies Program is intended to provide for the services of kūpuna in elementary schools, we found that over 20 schools no longer employ kūpuna, but use the funds allocated for kūpuna payroll for other purposes with no guidance on achieving comparable outcomes. Our survey of individuals on the department's kūpuna payroll listing indicated that significant numbers of kūpuna have concerns about working conditions that differ from guidelines, training, or ongoing support.

Status of Recommendations Made in the Management Audit of the Department of Education's Hawaiian Studies Program

Since our audit, there has been varied success in implementing the recommendations for the Hawaiian Studies Program. The Board of Education amended Board Policy 2104, its policy governing the program, which thereby addressed the leadership issues that we uncovered. However, the recommendations at the department and program levels remain open, with little progress made. Most notably, the past issue of tightening controls over the use of Hawaiian Studies Program funds still remains. With a reported annual budget of $2.6 million in the last fiscal year, the department and the Hawaiian Studies Program administrator need to develop a means to ensure accountability over funds.

Report No. 08-02 included five multi-part recommendations to the Board of Education, the Department of Education, the Office of Curriculum, Instruction, and Student Support, the Hawaiian Studies Program administrator, and the Legislature. The recommendations were intended to improve the State's compliance with the constitutional mandate, tighten the oversight on the use of Hawaiian Studies Program funds, and implement appropriate teaching materials in the schools.

Recommendations to the Board of Education

We made a seven-part recommendation to the Board of Education. The overall intent of this recommendation was to address the board's lack of leadership in defining the role of the Hawaiian Studies Program's kūpuna component in meeting the constitutional mandate and the desired outcomes of its program policies. The board amended Board Policy 2104, renaming it the Hawaiian Education Programs Policy to comply specifically with the constitutional mandate, as requested in the audit recommendation. We conclude that the Board of Education has addressed the audit recommendation appropriately and that recommendation No. 1 is deemed **closed**.

Recommendations for the Board of Education

RECOMMENDATION	PURPOSE	STATUS	COMMENTS
In evaluating the State's compliance effort with the constitutional mandate, the Board of Education should consider the following:			
(1a) The role of all relevant programs within the public school system in the compliance effort, including immersion schools and charter schools based on Hawaiian language and culture.	Identify and clarify the contributions of each Hawaiian-based program the department uses to meet constitutional requirements for a Hawaiian education.	**Closed**	In 2009, the BOE amended its curriculum policy, Hawaiian Education Programs, by aligning it with the constitutional mandate.
(1b) The purpose, scope, role, and expected outcomes of the Hawaiian Studies Program kūpuna component, and its effectiveness in achieving the purpose in its present form.	The department has not established expected outcomes or measureable objectives to demonstrate the effectiveness of the services provided by the kūpuna.	**Closed**	The board approved the Hawaiian Aligned Portfolio Assessment or HAPA, which is an annual assessment that measures student progress in proficiency in the Hawaiian language. A report by the Systems Accountability Office echoed many of the recommendations noted in Report 08-02.
(1c) Alternatives or modifications to the present kūpuna component needed to optimize achievement of its purpose.	Adjust the kūpuna role to the current environment to optimize its ability to help the department meet the mandate.	**Closed**	The BOE's responsibilities are to formulate statewide educational policy and adopt student performance standards and assessment models.
(1d) The type of community resources required to achieve the purpose and measures needed to ensure adequate numbers of kūpuna or other community resources.	Provide guidance to seek alternative delivery methods to address the prospect of a dwindling number of qualified kūpuna for recruitment and hiring.	**Not applicable**	School principals are responsible for developing and delivering instructional services in accordance with statewide education policy. They have authority over the implementation of the policies and operations of the school.
(1e) The need for Hawaiian language proficiency standards reflecting the importance of language in the work of kūpuna.	Clarify and strengthen the current role of the kūpuna in meeting the intent of the Hawaiian Studies Program.	**Closed**	BOE Policy 2104 links Hawaiian language and history as an integral part of the Hawai'i Content and Performance Standards to solidify the importance of the role kūpuna play.
(1f) Measures to ensure that all teachers, principals, and school officials are cognizant of and at least minimally knowledgeable in Hawaiian culture and practices.	Provide guidance on educational policy to teachers who work with the kūpuna in order to incorporate this knowledge into their instructional activities.	**Closed**	BOE Policy 2014 was amended to include knowledge and appreciation for the indigenous culture, history, and language of Hawai'i.
(1g) The role of School Community Councils in determining the extent and nature of each school's Hawaiian cultural program.	Provide the School Community Councils an opportunity to determine the extent and nature of each school's Hawaiian cultural program.	**Closed**	School Community Councils were created by the Legislature to ensure the community has a voice in a school's affairs. Stakeholders can influence a school's commitment to Hawaiian Studies and kūpuna services through involvement in these councils.

Recommendations to the Department of Education

There were four recommendations directed to the Department of Education that focused on developing action plans, holding schools accountable for use of funds, and financial database training for the program administrator. All four recommendations are deemed **open**.

Recommendation No. 2a called for the development of an action plan aligned with the department's strategic plan. The action plan should include measurable goals to assess accomplishments and effective use of funds. However, the Hawaiian Studies strategic plan, last updated in 2008, does not align with the department's current strategic plan, which was updated for the 2011-2018 period. We do note that one of the objectives of the Hawaiian Studies strategic plan is to monitor the expenditure of Hawaiian Studies funds in the schools, which addresses our previous concern on effective use of funds. However, because this is just one part of the larger action plan recommendation, we deem this as **open but will be discussed**.

Recommendations Nos. 2b and 2c are **open**, in part, due to the department's discontinued use of the program/financial report, which was the main mechanism through which the Hawaiian Studies Program tracked its funds at the school level. The program administrator has not developed another mechanism to hold schools accountable for proper use of Hawaiian Studies Program allocations or the proper carry forward of funds.

In previous years, funds that were unused and carried forward remained at the schools; however, beginning with FY2012, carry forward funds were directed back to the program. As a result, the program received $677,640 in FY2011 funds that were unused and carried forward. According to the program administrator, $528,456 of the $677,640 will be redirected back to the schools. The administrator could not provide specifics on how this sum would be monitored. In addition, his response also raises the question of whether the funds will again go unused at the school level, or whether they will be spent appropriately.

Lastly, recommendation No. 2d regarding training and access to financial databases for the program administrator is **open and not likely to be pursued**. The administrator could not produce evidence that he has attended training since 2008, or that he would be pursuing further training.

Recommendations to the Department of Education

RECOMMENDATION	PURPOSE	STATUS	COMMENTS
(2a) Require the Hawaiian Studies Program administrator to develop action plans aligned with the department's strategic plan for the funds and activities under the administrator's control.	Successive program administrators have not ensured that taxpayer funds allocated to the program are used to attain objectives.	**Open but will be discussed**	The Hawaiian Studies strategic plan does not align to the department's strategic plan, which was updated for the 2011-2018 period. However, an objective in the strategic plan aims to monitor fiscal responsibility of Hawaiian Studies Program funds in the schools.
(2b) Enable and encourage the Hawaiian Studies Program administrator to hold schools accountable for the proper use of Hawaiian Studies Program allocations, including withholding funds from schools that divert funds for unauthorized purposes.	The administrator has the authority to withhold or modify future allocations but has not used these means to hold schools accountable.	**Open but will be pursued**	The program/financial report was the main mechanism through which the Hawaiian Studies program tracked funding at the school level. The report is no longer required and the HSP administrator has not developed a method of monitoring program funds through a financial management system.
(2c) Reevaluate its policies and procedures for carry forward funds for the Hawaiian Studies Program to ensure that funds are not diverted for purposes not related to achieving the objectives of the program.	Gaps in the department's fiscal controls allow schools to reclassify these carryover funds originally allocated for kūpuna payroll.	**Open but will be pursued**	Carry forward funds that were unused by the schools were transferred back to the HSP for FY2011-12. Without the program/financial report, the HSP administrator will no longer have a regular mechanism to track funds. In addition, he has not begun to monitor HSP funds through the financial management system.
(2d) Ensure that the Hawaiian Studies Program administrator has training in and access to financial databases to generate reports needed to conduct periodic reviews of summary and detailed expenditure data for Hawaiian Studies Program funds.	Successive program administrators failed to use financial reports to compensate for limitations of departmental safeguards on spending.	**Open and likely not to be pursued**	The administrator claimed he does not have access to the Financial Management System (FMS) and could produce only documentation for a training session in 2008.

Recommendations to the Department of Education's Office of Curriculum, Instruction, and Student Support

Two recommendations were made to the Department of Education's Office of Curriculum, Instruction, and Student Support. The recommendations focused on the appropriateness of textbooks used for the Hawaiian Studies Program. Both of the recommendations are considered **open**.

Recommendation No. 3a regarding providing alternative instructional materials to be used instead of those deemed culturally offensive is **open**. The program has a list of textbooks that may be used to advise schools on the purchase of materials related to Hawaiian studies. However, this list has not been through a formal vetting process and, as a result, we deem this recommendation to be **open but will be pursued**. Recommendation No. 3b regarding the purchase of textbooks not on the recommended list is **open and likely not to be pursued**. The program could not provide evidence of how its officials currently provide or plan to provide guidance and monitoring over the schools to ensure that only recommended books are purchased.

Recommendations to the Office of Curriculum, Instruction, and Student Support

RECOMMENDATION	PURPOSE	STATUS	COMMENTS
(3a) Ensure that its list of recommended textbooks and instructional materials is kept updated for Hawaiian Studies materials suited to provide alternatives to those deemed culturally offensive.	The department has not updated its recommended textbook list in three years and lacks a process to ensure only recommended textbooks are purchased.	**Open but will be pursued**	The HSP plans to formalize its 2010 book list in the future when new standards for instructional materials review are finalized.
(3b) Require schools to justify acquisitions of textbooks and materials not on the office's recommended list, as required by Board of Education Policy No. 2240.	BOE Policy 2240 requires the Office of Curriculum, Instruction, and Student Support to provide a list of recommended textbooks and instructional materials. Schools must justify selections of material that are not on that list.	**Open and likely not to be pursued**	The HSP could not provide rationale of how it either monitors or provides guidance at the school level to address this problem.

Recommendations to the Hawaiian Studies Program administrator

There were nine recommendations directed to the Hawaiian Studies Program administrator that focused on fund allocations, pay for kūpuna, appropriate materials, and revising curriculum guides.

Five of the nine recommendations are deemed **open** due to the department's discontinued use of a program/financial report at the school level. This program/financial report was implemented in 2008 and was the main mechanism through which the Hawaiian Studies Program monitored the use of its funds. The report helped the program control the amount of funds allotted at the school level as the funds received were tied to principals' self-reporting on how the Hawaiian Studies Program funds were spent. The report was utilized to control fund allocations, to report on use of funds, monitor schools' expenditures, including for moneys allocated to other than kūpuna services, and to survey schools about kūpuna performance. Based on guidance from the Department of Education's superintendent, this report was discontinued beginning with the 2011-12 school year. The program administrator has yet to develop a method by which to monitor these outstanding items. Therefore, we deem recommendations Nos. 4a, and 4c through 4f **open but will be pursued**.

