
Pushing Boundaries: Follow-Up on Recommendations Made in Report No. 12-02, *Investigation of the Stadium Authority's Swap Meet Operations*

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

Report No. 15-05
May 2015



THE AUDITOR
STATE OF HAWAII

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.



THE AUDITOR

STATE OF HAWAII

Kekuanao'a Building

465 S. King Street, Room 500

Honolulu, Hawai'i 96813



Office of the Auditor
465 S. King Street
Rm. 500
Honolulu, HI 96813
Ph. (808) 587-0800

Jan K. Yamane
Acting State Auditor
State of Hawai'i

Portions of the Aloha Stadium Swap Meet and Marketplace operate on lands subject to federal use restrictions. Commercial activities are prohibited unless prior approval is obtained from the federal government

Pushing Boundaries: Follow-Up on Recommendations Made in Report No. 12-02, *Investigation of the Stadium Authority's Swap Meet Operations* Report No. 15-05, May 2015

The 2008 Legislature amended the Auditor's governing statute to require follow-up reporting on recommendations made in various audit reports to ensure agency accountability over audit recommendations. The purpose of this change was to apprise the Legislature annually of recommendations not implemented by audited agencies, and to require such agencies to submit a written report not later than 30 days after issuance of our report explaining why the recommendation was not implemented and the estimated date of its implementation.

Stadium Authority improves swap meet and contractor oversight, but land use issues remain

Our review focused on the Stadium Authority's implementation of ten audit recommendations made in our 2012 Report No. 12-02, *Investigation of the Stadium Authority's Swap Meet Operations*. This report details each recommendation, its status, and actions taken related to the recommendation. We deemed seven recommendations closed (70 percent) and three open but in progress (30 percent). In 2012, we found that portions of the swap meet operate on lands that are subject to federal restrictions that they be used for public park or public recreational purposes. Commercial activities are prohibited unless prior approval is obtained from the federal government. However, the Stadium Authority Board neglected to notify and seek federal approval of changes to swap meet operations over the years, an obligation the City and County of Honolulu agreed to when it purchased the stadium lands in 1967. This violation could result in the federal government reclaiming its property, an action that could shut down swap meet operations. Furthermore, the Stadium Authority Board and stadium manager did not adequately oversee the swap meet contractor, who in turn did not consistently enforce swap meet rules and regulations.

Swap meet operations still “pushing boundaries” of federal land use

Since 2012, the stadium manager has communicated and met with the federal National Park Service representative seeking guidance on use restrictions of stadium land, as we recommended. The representative did not confirm or disagree that the current swap meet configuration and use is compliant with its permitted use requirement; rather, he said the stadium is a facility that inherently “pushes the boundaries” of a public recreational facility, and urged the State to consider other ways the facility could be used more extensively for public outdoor recreation. The representative also encouraged the State to continue exploring land exchange options to remove this restriction.

Authority's monitoring of swap meet contractor shows improvement

The Stadium's management has also strengthened monitoring of the swap meet contractor, as we recommended. The stadium manager has completed all mandatory State Procurement Office training. The authority uses agreed-upon procedures to independently evaluate and monitor vendor and buyer admission fees from swap meet operations, and holds regular meetings with the swap meet contractor to discuss various swap meet topics. The authority and swap meet contractor have an informal agreement whereby the authority's deputy stadium manager meets with the swap meet manager and complainants to discuss and assist in resolving complaints. The swap meet contractor assisted the Department of Taxation in educating swap meet vendors on state tax laws. The contractor also cross checks vendors' general excise tax licenses twice a year to ensure that licenses are active. Lastly, the deputy stadium manager reviews the swap meet contractor's log of warnings and citations four times a year for consistency of enforcement actions.