Our current assessment is consistent with an April 2010 program and fiscal evaluation performed on the Hawaiian Studies Program by the Systems Accountability Office, which states that program and fiscal monitoring continues to be a challenge. Most notably, the evaluation reports that the program does not have data related to the achievement of key performance indicators to demonstrate program effectiveness; the current system is unwieldy and program staff are limited in their ability to access timely, comprehensive, and relevant data; and schools are not using carryover guidelines resulting in lapses and inefficient use of funds.

Recommendation No. 4g, regarding paying kūpuna to attend mandatory training sessions, is **open**. The Hawaiian Studies Program administrator informed us that kūpuna may attend training sessions for pay, and that the program has yet to receive complaints on this matter. However, without a means to validate these claims, we can only rely on the administrator's claims and, therefore, deem this to be **open but will be discussed**.

Lastly, recommendations Nos. 4h and 4i are also **open**. The administrator informed us that he is working on a document to be used as a criterion for the review of books, and that the program currently relies on a book selection rubric from 2002 to guide its selection of materials. This selection rubric has yet to be updated. Recommendation No. 4i regarding the revision of a curriculum guide is **open**; the first half of this document has been drafted and was submitted to the program administrator in 2010, with the second half currently being completed. However, because both of these documents have had no further forward movement in the last year, we deem this recommendation **open but will be pursued**.

Recommendations to the Hawaiian Studies Program Administrator

RECOMMENDATION	PURPOSE	STATUS	COMMENTS
(4a) Reassess the deployment of the Hawaiian Studies Program budget to optimize the effectiveness of the funds allocated. Consideration should be given to reassigning resources currently diverted and lapsed to increase resources at the state and district levels to improve oversight, in-service support, and promotion of kūpuna services at the school level.	Some schools leave significant amounts of allocated funds unspent or allow such funds to lapse at the end of the fiscal year, which raises the question of whether some of the funds could be used to promote and support kūpuna services at the state and district levels.	**Open but will be pursued**	Beginning in school year 2011-12, the department no longer requires principals to submit the program/ financial report. Schools receive the full allocation of funds at the beginning of the year. The Hawaiian Studies Program does not have any other way to withhold funds until further notice from the department.
(4b) Clarify fund allocation guidelines for schools to reflect a priority for funding to be used for kūpuna services or programs.	Exceptions in the guidelines leave significant room for interpretation, allowing schools wide discretion to divert funds for other priorities.	**Closed**	Allocation guidelines for the use of Hawaiian Studies Program funds are detailed in both Ke Kulana Kūpuna and in the allocation notice that schools are given upon receipt of these funds.
(4c) Implement oversight measures at the state or district level needed to ensure that allocation guidelines are being followed and resources applied towards achieving the desired outcomes.	Due to resource restrictions, the department is unable to promote compliance with program guidelines and to adopt best practices and proven solutions.	**Open but will be pursued**	Without the program/financial report, the HSP administrator will pursue ways to monitor funds at the school level through the department's accounting systems.
(4d) Improve oversight and revise controls and guidelines over Hawaiian Studies Program funds allocated and carried forward to ensure that funds are not diverted from kūpuna services unless justified by providing an equivalent program or an approval by the administrator. Such oversight should include periodic reviews of expenditure data for Hawaiian Studies Program funds spent by recipient schools.	Exceptions in the guidelines leave significant room for interpretation, allowing schools wide discretion to divert funds for other priorities.	**Open but will be pursued**	The HSP does not currently have a monitoring function in place without the program/financial report. The program administrator plans to monitor funds through the department's accounting system, but has not yet defined the oversight methodology.

Recommendations to the Hawaiian Studies Program Administrator

RECOMMENDATION	PURPOSE	STATUS	COMMENTS
(4e) Identify expected outcomes and related performance measures for the services of kūpuna to provide the means for measuring accomplishment and as a basis for assessing equivalency for school programs that do not use kūpuna.	The department has not defined the outcomes for the kūpuna component and the objective measures needed to monitor its progress and ensure its viability.	**Open but will be pursued**	The program/financial report has been discontinued the program has given no indication that they will pursue surveys to rate kūpuna performance through another means.
(4f) Require schools receiving Hawaiian Studies Program funds but not using kūpuna services to demonstrate that alternative uses of funds are designed to achieve equivalent outcomes.	Schools have been using resources allocated for kūpuna services for other purposes without being required to demonstrate equivalent effectiveness.	**Open but will be pursued**	The HSP does not have a monitoring function in place; the administrator plans to monitor funds through the department's accounting system but has not yet defined the oversight methodology.
(4g) Consider paying kūpuna to attend mandatory training and making attendance of some training offered by district coordinators compulsory.	Kūpuna do not attend training because of lack of school-level encouragement and lack of pay for attendance.	**Open but will be discussed**	Kūpuna may attend training sessions in lieu of spending time in the classroom for pay. The HSP administrator reports that his office has not had any complaints from kūpuna. The program is currently planning a statewide kūpuna conference for 2012.
(4h) Consider establishing a pro-active process for identifying and addressing the use of culturally inappropriate instructions and materials.	Four schools purchased a book not on the recommended list which has been criticized by Native Hawaiian stakeholders and by a University of Hawai'i study as culturally inappropriate.	**Open but will be pursued**	The Hawaiian Studies Program is developing a document to be used as criteria for book review is in development.
(4i) Pursue the planned revision of existing curriculum guides for the Hawaiian Studies Program, consistent with the vision stated in the 2000 implementation plan for the program.	Current curriculum guides were last revised in 1984.	**Open but will be pursued**	The first half of the curriculum guide was completed in May 2010 and has not been approved by the program manager. The second half of the guide is currently being developed.

Recommendation to the Legislature

Recommendation No. 5 requested the Legislature consider adopting statutory measures to define the role and function of the kūpuna component if the board and the department did not adopt policies and clear guidelines ensuring that the program can fulfill its intended role. The intent of this recommendation was to ensure that action is taken by an entity with the necessary authority to effectuate change for the Hawaiian Studies Program. Though the board is responsible for educational policy, the Legislature controls the appropriation of funds to the Department of Education and can compel action by legislative request or by the withholding of funds.

As previously stated in recommendation No. 1, we determined that the Board of Education failed to define the role of the Hawaiian Studies Program's kūpuna component in meeting the constitutional mandate and the desired outcomes of its program policies. The board amended its policies to comply with the constitutional mandate to provide a Hawaiian education with the recommendations from the audit report clearly in mind. Because we **closed** audit recommendation No. 1, the recommendation to the Legislature no longer applies.

Recommendations to the Legislature

RECOMMENDATION	PURPOSE	STATUS	COMMENTS
(5) The Legislature should consider adopting statutory measures to define the role and function of the kūpuna component if the board and the department do not adopt policies and clear guidelines ensuring that the program can fulfill its intended role.	Ensure action is taken by an entity with the authority to effectuate change due to a lack of leadership by the Board of Education.	**Closed**	The Board of Education amended its policies to comply with the constitutional mandate to provide a Hawaiian education. This action by the Board of Education thereby renders moot the recommendation made to the Legislature.

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Chapter 3

Financial and Management Audit of the Moloka‘i Irrigation System

Report No. 08-03

The Moloka‘i Irrigation System transports approximately 1.4 billion gallons of water annually from the eastern end of Moloka‘i to the central farming areas. Rooted in the intent of the Hawaiian Homes Commission Act to rehabilitate Native Hawaiians by returning them to the land in preservation of culture and tradition, the Moloka‘i Irrigation System continues the island’s long history of agriculture. The system consists of collection dams and deep wells; a transmission tunnel, pipes, and flume; a reservoir; and distribution pipes to customers. Among the customers is Moloka‘i Ranch, via a rental agreement.

The Moloka‘i Irrigation System (MIS) is currently under the administration of the Department of Agriculture. Within the department, the MIS falls under the Agricultural Resource Management Division, which maintains and operates four other irrigation systems—Waimānalo, Kahuku, Honoka‘a-Pa‘auilo, and Waimea—as well as ten agricultural parks and three agricultural produce processing and marshalling facilities on Hawai‘i, O‘ahu, and Moloka‘i.

We conducted this audit in response to Senate Concurrent Resolution No. 176, of the 2007 legislative session. Prompted by concerns of the users advisory board and private citizens, the 2007 Legislature requested that the Auditor conduct a financial and management audit of the MIS. Legislative committees noted allegations of management’s failure to provide adequate maintenance of the system and the diversion of revenues generated by the MIS to subsidize other irrigation systems managed by the Department of Agriculture. Additionally, in spite of years of providing recommendations on how to improve the system, users continued to deal with inadequate irrigation and to pay fees and charges that hamper the growth of Moloka‘i’s agricultural industry.

Flawed management endangered Moloka‘i agriculture

In Report No. 08-03, we found that while it inherited a broken system, the Department of Agriculture had done little to learn about system problems or to create a plan to address them. The department received historical data on the Moloka‘i Irrigation System from the Department of Land and Natural Resources, the prior managing department, but it was not clear whether department personnel understood the significance of a history that included numerous studies and recommended management and operational improvements. For example, problems identified in a 1987 study still existed at the time of our fieldwork during Summer 2007.

The department had been unable to reconcile its responsibilities as stewards of the irrigation system and its obligations to the Hawaiian homesteaders. While it recognized the homesteaders' two-thirds water preference accorded by Section 168-4, HRS, this was not reflected in any department planning. Non-homestead farmers consumed approximately 80 percent of the system's available water. Effectively, the two seemingly complementary responsibilities had become competitors with the needs of the homesteaders subsumed to the interests of larger agricultural businesses. The department's flawed management endangered agriculture on Molokaʻi.

A lack of procedures over maintenance and a lack of appropriate tools and equipment contributed to the further decline of an already broken system. For example, the system's flow of water would increase if at least some of the air-relief valves were replaced. At the time of our field work, 16 of 17 valves were inoperable. Exacerbating the problem was the large workload shared among a small staff.

We found miscommunication and lack of communication between levels of management, with district offices making requests that divisional management was not aware of. And while the audit request asked us to determine costs for its upkeep, it was necessary to first bring the irrigation system to efficient operational order before that could be addressed.

Department leadership also failed to do long-term planning for the system. The department's strategic plan should have provided overarching goals for the divisions, while the divisional action plan should have outlined the steps to achieve those goals. However, this was not apparent in the plans we reviewed. Goals were vague with no specific implementation plans or performance metrics. Multiple studies had been commissioned with little return as recommendations were allowed to languish.

Further, more weaknesses in the department's fiscal management left the Molokaʻi Irrigation System to struggle financially. The department did not make use of internal financial reporting as a management tool. Records of activity (cash collections and expenditures), specific to the system and maintained by the fiscal office and the division, were not reconciled. Accounts receivable collection was a significant problem, with more than 90 percent of receivables outstanding for more than 60 days. The division also manages four other irrigation systems as named earlier, and the records for all five systems were maintained in aggregate. As a result, divisional management made decisions based on system-wide concerns as opposed to addressing the needs of each individual system.

In addition, the department had been unable to provide detailed information on its financial statements without outside assistance. This lack of knowledge left the department susceptible to greater problems, because staff would be unable to identify key accounting issues which could have been brought to management's attention. Moreover, the department relied heavily on annual general fund appropriations for the Irrigation System Revolving Fund, contrary to the intent of a revolving fund.

Status of Recommendations Made in the *Management and Financial Audit of the Moloka'i Irrigation System*

Beginning in August 2007, the department began making headway to foster a positive relationship with MIS users by way of "road map" meetings. Additionally, the department implemented a number of recommendations that were made in our report. Some examples include formalizing procedures over operations and maintenance, acquiring needed materials and supplies, evaluating large-scale projects and entering into contracts to pursue those projects, and working with the Legislature to make statutory changes specific to the system's advisory board.

Report No. 08-03 included five multi-part recommendations to the Department of Agriculture. These recommendations were intended to improve management efficiency, operations and maintenance, the Moloka'i Irrigation System Water Users Advisory Board (MISWUAB), community relations, and fiscal management.

Recommendations to improve management efficiency

For recommendations related to management efficiency, three of the four elements have been implemented by the department and are deemed **closed**.

Recommendation No. 1a, related to the creation of a strategic plan, is **open and likely will not be pursued**. Rather than create a strategic plan as per our recommendation, the department opted to create an action plan, more akin to a "things to do list," with input from MISWUAB members and users. However, this action plan has not resulted in any document that could be evaluated further. The department maintains that it will continue to work with the MISWUAB members and users to come up with tasks to improve the system.

Recommendations to the Department of Agriculture

RECOMMENDATION	PURPOSE	STATUS	COMMENTS
(1a) Create a strategic plan specific to the MIS with measurable goals and timeline for implementation.	The department's strategic plan lacks clarity and direction. The department's strategic planning process did not include the Board of Agriculture members, the Molokaʻi Irrigation System Water Users Advisory Board (MISWUAB) members, or system users.	**Open and likely not to be pursued**	The department did not pursue a strategic plan and instead worked with the MISWUAB to identify what the department needed to do for the MIS. The department does not intend to pursue a written action plan and will instead work with the MISWUAB to address system needs.
(1b) Create policies and procedures related to the operations and maintenance of the MIS. Include detailed maintenance tasks and frequency to ensure optimal delivery of water through the system.	Operational procedures would help ensure management objectives are achieved and provide assurance of effective and efficient operations.	**Closed**	The department's operations and maintenance manual was completed and includes procedures for inspection, use of equipment, and performance measure reporting.
(1c) Make a full inventory of the MIS. Any future modifications should be filed in a central library within the Agricultural Resource Management Division.	During the course of the audit, team members did not readily locate files that documented the system components and any subsequent improvements.	**Closed**	The department provided a listing of inventoried items and during our site visit; we conducted test counts, without exception.
(1d) Develop a state of readiness plan to address various emergency situations, which includes, at a minimum, a mode of communication, equipment needs, evacuation, and emergency water sources.	Aside from obvious operational issues, a lack of formal procedures poses serious health and safety risks for employees. Because of the remote location of some parts of the MIS, having an emergency plan and supplies are necessary for worker health and safety.	**Closed**	In the department's Emergency Action Plan (EAP) for Kualapuʻu Reservoir, procedures are outlined to minimize risks to life and property, considering unusual and emergency situations, both natural and manmade, and identify appropriate response.

Recommendations related to operations and maintenance issues

For recommendations related to operations and maintenance issues, all items have been fulfilled and are deemed **closed**.

Recommendations to the Department of Agriculture

RECOMMENDATION	PURPOSE	STATUS	COMMENTS
(2a) Review previous professional studies performed on the system and identify and prioritize critical system needs to bring the MIS to proper working condition, then present its rationale to the Legislature.	Since 2001, the department has contracted over $500,000 of state and federal funds studying specific problems with the MIS and an additional $1 million on the Hawai‘i Water Resources Study Agricultural Water Use and Development Plan. Additionally, problems identified over two decades ago have not been rectified.	**Closed**	The department completed its review and prioritized projects, as reflected within its CIP requests to the Legislature. As funds are available, the department conducts operational assessments and focuses first on areas of health and safety.
(2b) Assess the needs, materials, supplies, and equipment of the MIS. Obtain and install flowmeters to accurately measure water movement. Obtain equipment to measure water losses and system efficiency for future planning. Update current system for meter reading and billings.	Irrigation workers have insufficient tools, equipment, and supplies to perform their jobs, leaving components of the system in disrepair. During a site visit with department staff we noticed many inoperable blow-out valves and air-relief valves along the irrigation system.	**Closed**	The department purchased approximately 90 percent of the items on the MIS “wish list” in 2008. Additionally, the inoperable blow-off valves and air-release valves were repaired and/or replaced.
(2c) Train staff at all levels to ensure that the MIS has the opportunity to be exposed to new and better irrigation techniques.	Even with a two-year lead in time between passing legislation that transferred the MIS to DOA, the department did not adequately train personnel on the specifications of the Moloka‘i Irrigation System. We found this to be still an issue at the time of the audit.	**Closed**	While the department has no specific training on operations and maintenance, MIS staff continues to learn through on-the-job training. Additionally, staff have attended dam safety training and has access to information on MIS system upgrades currently being done.
(2d) Review the current flow of information on the MIS in order to keep upper management abreast of the situation. The reporting structure needs to ensure that important information is not left at the operational level.	There is no clear process in place to ensure issues raised at advisory board meetings are communicated to the director or the Board of Agriculture.	**Closed**	There are no formal procedures to raise issues from the MIS to upper management, however, the environment has changed such that users interviewed note better transparency and communication overall within relationships with the department.

Recommendations related to the Moloka‘i Irrigation System Water Users Advisory Board

Three of the three elements in the recommendation related to Moloka‘i Irrigation System Water Users Advisory Board have been carried out and are deemed **closed**. The department documented the rationale behind advisory board membership, and worked to pass legislation in 2010 to include an additional homesteader seat on the MISWUAB and define “homestead farmer” as relevant to the board.

Recommendations to the Department of Agriculture

RECOMMENDATION	PURPOSE	STATUS	COMMENTS
(3a) Document the rationale behind the advisory board membership recommendations and procedural rules for the sake of transparency.	Years of mistrust between the department and MIS users prompted this recommendation, as it was intended to provide transparency for the homesteaders in their dealings with the advisory board and the department.	**Closed**	This information was provided to the MISWUAB and documented in the appropriate board minutes.
(3b) Consider adding additional homestead farmer seat(s) and develop procedural guidelines on how seats are filled.	Hawaiian homesteaders have a two-thirds water preference accorded by Section 168-4, HRS, but this is not reflected in any planning. The recommendation was intended to provide homesteaders with an additional voice in the governing process.	**Closed**	Via Act 154, SLH 2010, an additional homesteader seat was added to the MISWUAB. The seat would be filled based on recommendations from Moku Puni O Moloka‘i, based on a process established by that organization
(3c) Define “homestead farmer” as it relates to the advisory board to remove any appearance of impropriety; and work with the advisory board to create a unified mission statement.	This recommendation was intended to provide transparency for the homesteaders in their dealings with the advisory board and the department.	**Closed**	Via Act 154, SLH 2010, “homestead farmer” user was defined. In addition, the MISWUAB adopted a mission statement in July 2010.

Recommendations related to management efficiency

One of the two elements in the recommendation related to management efficiency has been carried out and is deemed **closed**. The department provides regular financial status reports to the MISWUAB and provides information as it becomes available regarding the Moloka‘i Properties agreement. It is important to note, however, that there has been no significant progress in the environmental assessment. Therefore, Recommendation No. 4b remains **open and likely to be pursued**.

The Moloka‘i Irrigation System was deemed to have excess transmission capacity. On July 11, 1975, the State entered into an agreement first with Kaluako‘i Corporation to rent pipeline and other water facilities of the Moloka‘i Irrigation System to convey the water from its well. The original agreement term was 20 years, ending in December 1995. Various assignments and extensions brought the current agreement to Kaluako‘i Water, LLC (KWLLC) a Hawai‘i limited liability company wholly owned by Moloka‘i Properties. With the existing agreement extended through April 30, 2006, the State and KWLLC began negotiations for a further extension of the transmission line agreement. However, before an agreement could be reached, the Department of the Attorney General became involved.

On September 4, 2007, the Department of the Attorney General opined that an environmental study was required before a new contract could be issued to use the state-run system. The opinion also stated that Moloka‘i Ranch should get off the Moloka‘i Irrigation System as quickly as possible. Currently, there is no signed transmission line rental agreement in place between the State and KWLLC. Both continue to operate on the basis of prior agreements on a month-to-month basis, with no further progress on the environmental assessment.

In an August 24, 2011 letter from the Department of Agriculture to Moloka'i Properties, the department requested information on the current status of the environmental assessment. This letter referenced communication dated March 19, 2010 that KWLLC would immediately initiate the environmental assessment study and that the process would be completed in nine months, noting that it had been 17 months since that initial communication. Based on this, it appears the department is pursuing its agreement with Moloka'i Properties, but additional follow-up and dissemination of information is required.

Recommendations to the Department of Agriculture

RECOMMENDATION	PURPOSE	STATUS	COMMENTS
(4a) Ensure the correct information is disseminated to the Moloka'i community.	The department does not have formal procedures over internal financial reporting, leaving the MISWUAB and operational management without pertinent data to help them achieve their mission. Financial data should be accurately communicated to both internal and external users.	**Closed**	Financial reporting and operational data were regularly reported at MISWUAB meetings.
(4b) Address questions related to the Moloka'i Properties agreement and the action plan necessitated by the opinion of the attorney general.	Prior to executing a new transmission line agreement, the Department of the Attorney General opined that an environmental study was required before a new contract was issued. Currently, there is no new agreement, and the State and MPL continue to operate according to prior agreements on a month-to-month basis.	**Open and likely to be pursued**	A new agreement is dependent on the completion of an environmental sssessment. The MISWUAB minutes reflect that the department has consistently informed the public of the progress.

Recommendations related to fiscal management

Two of the four elements in the recommendation related to fiscal management have been carried out and are deemed **closed**.

The recommendation related to the best means for funding remains **open but will be discussed** because the Irrigation System Revolving Fund does not meet the criteria of a revolving fund. This has been reported in previous revolving fund reviews by our office. Section 37-52.4, HRS, defines the criteria for the establishment and continuance of revolving funds. The four key criteria are that it: 1) serve the purpose for which it was originally established; 2) reflects a clear nexus between the benefits sought and charges made upon the users of the program;

3) provides an appropriate means of financing for the program; and 4) demonstrates the capacity to be financially self-sustaining. The Irrigation System Revolving Fund is not self-sustaining and requires general fund appropriations to supplement operations. The department relies heavily on the general fund appropriation to fund operations and this is not likely to change in the near future.