**Pushing Boundaries: Follow-Up
on Recommendations Made in
Report No. 12-02, *Investigation
of the Stadium Authority's Swap
Meet Operations***

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

Submitted by

THE AUDITOR
STATE OF HAWAI'I

Report No. 15-05
May 2015

Foreword

This is a report on our follow-up review of the recommendations we made to the Stadium Authority in Report No. 12-02, *Investigation of the Stadium Authority's Swap Meet Operations*, released in March 2012. We conducted our work pursuant to Section 23-7.5, Hawai'i Revised Statutes, which requires the Auditor to report to the Legislature on each recommendation the Auditor has made that is more than one year old and has not been implemented by the audited agency. We wish to express our appreciation for the cooperation and assistance extended to us by the Stadium Authority's management, board members, and others whom we contacted during the course of our review.

Jan K. Yamane
Acting State Auditor

Table of Contents

Chapter 1 Introduction

Legislative Request.....	1
Objectives of the Review	1
Criteria.....	2
Scope and Methodology	2

Chapter 2 Stadium Authority Improves Swap Meet Contractor Oversight, but Land Use Issues Remain

Background.....	7
Status of Recommendations.....	9

Exhibit List

Exhibit 1.1	Status of Recommendations in Report No. 12-02, <i>Investigation of the Stadium Authority's Swap Meet Operations</i>	5
-------------	--	---

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 greater oversight over the implementation of audit recommendations. Act 36, Session Laws of Hawai'i (SLH) 2008, was modeled after a 2006 California law that enabled legislators to use agencies' claims of progress against audit recommendations in their budget discussions.

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

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

Objectives of the Review

1. Validate the claims made by agencies regarding implemented audit recommendations.
2. Report to the Legislature on audit recommendations not yet implemented.

Criteria

We relied on Chapter 23, *Auditor*, HRS; *GAO-07-731G Government Auditing Standards*, U.S. Government Accountability Office (GAO), December 2011 Revision; and *How to Get Action on Audit Recommendations*, U.S. General Accounting Office, July 1991, in the conduct of our review.

The GAO's criteria are especially useful for our purposes, since GAO also reports on the status of recommendations not fully implemented. GAO's 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." In particular, GAO reports on whether:

- 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, and an individual recommendation follow-up plan is developed for each assignment; and
- Results intended by each recommendation and 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's guidelines in *How to Get Action on Audit Recommendations* (1991). According to GAO, saving tax dollars, improving programs and operations, and providing better service to the public represent audit work's "bottom line." Recommendations are the vehicles by which these objectives are sought. However, it is action on recommendations—not the recommendations themselves—that helps government work better at less cost. Effective follow-up is essential to realizing the full benefits of audit work.

Our review, conducted between December 2014 and March 2015, focused on the Stadium Authority's implementation of our recommendations in Report No. 12-02, *Investigation of the Stadium Authority's Swap Meet Operations*, which we issued in March, 2012. We followed standard office procedures for conducting audits pursuant to the Office of the Auditor's *Manual of Guides* and generally accepted government auditing standards. Those standards require that we plan and perform our work to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions, based on our objectives. We believe the evidence we obtained provides a reasonable basis for our conclusions based on our review 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 an 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, 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 have determined an active follow-up effort is most effective and relevant if conducted three years after publication of an initial audit report. Too short an interval between audit report and follow-up might not give agencies enough time to implement a complex recommendation; too long might allow agencies to lose valuable personnel and institutional knowledge needed to conduct an adequate follow-up.

This review included interviews with selected administrators, managers, and staff from the Stadium Authority. We examined the authority's policies, procedures, records, and relevant documents to assess and evaluate whether their actions adequately fulfilled our recommendations. Our efforts were limited to the inquiry, testing, and reporting on implementation of recommendations made in Report No. 12-02. We did not explore new issues or revisit old ones that did not relate to our original recommendations. Site visits and observations were conducted as needed to achieve our objectives.

Identifying key recommendations

The extent of work done to verify implementation depends on the significance of individual recommendations. For instance, GAO notes that while all audit recommendations should be aggressively pursued, some are so significant that added steps are needed to implement them. The significance of a recommendation depends on its subject matter and the specific situation to which it applies. Significance can be addressed in terms of dollars; however, dollars are only one measure, and not necessarily the most important one. For instance, recommendations to ensure safe operations often take precedence, since their implementation could prevent the loss of life, substantial bodily injury, or environmental contamination.

Closing recommendations

In accordance with GAO guidelines, we consider recommendations "closed" 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.

While these and other guidelines provide the basic ground rules for our review efforts, we recognize that effective follow-up needs to be tailored to particular recommendations and the results they seek.

Definition of terms

Closed: Recommendation has been addressed and implemented.

Open: Work on the recommendation has not started or cannot start because a precursor event has not occurred.

Open but in progress: Agency has taken action, but implementation of the recommendation is not complete.

Open and likely not to be pursued: Agency has no intention of pursuing implementation of the recommendation.

Not applicable: Recommendation is no longer applicable.

Did not assess: Did not assess recommendation implementation.

Summary of recommendations

Of the ten recommendations in Report No. 12-02, seven were deemed closed (70 percent) and three were open but in progress (30 percent). This report details each recommendation, its status, and actions related to the recommendation. Exhibit 1.1 shows the status of the ten recommendations.

Exhibit 1.1
Status of Recommendations in Report No. 12-02,
Investigation of the Stadium Authority's Swap Meet
Operations

Status of Recommendation	No. of Recommendations	Percent of Total
Closed	7	70%
Open	0	0%
Open but in progress	3	30%
Open and not likely to be pursued	0	0%
Not applicable	0	0%
Did not assess	0	0%
Total	10	100%

Source: Office of the Auditor

This page is intentionally left blank.

Chapter 2

Stadium Authority Improves Swap Meet Contractor Oversight, but Land Use Issues Remain

We released Report No. 12-02, *Investigation of the Stadium Authority's Swap Meet Operations*, in March 2012. Our investigation found that the authority had been ineffective in guiding and managing its swap meet operations. The Stadium Authority Board neglected to notify and seek federal approval of changes to swap meet operations over the years, an obligation it agreed to when it purchased the stadium lands. This violation could result in the federal government reclaiming its property and the stadium, an action that could shut down operations. Furthermore, the board and stadium manager did not adequately oversee the swap meet contractor, who in turn did not consistently enforce swap meet rules and regulations.

Our follow-up review determined that the authority has made improvements in monitoring its contract administration and swap meet contractor; however, the authority's use of federal park lands for swap meet operations remains an unresolved issue.

Background

Our 2012 report was prompted by the Legislature's concerns about complaints of unfair dealings alleged by Aloha Stadium Swap Meet and Marketplace vendors against the Stadium Authority and Centerplate, the company that managed the swap meet. The swap meet is the authority's largest revenue source, generating more than \$4.8 million (67 percent) of its total revenues for FY2010.

During the 2009 Legislature's confirmation hearings for Stadium Authority Board members, Aloha Stadium Swap Meet and Marketplace vendors raised issues related to the authority's and Centerplate's management of the swap meet operations. Most of the issues raised related to allegations of loss of vendor sales and income including: (1) authority did not support and ignored vendors; (2) changes to the swap meet were detrimental to vendors; (3) swap meet reconfiguration caused vendors to move to less desirable locations; (4) Centerplate management accepted unauthorized fees from vendors in exchange for special consideration in stall placement or to ignore rules violations; (5) Centerplate had a conflict of interest because it held both the swap meet and food concession contracts at Aloha Stadium; and (6) Centerplate had performance problems. In response, the Legislature requested an investigation via Act 162, Session Laws of Hawai'i 2009.

In 2012 we found that the Stadium Authority had been ineffective in guiding and managing the swap meet. Portions of the Aloha Stadium Swap Meet and Marketplace operate on lands subject to federal use restrictions. These federal lands are administered by the U.S. Department of the Interior's National Park Service (NPS), which requires that the lands be used for public park or public recreational use. Commercial activities are prohibited unless prior approval is obtained from the federal government. In the event of a breach, the State's title to the property, together with all improvements, reverts to the federal government upon written demand by the Secretary of the Interior.