Additionally, while the department responded that the recommendation related to adding GAAP-proficient staff by hiring two different firms to compile and audit its financial statements, this is no longer the case. The department is no longer subject to a separate financial audit. This change was prompted by the State Comptroller Memo No. 2009-17, wherein the State elected to change its policy regarding the scope of audit for the State's Single Audit for the fiscal year ending June 30, 2010 and thereafter. Because of the changes in policy on the state level, this recommendation would technically not be applicable; however, without qualified accounting personnel, the department does not have a full understanding of the value of establishing, monitoring, and evaluating internal controls over financial reporting functions. We, therefore, determine that this recommendation is **open and likely not to be pursued**.

Recommendations to the Department of Agriculture

RECOMMENDATION	PURPOSE	STATUS	COMMENTS
(5a) Work with the Legislature to identify the best means to fund the operation of the State's irrigation system, if the annual appropriation for the Irrigation System Revolving Fund is necessary.	Section 37-52.4, HRS, defines the criteria for the establishment and continuance of revolving funds. The Irrigation System Revolving Fund does not meet all criteria of a revolving fund. It is not self-sustaining and requires general fund appropriations to supplement operations.	**Open but will be discussed**	The department relies heavily on the general fund appropriation to fund overall operations and this does not look to change in the near future.
(5b) Consider adding staff to the fiscal office that is proficient in the creation of GAAP financial statements. If this is not feasible, ensure that CPA firms contracted to compile financial statements are independent of any further work (that is, audit services).	The department does not have accounting staff who understand accounting principles, particularly those relative to government entities. The department is not able to create the basic financial statements without assistance from its contracted CPA firms.	**Open and likely not to be pursued**	The department initially addressed our recommendation by having two separate accounting firms perform its financial statement compilation and audit. Changes in state policy allows the department to be included in the statewide single audit, thereby rendering separate financial statements moot. However, as a matter of best practice, it would serve the department to have staff knowledgeable of accounting practices in order to best utilize financial resources.

RECOMMENDATION	PURPOSE	STATUS	COMMENTS
(5c) Develop the ability to segregate financial information on a system by system basis, for use as a planning tool.	The revenues and expenditures for the different irrigation systems are maintained within the Irrigation System Revolving Fund, but the department did not consistently assign activity to a specific system. This raised concern among MIS users of inequity in spending.	**Closed**	The division can access irrigation system specific data and uses this information to present to MISWUAB the relevant monthly financial information.
(5d) Review receivables collection process, and if necessary, consider employing more aggressive tactics.	The department had a high volume of uncollectible accounts receivables reflected within its financial statements. The department had collection procedures, but the overall effectiveness of those procedures were in doubt because receivables balances for accounts outstanding for more than 60 days were excessively high for the four years prior.	**Closed**	In its November 2010 meeting, the MISWUAB approved a draft MIS Collections Plan.

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Chapter 4

Financial Review of the Hawai‘i Health Systems Corporation

Report No. 08-08

The Hawai‘i Health Systems Corporation (HHSC), the fourth-largest public hospital system in the nation, operates 13 public health facilities in five regions within the state. These public health facilities, along with an affiliate facility on O‘ahu, provide essential safety-net hospital and longer-term services. Many HHSC facilities are the only hospitals in rural communities, and services provided by them include critical/acute inpatient care, skilled and intermediate nursing care, and ambulatory outpatient care. Many facilities also provide radiology, pharmacy, dietary, and laboratory services. Mental health services, as well as occupational, physical, recreational, and speech therapy services, are also available at some of the corporation’s facilities.

The Hawai‘i Health Systems Corporation was created in 1996 as an administratively attached agency of the Department of Health by Act 262, which transferred all state public health facilities previously under the administration of the Department of Health’s Division of Community Hospitals. At the time of our report, HHSC was governed by a 13-member board of directors consisting of the former director of health, ten governor-appointed members, the chair of the Public Health Facility Management Advisory Committee, and a regional physician. The corporation’s board of directors relied on the executive management team, including the president/chief executive officer, chief operating officer and chief financial officer, and the five regional chief executive officers, for advice and counsel. The corporate office also provided leadership and guidance to the facilities in an effort to centralize and standardize system-wide administrative policies and procedures.

Under this structure, the regions were provided limited input in corporate decisions. Regional interests, including the formulation of regional operational and capital improvement budgets and operations of public facilities in the regions, were represented through the regional public health facility management advisory committees. However, these committees served only in an advisory capacity to the corporate chief executive officer. In addition, there were considerable delays in accomplishing operational tasks at the regional level, such as recruitment delays, as the regions waited for corporate decisions to be finalized. Moreover, there was reportedly some level of distrust between regions.

Deficiencies in internal controls reported

The Office of the Auditor and the certified public accounting firm of Accuity LLP conducted a financial review of the corporation for the fiscal year July 1, 2005 to June 30, 2006. In Report No. 08-08, *Financial Review of the Hawai‘i Health Systems Corporation*, published in April 2008, the firm was unable to render a review opinion on the corporation's financial statements, since corporate management refused to sign a representation letter acknowledging its responsibility for the fair presentation of its own financial statements, resulting in significant delays in the completion of the engagement.

With respect to the corporation's internal control over financial reporting and operations, we found three material weaknesses: first, the corporation's procurement and asset management policies and practices did not comply with applicable state laws; second, the corporation's inattention to information technology (IT) management exposed its sensitive information to unnecessary risk; and third, not all of the corporation's facilities had, or adhered to, established billings, collections, and receivables policies.

Update: Act 290 and IT Contract Significantly Alter HHSC Policies and Procedures

In assessing the progress made on our recommendations in Report No. 08-08, we found that HHSC is a significantly different organization from the one we reviewed. To determine this, we specifically analyzed Act 290, SLH 2007, and subsequent legislation affecting HHSC. We determined that the corporation's authority and responsibilities as reported in 2008 have been decentralized and delegated to five regional system boards. Our review report had included seven recommendations, comprised of 17 sub-recommendations. Four of the seven recommendations are no longer applicable due to the statutory changes affecting the corporation's organizational structure and responsibilities. We demurred on the three remaining recommendations because they were either not testable or associated with a lesser risk.

More importantly, because of the major changes mandated by Act 290, we took a more holistic approach to governance of the public hospital system. We explored the origins, implementation, transition, and current status of Act 290 at the corporate board and regional system board levels. Act 290 impacted the recommendations related to corporate procurement policies, development of capital asset tracking policies and practices, protecting sensitive information on IT systems, and policies regarding billing, collections, and receivables. Thus, this chapter is different from other chapters. Here we report on the differences in the organization, rather than testing the implementation of our 2008 report recommendations.

Act 290 decentralizes corporate governance

In 2007, in an effort to provide HHSC with the appropriate flexibility and autonomy to respond to the health care needs of its specific communities, the Legislature enacted Act 290, which established regional system boards to govern each of the corporation’s five regional systems—O‘ahu, Kaua‘i, Maui, East Hawai‘i, and West Hawai‘i. Each regional system board consists of at least seven, but no more than 15, members. Except for the ex-officio members, each board must be comprised of residents of the region and include medical and health care providers and professionals, consumers, and knowledgeable individuals in other appropriate areas.

The duties and responsibilities once held solely by the corporation were delegated to or are concurrently shared with the respective regional system board. The regional system boards are responsible for local governance, operations, and administration of the facilities and delivery of services in their respective regional systems. In general, each regional system board is responsible for the following:

1. Developing policies and procedures necessary or appropriate to plan, operate, manage, and control the day-to-day operations of facilities within the regional system that are consistent with corporation-wide policies;

2. Exercising custodial control over and use of all assets of the corporation that are located in the regional system; and

3. Expending funds within its approved regional system budget and expending additional funds in excess of its approved regional budget subject to corporation board approval.

Then, with Act 126, SLH 2011, the corporate board now consists of 13 member directors, including the director of health, five regional chief executive officers, six regional representatives appointed by their respective regional system boards, and a governor-appointed at-large member. The corporate board’s jurisdiction is limited to corporate-wide matters.

The corporate board established a framework for the development of basic criteria and accountabilities for each regional board to meet as a condition for receipt of custodial control over the regional health care facilities, technologies, and human resources to meet its regional mission and budget. For instance, since Act 290 gave the regional systems the power to acquire property, other than the property owned or controlled by the corporation, the corporation board established a policy and process for the orderly transfer of custodial control. In June 2009, the policy committee reported to the corporate board that all regions had met the criteria. The five regions received custodial control in all areas.

Act 290 impacts HHSC policies and procedures

With the implementation of Act 290, the corporation is now responsible for developing corporate-wide policies, procedures, and rules while each regional system board is responsible for its own policies, procedures, and rules to operate, manage, and control its region. These internal procurement policies and procedures must be consistent with corporate-wide policies and procedures. It is important to note that the regional boards are exempt from Chapter 103D, HRS, the Hawai‘i Public Procurement Code, while the corporation is subject to it. Furthermore, regional system boards are responsible for entering into agreements with the State to provide goods, services, and facilities in support of programs in their respective regions, provided that these agreements are consistent with corporate-wide policies.

The corporation’s lack of a centralized uniform capital asset tracking system was the basis for our 2008 recommendation. The absence of a uniform system resulted in differences in the level and quality of capital asset tracking processes among the various facilities, thus increasing the risk of misplaced, lost, or possibly stolen assets. With Act 290 delegating custodial control over and use of all assets within each region to its respective regional system board, our recommendation no longer applies.

Regarding billings, collections, and receivables, Act 290 shifted responsibility for setting and charging rates for services to each regional system board. Furthermore, each facility is now authorized to bill and collect for its services, maintain bank accounts, and pay for personnel, supplies, equipment, and other operational and capital expenditures. Our 2008 report had found that each facility was responsible for its own billing, collections, and financial reporting; thus, the corporation’s billing and cash receipting processes were decentralized. Act 290 provides an additional level of oversight with the regional system boards.

Electronic medical records system to enhance delivery of patient care

In July 2011, HHSC announced the signing of a $28.7 million contract with Siemens Healthcare to provide the corporation with a complete hospital information system, including a succession of integrated electronic medical record (EMR) applications. The new system, which is scheduled to go live system-wide in September 2013, includes such features as capital asset tracking, IT security and system access controls, and third-party billing automated tools. The new system will significantly alter the way the corporation processes information and could address a number of IT-related recommendations we made in Report No. 08-08.

Corporate and regional system boards' roles and responsibilities need clarity

Since HHSC is a different entity from the one that we reported on in 2008, we turned our focus from following-up on our specific report recommendations to analyzing the impact of Act 290 and subsequent legislation on the corporation. For example, in our review of corporate board minutes as well as interviews with corporate senior management and regional board chairs, we found instances in which corporate and regional roles and responsibilities are not clearly delineated. In addition, the corporate management office's power to intervene and assist other regions when warranted has been curtailed. Therefore, under the current governance structure, one region can prosper while others flounder. The corporation acknowledges there are areas for improvement but would like to address these shortcomings through collaborative internal policy development.

Current governance structure misaligns autonomy and accountability

According to HHSC's chief financial officer, the implementation of Act 290 has had "mixed consequences." Under the new governance structure, the role of the corporate board is to make sure HHSC will work as a system, while the regional boards determine services needed at their level. However, according to Act 290, the corporate board is the legal entity that is ultimately responsible for HHSC initiatives, the only entity that can sue and be sued.