The Stadium Authority, however, had not obtained approval to operate its current swap meet and marketplace. The last federal approval for the swap meet was in 1979, and we could find no record of federal approval for the current swap meet and marketplace activities. The authority had also failed to notify the NPS of changes in the frequency and size of the swap meet and marketplace activities over the past three decades. Without approval, the authority was in noncompliance with the use restrictions and risked loss of the swap meet and marketplace and its revenue.

Upon hearing a description of the swap meet and marketplace in 2009, an NPS representative agreed that the swap meet and marketplace may have evolved into something entirely different from the concessions approved in the past. The NPS representative expressed doubt that the commercial activities occurring in the current swap meet and marketplace would satisfy the federal government's deed restrictions and public recreational purpose clause.

In 2012 we also found that the Stadium Authority Board failed to provide the leadership and guidance needed to operate an efficient and effective swap meet in the best interests of its swap meet contractor, its vendors, and the general public. When faced with the opportunity to effect change, the board and the stadium manager instead divested themselves of involvement and responsibility and surrendered oversight of the authority's swap meet contractor.

Furthermore, the board and stadium manager did not adequately oversee the swap meet contractor, who in turn did not consistently enforce swap meet rules and regulations. Although the stadium manager should have been conducting day-to-day contract administration, the stadium manager instead relied on monthly reports submitted by the swap meet contractor, Centerplate. Monthly reports were incomplete. The stadium manager also withheld significant information from the swap meet contract evaluation committee; as a result, the evaluation committee had no basis to evaluate Centerplate's past performance. By failing to properly fulfill the contract administrator role, the stadium manager could not ensure that the State was receiving best value for its money.

The authority board and stadium management also did not have a formalized and transparent appeals process to resolve vendor complaints beyond Centerplate's process. Because the stadium manager had been remiss in his contract monitoring responsibilities and Centerplate lacked a complaint process, we were unable to determine whether or not Centerplate was fulfilling its responsibility to provide services to vendors.

Status of Recommendations

Authority's use of federal park lands for swap meet operations is still "pushing boundaries"

Report No. 12-02 included ten recommendations to the Stadium Authority, the first four of which dealt with the Stadium Authority Board. The remaining six recommendations were addressed to the stadium manager.

Our first two recommendations, No. 1 and No. 2, directed the Stadium Authority Board to seek instruction and guidance from the U.S. Department of the Interior, National Park Service (NPS), Federal Land to Parks program coordinator, to: (1) properly apply use restrictions to events on stadium land; and (2) request an evaluation of the Aloha Stadium Swap Meet and Marketplace activities for compliance purposes, respectively.

Our follow-up review found that on multiple occasions the stadium manager communicated or met with the NPS program coordinator. The Stadium Authority met with the NPS program coordinator in September 2012. According to authority board minutes, the purpose of the meeting was to discuss possible violations of the federal deed restriction.

The stadium manager later sent a letter in January 2013 to the NPS program coordinator asking for clarification and direction on allowed non-recurring events at Aloha Stadium. The letter included a list of events, such as company-related functions (i.e., meetings, workshops, training, recruitments, retreats), celebratory-centered functions, and holiday and seasonal-related activities.

In that same letter, the stadium manager also asked for clarification and validation that the current configuration and use of the Aloha Stadium Swap Meet and Marketplace is compliant with NPS' permitted use requirement. In that letter, the Stadium Authority claimed that while the name of the swap meet and its size had changed over the years, the basic intent and complexion of the event for which it was approved by the NPS had not changed.

We found that in an April 2013 letter, the NPS program coordinator provided guidance on acceptable use examples, stating that the types of non-recurring events mentioned by the stadium manager could be acceptable as long as the events do not interfere with public use of the stadium property and public recreational use takes precedence over private events. Therefore, we determine that Recommendation No. 1 is **Closed**.

However, in that April 2013 response, we found that the NPS neither confirmed nor disagreed that the current Aloha Stadium Swap Meet and Marketplace configuration and use is compliant with the NPS' permitted use requirement as requested earlier by the Stadium Authority. The NPS program coordinator noted that the general rule is concessions may be used to support public recreational use of the site, and reasonable fees may be charged to support that use. On the other hand, other uses such as retail sales that specifically generate revenues as opposed to facilitating the public's recreational use of the site are not compliant. The NPS encouraged the State to explore options to remove the federal deed restrictions on stadium lands, adding:

The stadium is a facility that was originally approved by the Federal Lands to Parks Program, but it is also one that inherently pushes the boundaries of what we consider to be a public recreational facility in terms of the purposes of the public benefit conveyance program. We urge you to consider other ways the facility could be used more extensively for public outdoor recreation. We also would encourage you (the State) to continue exploring land exchange options according to the terms of the MOU, or other deed abrogation possibilities, such as negotiated purchase.

We note that the State is moving forward on a request for a land exchange option to support lifting the federal deed restrictions. The Department of Land and Natural Resources' Division of State Parks is working with the Stadium Authority to complete some of the required forms to support the land exchange. The division is also in contact with NPS' management assistant for the Hawaiian Islands.

Since the stadium manager communicated with the Department of the Interior concerning compliance of the current Aloha Stadium Swap Meet and Marketplace activities with NPS' permitted use restrictions as our recommendation stated, we determine that Recommendation No. 2 is **Closed**.

Board's oversight of contract administrator is a work in progress

Recommendation No. 3 directed the Stadium Authority Board to establish policies and procedures related to contract administration to ensure consistency of oversight, including the requirement for systematic and formal evaluation of contractors. We also recommended that the

board ensure the stadium manager uses policies and procedures and State Procurement Office (SPO) guidelines to effectively monitor, evaluate, and document contractor performance to ensure the State is receiving best value for its money. Our follow-up review found that the board still does not have policies and procedures for contract administration. However, the board has initiated action to appoint members to its Audit Committee to discuss this recommendation. Thus far, the Audit Committee has held two meetings; the latest was in March 2015 to address policies and procedures related to this contract administration. Since the board has only recently initiated action on this recommendation, we deem Recommendation No. 3 **Open but in progress**.

Recommendation No. 4 directed the Stadium Authority Board to evaluate the stadium manager as contract administrator in administering the contract to market, coordinate, and manage the Aloha Stadium Swap Meet and Marketplace and hold him responsible for the contractor's performance. We recommended the board include the manager's adherence to the board's contract administration policies and procedures in its evaluation, and establish a 12-month timeline for the stadium manager to show improvements in his contract administration skills. Although the Stadium Authority does not have any policies and procedures for contract administration, we found that the authority has recently initiated meetings to discuss drafting such policies and procedures. The board intends to include these policies and procedures in the procedures for the stadium manager's evaluation when completed.

Since we issued Report No. 12-02, the board has conducted two performance evaluations of the stadium manager. We found that the evaluation format has been amended to include components of the swap meet operations; while the manager's FY2012 performance evaluation contained no specific goals related to the swap meet operations, the authority's FY2014 evaluation of the manager did contain goals and objectives related to swap meet operations. Based on this change, we conclude that the board has begun to evaluate the stadium manager in relation to swap meet operations. However, since developing policies and procedures for contract administration is ongoing, we deem Recommendation No. 4 **Open but in progress**.

Authority's monitoring of swap meet contractor shows improvement

Recommendation No. 5 directed the stadium manager to complete SPO procurement training workshops related to contract administration and procurement. We determined that the stadium manager has completed all mandatory SPO procurement training workshops. Among the nine mandatory workshops were procurement workshops related to the State's six methods of procurement. We found that the stadium manager also completed a recommended workshop on contract administration. Thus,

the stadium manager has completed training in both procurement and contract administration, and we deem Recommendation No. 5 **Closed**.

Recommendation No. 6 directed the stadium manager to develop and implement procedures to independently evaluate, monitor, and document the swap meet contractor's performance rather than rely on the contractor's self-reported numbers. We recommended the stadium manager also prepare specific performance indicators to judge the contractor's performance and document a performance evaluation, to be used as a factor in deciding future awards.