As a result, the regional system boards can operate autonomously without consequence, which may lead to financial and legal complications. For example, while the regions have statutory authority to enter into a loan, this authority may not always be recognized for lack of assigned responsibility, such as in cases in which a bank needs the legal entity—the corporation—to sign for a region's bank note. In another example, corporate policy permits the corporate board and regional system boards to pursue business ventures through the creation of separate legal entities, including corporations, partnerships, and limited liability companies. Corporate policy also permits contractual joint ventures that may not involve the creation of any separate legal entity, but which party is operationally responsible for the joint venture is not clear.

The regional system boards are charged with the responsibility to identify, evaluate, and develop business ventures and shall perform due diligence. But the regional system board is not authorized to proceed with the new business venture until the proposal is approved by the corporate board. Once the approval is given, the regional system board is responsible for establishing or dissolving business ventures.

Problems associated with such unclear lines of authority and responsibility have already arisen. For example, the Kona Ambulatory Surgery Center is a joint venture between HHSC's Kona Community Hospital and Hawai'i Pacific Health Partners, Inc., a subsidiary of Hawai'i Pacific Health. The ambulatory surgery center opened in the first half of 2010, but was unable to secure timely federal clearance in order to perform surgery on Medicare patients, a delay that contributed to the center's financial struggles. Approximately a year after opening, the center required a "cash call," an infusion of additional moneys to help it meet its expenses.

While the corporate policy details the process for developing and requesting approval for a business venture, it does not specify or describe the respective roles and responsibilities of the corporate and regional entities, including the reporting and monitoring of the business venture. At a February 2011 meeting, the corporate board debated whether it or the regional board was ultimately responsible for the Kona joint venture, since as the legal entity on the joint venture document, the corporate board is technically the owner with attendant obligations. The corporate board eventually provided the necessary funds to keep the Kona Ambulatory Surgery Center operational.

The corporate chief financial officer (CFO) explained to us in October 2011 that the policy is currently being reviewed, since it does not address capital cash calls, lacks "any teeth," and fails to define "due diligence" or provide more guidance in general. The corporation would be well advised to act expeditiously to clarify these respective responsibilities before other legal and financial issues arise.

Regions develop their own budgets, the corporation consolidates them

The Legislature appropriates public funds to the hospitals in one large budget program ID, HTH 212. The amount requested of the Legislature is the result of: 1) corporate guidelines for facility-level and regional budgets; 2) consolidation of regional budgets, intact, with corporate office needs brought into a system budget; and 3) incorporation into the governor's executive budget. The corporate board Finance Committee oversees the development and issuance of budget instructions and deadlines for regional budgets that do not require approval by the corporate board. The corporate board cannot alter the regional system budgets under law, unless state general funding is reduced or an "emergency" exists.

Recently, the corporation began providing more guidance and exerting some control over the budget process. The corporate CFO provides budgetary guidelines to all regional CFOs to use and consider when developing their own regional budgets. After the corporation receives all regional budgets, the information is compiled and distributed to all regions for review. Beginning with the FY2013 budgets, the corporate president/chief executive officer authorized the corporate CFO to contact the regions via a memorandum or meeting if the corporate CFO determines that any regional budget is inconsistent or unfeasible. This additional review is expected to provide more consistency in budget preparation and prevent regions from asking for too much from shared resources.

However, further budgetary guidance and authority from the corporate office may be needed, especially in providing short-term assistance to financially distressed regions. For example, prior to Act 290, the corporate board had custody of the corporation’s cash. When a region experienced financial distress, the corporate board was able to assist with cash flow. However, after Act 290’s enactment, the regional systems are not connected to the corporate “sweep cash account” and each region maintains custody of its own funds.

A region-to-region loan can be used to address current cash flow issues. Corporate policy establishes and defines the responsibilities relating to regions making short-term cash loans to other regions. Although the terms and conditions of the loan must be negotiated between the regions, excessive interest rates cannot be charged. However, the policy is silent on whether the corporate board has any role in this process. In addition, the corporate board cannot compel the regions to lend money to other regions except for emergencies. But, the statute does not define “emergency.”

For a region that cannot obtain a loan from another region, its options include a loan from the State or an emergency funding appropriation. Thus, other than its budget consolidation function, the corporation has a limited role in ensuring that the system-wide appropriation serves the system as a whole.

Corporation wants to define roles and responsibilities internally through policy

The corporate president/chief executive officer believes that it is important to have clear policies in order to manage the corporation as a system. While he recognizes that the working relationship between the regions and corporate office is better than in the past, he also believes that some fine tuning can still be done through policy for the corporation to become more centralized. For example, under the current system, lines of authority are unclear since decision making is shared by both the corporate board and the regional board, but ultimately, it is HHSC’s corporate office that is the responsible entity. While there are no specific instances of the corporate board assuming responsibility as the sole legal entity over a region's transactions, corporate management and some regional system board chairs are aware that this risk exists.

In addition, while this misalignment of powers is recognized, corporate management and board chairpersons we interviewed did not want legislative intervention through statutory changes. They prefer that this issue be resolved internally through changes in policies or bylaws, or through negotiations. Adapting to Act 290 over the past four years has been a long process and the regions have only now begun to address system-wide problems.

There appears to be a movement towards centralization as exemplified by the new electronic medical records system, which the current president/chief executive officer believes brought the regions together. The new records system will force the corporate and regional system boards to become more standardized and exemplifies the regions' willingness to work with the corporate office.

Chapter 5

Performance Audit on the State Administration's Actions Exempting Certain Harbor Improvements to Facilitate Large Capacity Ferry Vessels from the Requirements of the Hawai'i Environmental Impact Statements Law

Phase I, Report No. 08-09 and Phase II, Report No. 08-11

The Hawaii Superferry, Inc. was an inter-island ferry service that was to sail between the islands of O'ahu, Maui, Kaua'i, and Hawai'i. The ferry was capable of carrying up to 866 passengers and 282 cars, or 28 trucks or buses and 65 cars per trip, at speeds of 35 knots (40 mph). Initially, Hawaii Superferry, Inc. planned to operate in three of the state's harbors: Honolulu Harbor on O'ahu, Kahului Harbor on Maui, and Nāwiliwili Harbor on Kaua'i. Service to Kawaihae Harbor on the Big Island would have started in 2009 after a second ferry was completed.

On August 26, 2007, Hawaii Superferry, Inc. began service from Honolulu to Nāwiliwili and Kahului. The next day, the Sierra Club obtained a temporary restraining order issued by the Second Circuit Court on Maui that prevented the ferry service from using Kahului Harbor. On that same day, Hawai'i Superferry, Inc. encountered a large protest group that prevented it from docking at Nāwiliwili Harbor. On August 28, 2007, the company temporarily suspended its operations to Kaua'i and Maui.

The controversy centered on the decision of the state Department of Transportation (DOT) to exempt from an environmental review harbor improvements made to accommodate the ferry at Kahului Harbor. Environmentalists challenged the department's decision in court. Ultimately, the Hawai'i Supreme Court, in its August 31, 2007 decision, held that the department erred in exempting the improvements from the requirements of the Hawai'i Environmental Procedure Act. In October 2007, the Second Circuit Court on remand halted Superferry's operations *until* the State had completed an environmental assessment.

Thereafter, the governor called the Legislature into session through executive proclamation. After much debate and voluminous testimony, the Legislature passed Senate Bill No. 1, Senate Draft 1, amending the law to permit operation of a large-capacity ferry vessel company *while* the State does an environmental review. On November 2, 2007, the governor signed the bill into law as Act 2, Second Special Session Laws of Hawai'i (SSSLH) 2007. On December 13, 2007, ferry service to

Kahului Harbor resumed under conditions to protect the environment while the State conducted an environmental impact statement (EIS) pursuant to Act 2. Service to Nāwiliwili Harbor did not resume.

On March 16, 2009, the Hawai'i Supreme Court held Act 2 unconstitutional. Three days later, Hawaii Superferry, Inc. halted all operations and removed its ferry vessel from Hawai'i shortly thereafter. On May 30, 2009, Hawai'i Superferry, Inc., and its parent HSF Holding, Inc., filed Chapter 11 bankruptcy petitions in the U.S. Bankruptcy Court for the District of Delaware. The Bankruptcy Court on July 1, 2009 approved the motions to abandon and release their interest in the two ferry vessels to the U.S. Department of Transportation's Maritime Administration (MARAD), the first mortgagor of the vessels.

Act 2 also requested the Auditor to conduct a performance audit on the state administration's actions in exempting the harbor improvements in preparation for Superferry operations. The audit request also included a review of the State's actions in not considering potential secondary environmental impacts of the harbor improvements prior to granting the exemption from these requirements.

Our subsequent audit work was delayed by access issues, including access to public information and allegedly private, attorney-client, and executive privileged information. The attorney general took an active role in reviewing requested documents and interceding in our audit interviews. Moreover, Hawaii Superferry, Inc. declined to be interviewed in regards to our audit unless we amended our standard audit procedures. Due to delays resulting from the extensive and intrusive review by the attorney general of our audit work, we presented our findings in two separate reports: Report No. 08-09, released in April 2008 and Report No. 08-11, released in December 2008.

State circumvents environmental review to meet purported federal deadline

In Report No. 08-09, we found that the state Department of Transportation abandoned efforts to require an environmental review for harbor improvements needed to accommodate the ferry service. Instead, the department took advantage of the State's flawed EIS law and rules, invoking its exemption determination list and bypassing environmental review. Driving this process was Hawai'i Superferry, Inc. and its claim that it had to have all environmental clearances in place by June 30, 2005, a deadline it asserted was imposed by the MARAD. According to Hawai'i Superferry, Inc., if the deadline was not met, Hawai'i Superferry, Inc. would lose its loan guarantee and would not be able to operate in the islands. According to the department, Hawai'i Superferry, Inc. officials stated that requiring an environmental assessment would be a "deal breaker."

The department director stated that it was the DOT's obligation to verify with MARAD that the date was valid. The then-deputy director of harbors told us he could not recall if the date was verified but that the department "probably" did so, because the department would not simply take Hawaii Superferry Inc.'s word that all environmental clearances had to be given by June 30, 2005. But the department did just that. Maritime Administration officials denied, and supporting documentation confirmed, that the federal agency did not impose a June 30, 2005 deadline, or any specific date, as part of a precondition for Hawaii Superferry, Inc.'s loan. In addition, MARAD's associate administrator could not recall receiving any inquiries from state Department of Transportation officials to verify the June 30, 2005 deadline.

In our audit, we concluded that efforts to support Hawaii Superferry, Inc.'s interests may have compromised the State's environmental policy. In addition, we wrote: "It remains to be seen whether these decisions will cost the State more than its environmental policy."

Report No. 08-09 contained four multi-part recommendations to four entities: the Legislature, the Environmental Council, the Office of Environmental Quality Control (OEQC), and the Department of Transportation Harbors Division.

Recommendations for the Environmental Council

The Environmental Council is the rulemaking body for the EIS law and its rules are adopted as Chapters 11-200 and 201, Hawai‘i Administrative Rules (HAR). It also serves as a liaison between the OEQC director and the general public on issues concerning ecology and environmental quality. We recommended that the Environmental Council amend the EIS rules and to specifically address six areas. We concluded that all six of the recommendations were **open**, but in various stages of review: three we deemed **likely to be discussed**, two **likely to be pursued**, and one **likely not to be pursued**. The following chart details our audit recommendations and the current status of implementation.

Recommendations for the Environmental Council, Phase I

RECOMMENDATION	PURPOSE	STATUS	COMMENTS
(2a) Amend the EIS rules to require agencies to document and file records of their findings that address HAR Sec. 11-200-8(b) for actions that have been determined to be exempt and identify the kinds of documents the agencies must maintain for actions that have been determined to be exempt.	Increase transparency in the agency exemption determination process.	**Open but likely to be pursued**	Responses from key members of the Environmental Council support the recommendation.
(2b) Amend the EIS rules to require the director of the OEQC to consult with the Environmental Center of the University of Hawai'i before the director issues an opinion of whether an individual action is exempt.	Encourage better collaboration and cooperation between the OEQC, the Environmental Council and the Environmental Center and support the intent of EIS law.	**Open and likely not to be pursued**	Responses consider the recommendation a low priority.
(2c) Amend the EIS rules to require agencies review, update, and submit exemption lists every five years—or sooner if the council determines that changes are required—to the council for review and concurrence.	Increase opportunities for public participation in the review process which supports the underlying principle and intent of the EIS law.	**Open but likely to be discussed**	Responses indicate achieving goal or recommendation could be accomplished through other means.
(2d) Amend the EIS rules to require agencies to contact the director of the OEQC as one of the required outside agencies or individuals to consult prior to reaching a decision regarding an exemption determination.	Identifies OEQC director and/or council as required consultation, provides more transparency and oversight in the exemption determination process.	**Open but likely to be discussed**	Responses from key members of the Environmental Council divided on how the recommendation should be implemented.
(2e) Amend the EIS rules to require agencies to consult with outside agencies and individuals as the Environmental Council deems appropriate prior to reaching a decision of an exemption determination.	Meet the intent of HRS Chapter 341, which is to ensure a coordinated and cooperative working relationship between the OEQC, the council and the center.	**Open but likely to be discussed**	Responses indicate this recommendation has merit but expressed different implementation ideas.
(2f) Amend the EIS rules to ensure the OEQC provides training and assistance to agencies to ensure statutes and rules are complied with when they propose actions subject to the EIS law.	Help ensure compliance with EIS laws and rules.	**Open but likely to be pursued**	Responses indicate this recommendation is of high importance and could be addressed in rulemaking.

Recommendations for the Office of Environmental Quality Control, Phase I

The Office of Environmental Quality Control was established in 1970 to help stimulate, expand, and coordinate efforts to maintain the optimum quality of the state's environment. The OEQC implements Chapter 343, HRS, the law covering the environmental review system. The OEQC director is also tasked with providing advice and assistance to government agencies, private industry and community groups regarding Chapter 343, HRS; conducting research; and recommending programs for the long-range implementation of environmental quality control.

We recommended that the OEQC establish several processes to assist in transparency and offer guidance within the exemption determination process. We concluded that the recommendations were **in progress**.

Recommendations for the Office of Environmental Quality Control

RECOMMENDATION	PURPOSE	STATUS	COMMENTS
(3a) Establish a process by which the Environmental Council is notified when the director of the OEQC receives a request for an opinion or consultation with an agency, if a proposed action is exempt and provide the council a copy of the resulting opinion and any consultation records.	Increases transparency in the agency exemption determination process.	**In progress**	Proposed policy would forward a copy of any request received by the OEQC from an agency/ applicant for an opinion/ consultation about whether a proposed action is exempt from Chapter 343, HRS, to the chairperson of the Environmental Council no later than six days prior to the next scheduled council meeting.
(3b) Establish a process by which the director of the OEQC consults with the Environmental Center before issuing an exemption opinion.	Averts autonomous decision making in the exemption determination process and fulfills the intent of the EIS law to encourage public participation, cooperation, and coordination in the environmental review process.	**In progress**	Proposed policy would require the OEQC to solicit comments from the Environmental Center. The center would have ten days to respond. The OEQC would issue its response to the request once it receives the comments from the center or after a ten-day period elapsed if the center provided no comments to the OEQC.
(3c) Ensure that documentation of such environmental exemption notices and opinions is maintained by the OEQC and is made available to the public.	Provides more transparency in the exemption determination process.	**In progress**	Proposed policy calls for records of requests from agencies and/ or applicants for an opinion/ consultation of the OEQC in regards to whether an action is exempt from environmental assessment under Chapter 343, HRS as well as any comments from the Environmental Center—to be maintained by the OEQC in a dedicated file that is available for public review. The proposed policy also calls for the notification of such requests and related communications to be entered into the OEQC daily record of correspondence.

RECOMMENDATION	PURPOSE	STATUS	COMMENTS
(3d) Establish guidelines including a checklist for use by agencies to ensure that all of the steps required by Section 11-200-8(b), HAR, to protect the environment have been properly addressed for a proposed action before reaching a decision of an exemption determination.	Provide guidance to agencies to ensure they comply with the requirements stated in the administrative rules regarding the exemption determination process.	**In progress**	The OEQC has developed a draft of an exemption declaration checklist that includes a section that addresses requirements in accordance with Sec. 11-200-8 (b), HAR. The checklist will be included in an updated OEQC guidebook. The OEQC director projects the guidebook to be completed and available by the end of 2011.

Recommendation for the Department of Transportation

The Department of Transportation (DOT) Harbors Division has care and control over all state-owned or controlled commercial harbors, harbor facilities and lands, and all vessels and shipping within the harbors.

In Report No. 08-09, we found the records of harbors-related projects, including exempt projects, are maintained at the DOT Harbors Division. Similar to the findings of a 1997 Environmental Center report, we found the record-keeping system made it difficult and time-consuming for both the division employees and the public to obtain and review project exemption records. For example, to fulfill our request for a list of exempted harbors projects from 2004 to 2007, a division employee needed to sort through thousands of documents by hand. The division said it took its employee two weeks to complete the task. Such a record-keeping system inhibits any meaningful review of project documents and does more to discourage, rather than encourage, public participation in the exemption process.

For this follow-up report, we conducted an on-site review of the record-keeping system at the Harbors Division offices and found significant changes from our review for the 2008 audit report. We found that the original hard-copy exemption determination documents had been placed in a separate file where they are organized in individual folders, by five-year increments. This enabled workers to quickly locate exemption documents which, in the past, had been included in the larger project folders; retrieval had once been a very time-consuming process.

Duplicate hard copies of exemption documents are also kept in binders organized in five-year increments. The documents are also stored in a shared computer file that enables division staff to locate and print documents from exempted projects by year, project title, harbor, or island. In addition, the division added a link to the department website that provides instructions on how to obtain public documents. The link includes the ability to print out a form to submit to the division for document requests. Our testing did find that internal communication needs improvement to ensure all division workers are aware of the new link so they can direct requestors to the proper link and ensure the process is more user-friendly to the public. However, we determined all the new elements are in place, in alignment with the recommendation and is therefore **closed**.

Recommendation for the Department of Transportation, Phase I

RECOMMENDATION (Phase I Report)	PURPOSE	STATUS	COMMENTS
(4a) Modify its record-keeping process to facilitate public review of exemption determinations.	Strengthen transparency in the exemption determination process by encouraging public participation.	**Closed**	Internal changes to record-keeping system are more organized and easier for division workers to obtain records quickly. Public access problems have been addressed. Division worker awareness of the record-keeping changes needs some improvement.

Recommendations for the State Legislature, Phase I

In Report No. 08-09, we called for the Legislature to "consider" the report's recommendations. We acknowledge it would be difficult to measure a consideration, and, therefore, it would be difficult to assess whether the recommendation had been fulfilled. As a result, we elected to interview key stakeholders to ascertain whether they consider each of the recommendations to be a low or high priority and whether each falls under the purview of the Legislature or another party to implement. The three legislators we interviewed were the House and Senate Environmental Committee chairs and the chair of the Environmental Council's legislative committee.

Hawai'i's EIS law is modeled after the National Environmental Policy Act (NEPA). However, unlike NEPA, Hawai'i's EIS law does not name an enforcement agency. As NEPA recognizes, enforcement is a vital part of encouraging the regulated community to meet environmental obligations. Enforcement also deters those who might otherwise profit from violating the law. Neither the OEQC nor the council has the means to enforce the environmental review process. Report No. 08-09 concluded that lacking these components, there is no established mechanism to hold an agency accountable for its exemption determinations.

The council's legislative sub-committee chair said the issue has come up in the past and because it involves a statutory issue, it would best be addressed by the Legislature but added that his committee would also work to identify the most appropriate entity to enforce the EIS laws. Therefore, we determined the implementation of Recommendation No. 1a as **open but likely to be discussed**.

Recommendation No. 1b was prompted by the fact that the administrative rules do not require agencies or the OEQC to publish any public notice or actions agencies have determined to be exempt. As a result, the only recourse for public input is a 120-day window after the determination is made when the public can contest the matter by filing a lawsuit. Report No. 08-09 concluded that if litigation is the only avenue for public participation in an agency determination process, the EIS system, including both the laws and its rules, is flawed.

However, two of the three stakeholders we interviewed contend the recommendation falls under the purview of rulemaking and the Environmental Council and not the Legislature. The third stakeholder was non-committal. We also note that the administrative rules do address general record-keeping requirements regarding exempted actions and could be amended to specifically address the recommendation that falls under the purview of the council. Therefore, we determined the implementation of this recommendation to the Legislature as **not applicable**.

Recommendations for the Legislature, Phase I

RECOMMENDATION	PURPOSE	STATUS	COMMENTS
(1a) Make appropriate and aligned changes in the Hawai'i Revised Statutes to identify and empower an agency or entity with authority to enforce the EIS laws and rules.	Lack of enforcement entity does not ensure compliance of rules and laws by agencies.	**Open but likely to be discussed**	Two of three stakeholders agreed the recommendation falls under the purview of the Legislature and merits consideration.
(1b) Require agencies to provide the OEQC individual agency exemption determinations in a timely fashion for publication in the Environmental Notice and for posting on the OEQC's website.	Provide more transparency in the exemption determination process.	**Not applicable**	Two of three stakeholders believe the recommendation falls under the purview of the Environmental Council and rulemaking. The third stakeholder was uncertain.

Update: Early Attempts To Amend Rules Stalled at the Office of the Governor

During the course of following up on recommendations made in Report No. 08-09, we found that the Environmental Council had submitted proposed rules changes to the Office of the Governor in January 2008, several months before our audit was issued. However, records show the proposed rules were returned a couple of months later unsigned by the then-governor. The administrative rules process requires a governor's signature in order to move forward to the next step, which is a public hearing. The council made efforts in Fall 2008 for guidance from the then-governor as to what actions it should take or to disclose the reasons why the proposed rules were rejected. A November 2008 letter from the council chairman to the then-governor noted that the rules are "desperately in need of update" and cited our 2008 audit report as one of the factors that has created a sense of urgency.