We found that the authority now applies the swap meet contract standards as its indicators of the contractor's performance. The minimum requirements and performance standards under Section 2.02 of the swap meet contractor contract list three performance standards concerning: (1) minimum annual revenues; (2) swap meet stalls, vendors, and public attendance; and (3) annual advertising and marketing program. The authority also uses agreed-upon procedures to independently evaluate and monitor vendor and buyer admission fees from swap meet operations. Further, the authority determines, through a CPA firm, whether gross swap meet receipts, commissions, and net swap meet proceeds receivables are fairly presented. In addition, the authority has regular meetings with the contractor to discuss various swap meet topics. Finally, the authority has also used its swap meet contract standards in evaluating the contractor when it decided on a contract extension in 2014. Therefore, we deem Recommendation No. 6 **Closed**.

Recommendation No. 7 directed the stadium manager to effectively perform the role of contract administrator, using SPO guidelines and the board's policies and procedures, to ensure that the State is receiving best value for its money. Our follow-up review found that the authority uses SPO guidelines for contract administration. Those guidelines cover a broad spectrum of areas, including definitions for contract administration and contract administrator and guidance on good contract administration, the role of a contract administrator, monitoring contractor performance, proper documentation, contract termination, and closing a contract. We found the authority still does not have its own policies and procedures for contract administration, but has initiated meetings to discuss drafting such policies and procedures.

We also found that the stadium manager monitors the swap meet contractor by requiring the contractor to present a summary of the previous month's attendance numbers at each Stadium Authority Board meeting, along with explanations to update the board. For 2014, the contractor reported to the board on shopper and vendor attendance and stall sales, and provided explanations of those numbers to the board. Since the authority is in the process of creating policies and procedures

for contract administration, we deem Recommendation No. 7 **Open but in progress**.

Recommendation No. 8 directed the stadium manager to implement an appeals process that allows vendors to appeal complaints to the stadium manager and Stadium Authority Board. We found that while Centerplate has an appeals process concerning vendor appeal of a citation or issue that needs management approval, the stadium management lacks a written process that allows vendors to appeal unresolved complaints to stadium management. However, there is an informal agreement whereby the swap meet contractor informs the deputy stadium manager of any unresolved complaints. For unresolved complaints, the deputy stadium manager schedules a meeting with the swap meet manager and the complainant to discuss and assist in its resolution. We found three appeals in which the deputy stadium manager met with the swap meet contractor and the vendor. All three appeals were resolved.

In addition to the stadium's management, we found that swap meet vendors can bring issues to the Stadium Authority Board. A board member told us the board makes itself available to discuss issues raised by vendors during its monthly meetings. Boards are required to accept testimony from the public if the subject of the testimony is listed on the board's agenda. As a result, we deem Recommendation No. 8 **Closed**.

Recommendation No. 9 directed the stadium manager to require the swap meet contractor to continue to verify vendors' general excise licenses to ensure that vendors comply with Hawai'i's general excise tax (GET) law. Hawai'i's GET law requires every person or company intending to do business in Hawai'i to obtain and display a GET license. We found that the swap meet contractor cooperated with and assisted the Department of Taxation's Special Enforcement Section (SES) in educating swap meet vendors of the tax law. The SES visited the swap meet several times, and through a letter to vendors in August 2012 clarified that a vendor is "in business" and required to have a GET license if it sells goods or services of any kind for more than three separate events in any taxable year, regardless of the location or amount of the sales activity. Every business must file GET returns and, if there are any employees, also file Hawai'i withholding tax returns. In addition, vendors must be prepared to produce their GET licenses upon demand.

We found that the swap meet manager and the deputy stadium manager also perform checks of vendor GET license displays. The swap meet manager added that he compares GET licenses at vendor stalls with the GET numbers vendors use when they reserve their swap meet stalls.