By the end of 2008, the lack of a response from the then-governor contributed to talk among council members of possible disbandment of the council. In April 2009, the chairman of the council submitted his letter of resignation to the governor. The letter cited the lack of guidance by the then-governor regarding the proposed rule changes as one of the reasons for his resignation.

The following month, two more council members tendered their resignations. In July 2009, the remaining council members voted to postpone all future meetings until the conditions improved. The council reconvened in September 2010, but by the following month, it decided to table its efforts on proposed rule changes because "…this administration does not have much of an appetite for dealing with these rules…."

It is important to note that the administration that utilized a lax exemption process to expedite Superferry preparations also impeded efforts to strengthen that flawed process.

By Providing Unusual Accommodations to a Single Business, State Sets a Troubling Precedent

In December 2008, we released Report No. 08-11, Phase II of our audit on the state administration's actions exempting certain harbor improvements to facilitate large-capacity ferry vessels from the requirements of the Hawai'i Environmental Impact Statement Law. We found that with the impending arrival of Hawaii Superferry, Inc., the state Department of Transportation reversed a long-standing policy of not providing additional pier-side equipment for harbor users.

We also found that the state-funded $38.5 million harbor improvement system provided to Hawai'i Superferry, Inc. proved to be problematic, best exemplified by Kahului Harbor's barge, which was continually battered by high winds and waves. The barge and pier sustained damages that were estimated at more than $3 million at the time of the 2008 report. The barge also required the services of a tug boat to secure it to the pier during ferry operations. We also found that the legislation on behalf of Hawaii Superferry compromised the State's environmental laws and set a worrisome precedent for future government accommodation that puts the interests of a single business before the State's environmental, fiduciary, and public safety responsibilities.

The report contained three multi-part recommendations to three entities: the Office of Environmental Quality Control, the Environmental Council, and the Department of Transportation Harbors Division.

Recommendations for the Environmental Council, Phase II

In Report No. 08-11, we made four additional recommendations to the Environmental Council. At this time, all recommendations are **open but will be discussed**. Three of the four recommendations (2b, 2c, and 2d) are in the initial phase of being addressed by the council since it has only recently voted to begin rulemaking. However, of the four recommendations, only one recommendation, No. 2b, specifically requests the council to amend its rules. According to our interviews with key council members, the issues covered by the recommendations are of medium- to high-priority and will "likely be addressed" as the council proceeds in its rulemaking.

Recommendations for the Environmental Council, Phase II

RECOMMENDATION	REASON FOR RECOMMENDATION	STATUS	COMMENTS
(2a) Establish a process to provide guidance to agencies in determining whether an action is projected to have a significant environmental impact under Section 11-200-8(b), HAR, which would make an exemption inapplicable.	Increase transparency by allowing for the opportunity for outside review of agency exemption determinations	**Open but will be pursued**	The updated 2011 OEQC Guidebook addresses actions that have a significant impact by providing 13 criteria taken from the administrative rules. Should the Guidebook be posed and made available to state agencies in the near future, this recommendation could be closed.
(2b) Amend the EIS rules to ensure the OEQC provides training to state and county agencies to clarify their roles and obligations in the exemption determination process.	Provide additional information to agencies to enable them to make more informed decisions pertaining to exemption determinations.	**Open but will be discussed**	Until the administrative rules or statutes are amended to require the OEQC to provide training, the implementation of this recommendation is considered **open, but will be discussed**. However, it is noted that the OEQC has scheduled at least eight training sessions for state agencies by the end of 2011.
(2c) Clarify the agency consultation process regarding proposed exempted actions in Section 11-200-8(a), HAR, to ensure that an outside agency's or individual's non-response to a consultation letter is not left open to interpretation by the requesting agency that it has met its responsibilities to consult with outside agencies before determining an action is exempt. Ensure that agencies make clear in their consultation letter that the purpose of the letter is to comply with the administrative rules and that a response is vital towards fulfilling these regulatory requirements and that should an outside agency believe it does not have jurisdiction or expertise as to the propriety of the exemption as required in the rules, it should inform the requesting agency of this position.	The administrative rules are not clear on whether a consulted agency's non-reply should be considered advice to the propriety of the exemption.	**Open but will be discussed**	Both council members consulted seem to agree that this is a medium-priority issue that will be addressed by the council yet are unsure what action will be taken since the EIS laws and rules do not require consulted agencies to respond.

Recommendations for the Legislature, Phase I

RECOMMENDATION	PURPOSE	STATUS	COMMENTS
(2d) Establish clear definitions of cumulative and secondary impacts for water carrier operations and the scope of their coverage. The Environmental Council should work with all affected stakeholders to build consensus on these definitions and how they should be addressed to enable agencies to conduct an assessment that meets the requirements of the EIS laws and rules. A consensus should also be reached as to whether water carriers currently conducting business in Hawai'i will be subject to such a review or whether such changes will apply only prospectively.	There was confusion and concern on how to address cumulative and secondary impacts for a water carrier's operations.	**Open but will be discussed**	A council member consulted viewed this as a high-priority issue that will be addressed.

Recommendation for the Office of Environmental Quality Control, Phase II

There was one recommendation made to the Office of Environmental Quality Control. To address this recommendation, the OEQC is in the process of finalizing the updated *2011 Guide to the Implementation and Practice of the Hawai'i Environmental Policy Act* (guidebook), which will provide clear guidelines in direct response to this recommendation. While some guidelines and checklist criteria are already in place, the OEQC is completing an updated draft of the recommended guidelines, check-list, and form for agencies and applicants to ensure that all steps required by the rules have been properly addressed and documented before declaring an exemption determination. Therefore, we have determined this recommendation **in progress**.

Recommendation for the Office of Environmental Quality Control, Phase II

RECOMMENDATION	REASON FOR RECOMMENDATION	STATUS	COMMENTS
Establish guidelines, which include a checklist for use by agencies, to ensure that all of the steps required by Chapter 11-200, HAR, to protect the environment have been properly addressed and documented for a proposed action before making an exemption determination.	Ensure that all required steps are completed before an exclusion/exemption is declared.	**In progress**	The OEQC said that it is in the process of finalizing an updated guidebook. The checklist requested in the recommendation has been developed but must still be incorporated into the guidebook. Should the updated guidebook be posted and made available to state agencies in the near future, this recommendation could be closed.

Recommendation for the Department of Transportation, Phase II

Report No. 08-11 contained a three-part recommendation for the DOT Harbors Division. Two sections are no longer applicable due to the cessation of Hawaii Superferry, Inc.'s operations and its subsequent bankruptcy. The third item recommended the department establish an exit strategy for the interim harbor improvement system. Our report concluded that the barges were designed specifically for the use of Hawaii Superferry, Inc. and may have little use for potential buyers.

In our follow-up effort, we found that the department does not currently use the barges and deos not expend any moneys for their care and maintenance. A plan to sell the barges was placed on hold until the end of 2011. Therefore, we determined Recommendation No. 3c **open but will be discussed**. See update on page 54 for further discussion on this matter.

Recommendation for the Department of Transportation, Phase II

RECOMMENDATION	REASON FOR RECOMMENDATION	STATUS	COMMENTS
(3a) Investigate options for a new barge mooring and fender system for the pier in Kahului Harbor that can better withstand high surge and winter storms until a permanent facility is available or until Hawaii Superferry, Inc. retrofits its first ferry with an onboard ramp.	Prevent further damage to the barge and pier caused by high swells, surge, and wind.	**Closed**	This recommendation is no longer applicable since Hawaii Superferry, Inc. filed for bankruptcy and no longer operates in the state.
(3b) Determine responsibility for barge maintenance and resolve financial liability issue with Hawaii Superferry, Inc. and Healy Tibbitts regarding barge damage and additional unplanned expenses such as tug services.	Determine which party was financially responsible for additional expenses.	**Closed**	Hawaii Superferry, Inc. filed for Chapter 11 bankruptcy in the U.S. Bankruptcy Court, and it abandoned and released its ferry vessels.
(3c) Establish an exit strategy for its interim barge-and-ramp system, which will likely be rendered obsolete soon.	Require DOT to explore options before the barge-and-ramp system became obsolete.	**Open but will be discussed**	The department does not currently use the barges and does not expend any moneys for their care and maintenance. A plan to sell the barges was placed on hold until the end of 2011.

Update: State Liable for $63 Million in Superferry-Related Expenses

Hawaii Superferry, Inc. ceased operations nearly three years ago, and the three barges now sit idle and rusting in Honolulu Harbor. However, the State must continue to pay the cost for constructing the harbor improvement systems. The State issued approximately $40 million in general obligation bonds. We found that the interest on these bonds will total more than $20 million by the end of FY2028. As a result, the State of Hawai'i will be paying a total of approximately $60 million for the general obligation bond liability and related interest through fiscal year end 2028.

DOT Harbors has sustained a $41 million loss

In its FY2009 financial statement audit, DOT Harbors reported an asset impairment loss of approximately $41 million for the barge-and-ramp systems according to generally accepted accounting standards. The $41 million write-off includes the following:

SUPERFERRY ASSET COST DESCRIPTION	AMOUNT
1. Equipment, including barges and ramps	$33,712,716
2. Capital Improvement Project (CIP) related to Hawai'i Superferry operations	$4,424,990
3. Wharf improvements	$1,368,707
4. Land improvements	$1,124,531
5. Transfer to depreciable assets from CIP	$723,288
Total Asset Written Off	**$41,354,232**

Also included is the $2.5 million ramp constructed for Hawaii Superferry Inc. operations in Nāwiliwili Harbor on Kaua'i. This ramp was used sparingly for Hawai'i Superferry since service to Kaua'i was suspended two days after the beginning of operations. At the time of our follow-up report, the ramp continued to occupy harbor space and had not been used by any other operator.