Lastly, the swap meet contractor also cross-checks vendor GET licenses twice a year to ensure licenses are active with the Department of

Taxation. The swap meet manager found that inactive vendor GET licenses are an ongoing issue. If a vendor’s GET license is inactive, the vendor is required to correct that standing by the next monthly stall rental due date. If its license is not reactivated, a vendor cannot renew its stall. We therefore deem Recommendation No. 9 **Closed**.

Our final recommendation, Recommendation No. 10, asked the stadium manager to require the swap meet contractor to consistently enforce its swap meet rules and regulations. Our follow-up review determined that the contractor now logs all warnings and citations. The deputy stadium manager reviews the log of warnings and citations four times a year, looking for consistency of enforcement actions by the swap meet contractor.

We also determined from our review of the log of warnings and citations that the contractor is now enforcing a rule it previously did not. In Report No. 12-02, we found that the swap meet contractor, Centerplate, had not enforced a rule requiring vendors to have their GET license and ID badge in their possession and on display at all times while on stadium property for the duration of their swap meet contract. For the period March 2012 to December 2014, we found eight citations related to vendors not having a GET license and ID badge in their possession or on display at all times while on Aloha Stadium property. In all of these instances, the vendors were given a warning. We therefore deem Recommendation No. 10 **Closed**.

RECOMMENDATION	PURPOSE	STATUS	COMMENTS
Recommendations to the Stadium Authority Board			
(1) Seek instruction and guidance from the U.S. Department of the Interior, National Park Service, Federal Land to Parks Program coordinator, to properly apply use restrictions to events on stadium land.	While the Stadium Authority always knew that portions of the Aloha Stadium lands are subject to federal use restrictions, it had not been vigilant in notifying the federal government of changes to the use.	Closed	On multiple occasions the stadium manager has communicated or met with the NPS' Federal Lands to Parks program coordinator. According to the program coordinator, non-recurring events are acceptable as long as the events do not interfere with the public use of the stadium property and public recreational use takes precedence over private events.

RECOMMENDATION	PURPOSE	STATUS	COMMENTS
<p>(2) Direct the stadium manager to communicate with the Department of the Interior to request an evaluation of the Aloha Stadium Swap Meet and Marketplace for compliance purposes.</p>	<p>Portions of the Aloha Stadium Swap Meet and Marketplace operate on lands that are subject to federal use restrictions. These restrictions prohibit commercial activities unless prior approval is obtained from the federal government. The Stadium Authority, however, had not obtained approval to operate its current Swap Meet.</p>	<p>Closed</p>	<p>The NPS' Federal Lands to Parks program coordinator neither confirmed or denied that the current swap meet configuration and use is compliant with federal use restrictions. The program coordinator encouraged the State to continue land exchange options.</p>
<p>(3) Establish policies and procedures related to contract administration to ensure consistency of oversight, including the requirement for systematic and formal evaluation of contractors. Ensure the stadium manager uses the policies and procedures and the State Procurement Office guidelines to effectively monitor, evaluate, and document contractor performance.</p>	<p>The Stadium Authority had surrendered its management responsibilities to a private swap meet contractor, which operated with little oversight. The Stadium Authority Board and stadium management had no written policies and procedures for contract administration, and no policies or procedures regarding the systematic and formal evaluation of contractors.</p>	<p>Open but in progress</p>	<p>The Stadium Authority Board still does not have policies and procedures for contract administration. However, the board has initiated action to appoint members to an Audit Committee to discuss this recommendation.</p>

RECOMMENDATION	PURPOSE	STATUS	COMMENTS
<p>(4) Evaluate the stadium manager as contract administrator in administering the contract to market, coordinate, and manage the Aloha Stadium Swap Meet and Marketplace and hold him responsible for the contractor's performance. Include the manager's adherence to the board's contract administration policies and procedures in his evaluation. The board should establish a 12-month timeline for the stadium manager to show improvements in his contract administration skills.</p>	<p>Oversight responsibilities belong primarily to the stadium manager as the Stadium Authority's contract administrator and procurement officer. However, the Stadium Authority Board neither evaluated the stadium manager's administration of the swap meet contract, conducted regular evaluations of the stadium manager, nor documented the stadium manager's performance.</p>	<p>Open but in progress</p>	<p>The authority still does not have any policies and procedures related to contract administration. However, the board has initiated meetings to discuss drafting such policies and procedures.</p>
<p>Recommendations to the stadium manager</p>			
<p>(5) Complete State Procurement Office (SPO) procurement training workshops related to contract administration and procurement.</p>	<p>The stadium manager had been lax in his responsibilities as contract administrator.</p>	<p>Closed</p>	<p>The stadium manager has completed all mandatory procurement training workshops required by the SPO. The stadium manager has also completed a recommended workshop on contract administration.</p>