The department paid approximately $1.2 million in additional expenses

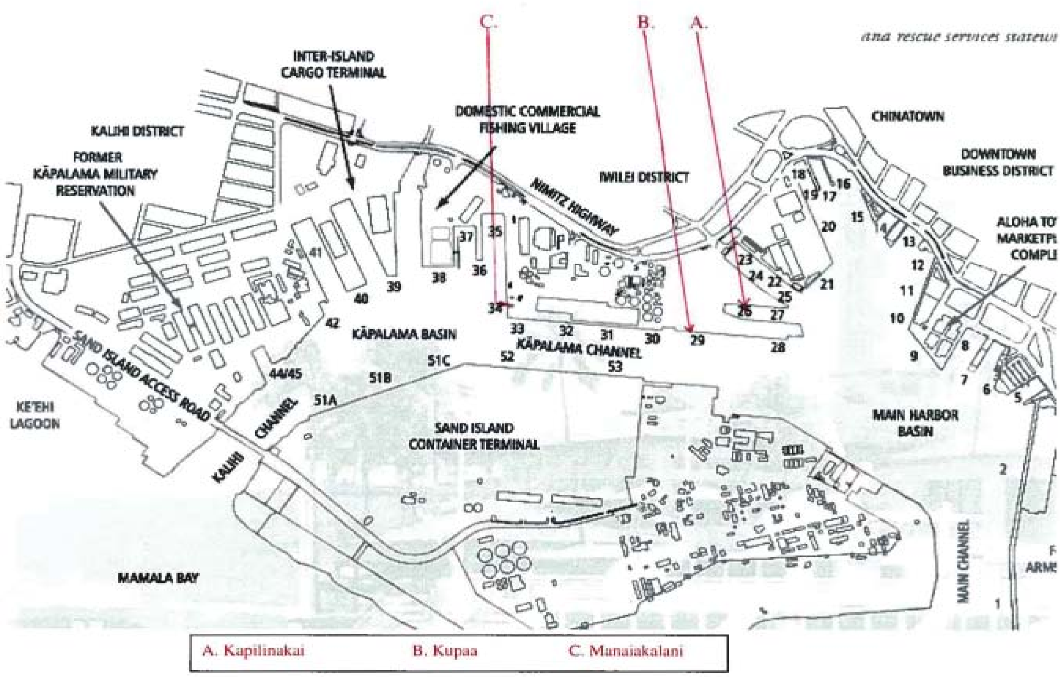
The department paid more than $443,000 to repair the barge and the pier at Kahului Harbor. It did not receive any reimbursement from Hawaii Superferry, Inc. or the barge builder. In addition, to address safety concerns regarding the movement of the barge during ferry operations, the department used a tug boat to hold the barge snug against the pier to provide for the safe loading and unloading of vehicles. The department paid more than $500,000 for tug services in Kahului Harbor from December 2007 through September 2008. At the time of our 2008 report, the State funded the tug service but continued to dispute which party was responsible—Hawaii Superferry, Inc. or the barge builder—for the additional expense. In October 2008, the department transferred the financial responsibility for tug services to Hawaii Superferry, Inc., but the company never reimbursed the State for this additional expense.

Following the end of Hawaii Superferry, Inc. operations in March 2009 and the subsequent bankruptcy of the company, the department has also been responsible for transportation costs for the barges. In June 2010, the department moved the Kahului Harbor barge, *Manaiakalani*, to

Honolulu at the suggestion of the U.S. Coast Guard. The Coast Guard told the department that [w]ith the up-coming hurricane season, we feel that the current state and location of the barge in Kahului poses a risk to the port." The department contracted Healy Tibbitts, the builder of the barges, to perform an inspection of the interior and exterior of the barge and tow it from Kahului Harbor to Honolulu Harbor. The cost of the contract was $218,500. The barge currently is located at Pier 34 in Honolulu Harbor.

Also in June 2010, the department moved the Honolulu barge, *Kapilinakai*, within Honolulu Harbor from Pier 20, where the ferry terminal used to be located, to Pier 26. The department paid more than $14,000 for this relocation. A month later, the department moved the barge assigned to the Big Island, *Kūpa'a*, to allow a passenger vessel to dock and discharge passengers, then prepare for dry-docking. The barge was relocated from Pier 29 to Pier 11 and then moved back to Pier 29 a couple months later at a cost of more than $3,600. Incidentally, since being delivered to O'ahu, the *Kūpa'a*, which was to service Kawaihae Harbor, has never left Honolulu Harbor. Exhibit 5.1 shows the current location of the barges in Honolulu Harbor.

Exhibit 5.1
Map of Honolulu Harbor Showing the Current Location of the Barges



Source: Department of Transportation

Exhibit 5.2 provides a listing of the expenses related to the interim harbor improvement system created to facilitate the operations of Hawai'i Superferry, Inc.

Exhibit 5.2
Expenses Incurred by the Department of Transportation for the Interim Harbor Improvement System

Hawai'i Superferry Expense	Cost
1. Land improvements	$1,124,531
2. Wharf improvements	$1,368,707
3. Equipment, such as barges and ramps	$33,712,716
4. Transfer to depreciable assets from construction in progress	$723,288
5. Construction in process related to Hawai'i Superferry operations	$4,424,990
SUBTOTAL OF EXPENSES WRITTEN OFF	**$41,354,232**
6. Projected interest on general obligation bonds related to Hawai'i Superferry through FY2028	$20,341,212
7. Kahului barge mooring system repair - Change Order 22 (Healy Tibbitts)	$273,859
8. Kahului interior barge repair and replace Pier 2B plate bollard - Change order 23 (Healy Tibbits)	$169,411
9. Tug services for Kahului Harbor	$503,900
10. Transport barge from Kahului to Honolulu Harbor	$218.500
11. Relocation of Honolulu barge from Pier 20 to Pier 26	$14,241
12. Resecure barge, Kũpa'a, to pier after lines snapped	$1,339
13. Transport barge, Kũpa'a, from Pier 29 to Pier 11	$1,792
14. Transport barge, Kũpa'a, from Pier 11 to Pier 29	$1,850

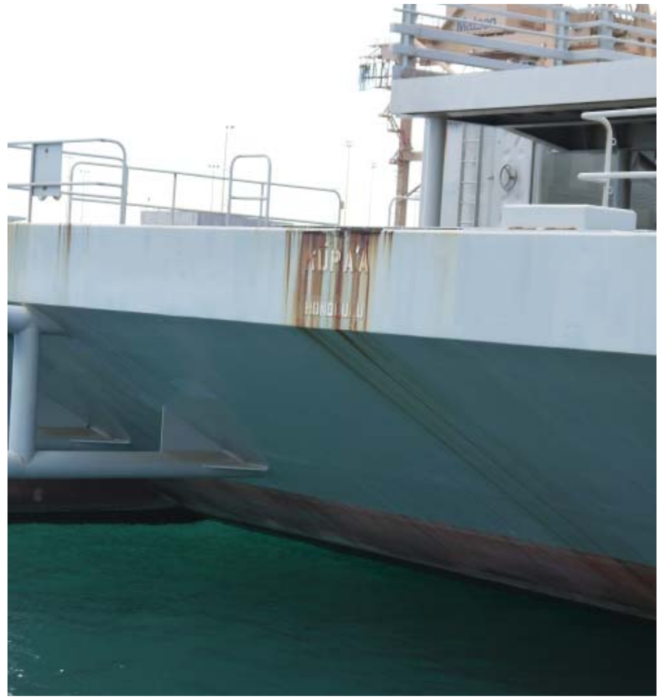
Source: Office of the Auditor

Department plans to sell the barges but has not maintained them

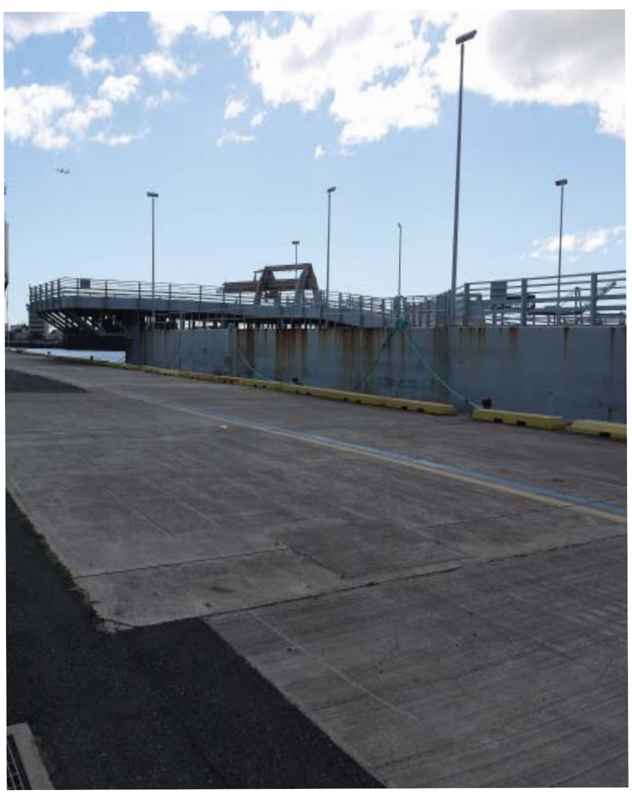
During a site visit to Honolulu Harbor, we observed that all three barges had easily visible surface rust. Exhibit 5.3 shows pictures of visible surface rust on the three barges. Currently, the department does not spend any money on maintenance for the barges. The Kaua'i district manager for the Harbor Division said maintenance of the ramp in Nāwiliwili Harbor was minimal.

Exhibit 5.3
Surface Rust on the Barges

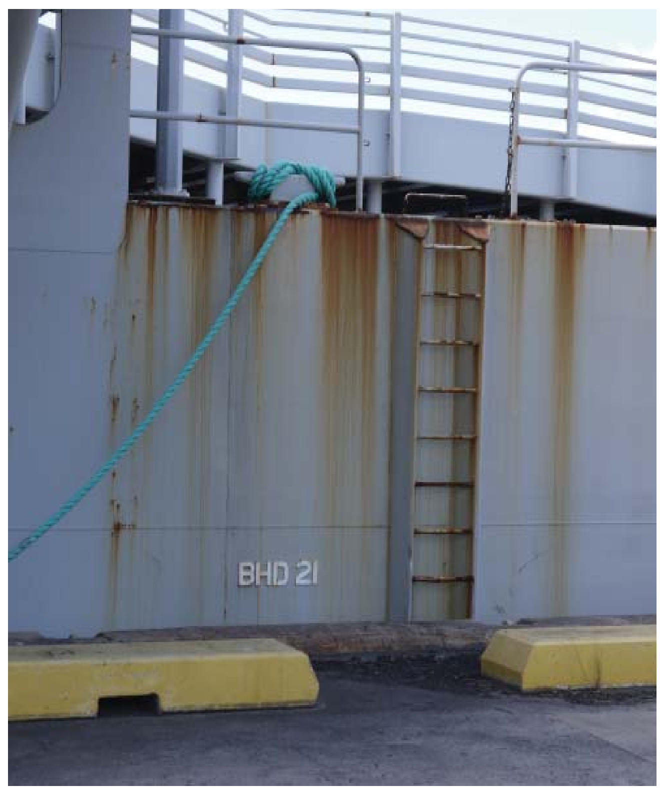
Honolulu Barge, *Kapilinakai*



Big Island Barge, *Kūpa'a*



Maui Barge, *Manaiakalani*



Maui Barge, *Manaiakalani*

As we noted in Report No. 08-11, since the barges and ramps were built for the specific needs of Hawaii Superferry, Inc., the vessels cannot be repurposed by the State in their present configurations. According to the DOT harbors administrator, the barges would require retro-fitting and a re-certification before they could haul cargo. However, he pointed out that such use would be limited since the barges were built in China and, therefore, do not comply with the Jones Act. The Jones Merchant Marine Act of 1920 requires vessels engaged in U.S. domestic shipping to be U.S.-flagged, built in the United States, owned by U.S. citizens, and documented under the laws of the United States. The Harbors administrator added that it did not make sense for the department to try to use the barges.

The department intends to sell the barges and has discussed plans to contract out custodial services for the three barges in preparation of such a transaction. The contract for the clean-up and maintenance of the five vessels would be worth $277,500 per year. However, the plan to sell the barges has been put on hold until the end of 2011. The Harbors deputy director acknowledged that the barges' value will decrease the longer the barges are not maintained. The harbors administrator added that the department is in a "no-win situation." "We already took a hit by writing the barges down to $0," he said. "Should we be spending more money on something that officially has no value to us?"

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