RECOMMENDATION	PURPOSE	STATUS	COMMENTS
<p>(6) Develop and implement procedures to independently evaluate, monitor, and document the swap meet contractor's performance rather than relying on contractor's self-reported numbers. Prepare specific performance indicators to judge the contractor's performance and document a performance evaluation to be used as a factor in deciding future awards.</p>	<p>Although the stadium manager should have been conducting day-to-day contract administration, he instead relied on monthly reports submitted by the swap meet contractor, Centerplate. Monthly reports were also incomplete.</p>	<p>Closed</p>	<p>The authority now uses agreed-upon procedures to independently evaluate and monitor the vendor and buyer admission fees from the swap meet operations. Further, the authority determines, through a CPA firm, whether gross swap meet receipts, commissions, and net swap meet proceeds receivable are fairly presented. In addition, there are regular meetings with the swap meet contractor, where various swap meet topics are discussed. Lastly, the authority used the swap meet contract standards in its evaluation of the swap meet contract when it decided on a contract extension in 2014.</p>
<p>(7) Effectively perform the role of contract administrator using SPO guidelines and the board's policies and procedures to ensure that the State is receiving best value for its money.</p>	<p>By failing to properly fulfill his role as contract administrator, the stadium manager could not ensure that the State was receiving best value for its money.</p>	<p>Open but in progress</p>	<p>The Stadium Authority uses SPO guidelines for contract administration. However, development of policies and procedures related to contract administration is ongoing.</p>
<p>(8) Implement an appeals process that allows vendors to appeal complaints to the stadium manager and Stadium Authority Board.</p>	<p>Centerplate, the swap meet contractor, did not have a complaints process. The stadium manager could neither monitor nor evaluate the complaints, and had no idea whether Centerplate had fulfilled its contract responsibilities.</p>	<p>Closed</p>	<p>Stadium management currently lacks a written appeals process for unresolved complaints. However, there is an informal process to discuss and assist in the issue resolution. Swap meet vendors can also bring up issues to the Stadium Authority Board.</p>

RECOMMENDATION	PURPOSE	STATUS	COMMENTS
<p>(9) Require the swap meet contractor to continue to verify vendors' general excise licenses to ensure that swap meet vendors comply with Hawai'i's general excise tax (GET) laws.</p>	<p>Vendors must submit a copy of their GET license when they rent stadium parking stalls via a stall usage contract. However, the swap meet contractor filed the licenses without verification. Inconsistent enforcement enabled vendors to operate illegally at the swap meet.</p>	<p>Closed</p>	<p>The swap meet contractor cooperated with and assisted the Department of Taxation's Special Enforcement Section in educating swap meet vendors of the tax law. In addition, the swap meet contractor and the deputy stadium manager perform checks for vendor GET license display. The swap meet contractor also cross-checks vendor GET licenses twice a year to ensure they are active with the Department of Taxation.</p>
<p>(10) Require the swap meet contractor to consistently enforce its swap meet rules and regulations.</p>	<p>Centerplate's failure to consistently enforce its rules allowed vendors to operate unchecked. Its rule requiring vendors to display applicable permits or license while on stadium property had not been enforced.</p>	<p>Closed</p>	<p>The swap meet contractor logs all warnings and citations. The deputy stadium manager reviews the log of warnings and citations four times a year, looking for consistency of enforcement actions by the swap meet contractor.</p>