



# United States Department of the Interior

NATIONAL PARK SERVICE  
1849 C Street, N.W.  
Washington, D.C. 20240

**MAR 19 2010**

H32(2256)

Ms. Laura H. Thielen, Chairperson  
Department of Land and Natural Resources  
Post Office Box 621  
Honolulu, Hawaii 96809

Dear Ms. Thielen:

The National Park Service has designated the Hawaii State Historic Preservation Division (SHPD) as a "high risk grantee." This action is not taken lightly, and comes only after multiple attempts to help the SHPD correct serious deficiencies identified in audits going back as far as 2002. Our report on the most recent audit is attached and is the basis for making this designation.

The National Historic Preservation Act (NHPA) authorizes the National Park Service to make annual grants to help states carry out preservation responsibilities delegated to them by the law. The National Park Service is required to conduct periodic audits to ensure that these responsibilities are being met. Our audit shows that Hawaii has significant operational problems in several mandated activities, including Survey & Inventory, Review & Compliance, National Register of Historic Places, Certified Local Government administration, and Historic Preservation Planning, leading to our finding that the state is not meeting its obligations under the National Historic Preservation Act.

We have identified corrective actions to address the problems and established a two-year timeline for implementation. Failure to meet milestones will result in the suspension of Hawaii's annual grant. At the end of two years, the National Park Service will review the operations of the SHPD. If all corrective measures have been satisfactorily implemented, Hawaii SHPD will be removed from high-risk status.

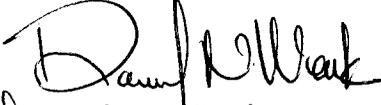
As you know, we detailed National Park Service staff to SHPD in 2008 and 2009 to provide technical assistance. We will now establish a new position in our Pacific West Regional Office in Honolulu to oversee the corrective action plan. This oversight will extend to all Federally-mandated activities, and, in collaboration with the Advisory Council on Historic Preservation, will review all Section 106 determinations to ensure that qualified staff are conducting reviews.

The National Park Service is committed to helping the SHPD meet its obligations under the NHPA as we believe the loss of grant funds and removal of Hawaii's approved program status would negatively impact the economy of the state and have far reaching effects. Without an approved State Historic Preservation Program:

- Matching grant agreements between the National Park Service and Hawaii in excess of \$1.1 million could be jeopardized
- Uncertainty in how government agencies operating in Hawaii comply with Federal and state laws could cause serious delays in economic stimulus and other Federally-funded construction projects
- Federal assistance provided through the SHPD could be restricted or unavailable to the citizens and property owners of Hawaii
- Delays could occur in properties nominated to the National Register of Historic Places, which would adversely affect their eligibility for Federal and state historic preservation tax incentives, and/or for historic preservation grant programs
- There could be irreparable harm to locally and nationally significant historic properties of importance to the people of Hawaii and the nation.

Staff from our regional office are available to discuss the details of this report with you. We look forward to working with you to make the SHPD an effective partner in the National Historic Preservation Program.

Sincerely,



Jonathan B. Jarvis  
Director

Attachment

cc: Honorable Linda Lingle, Governor of Hawaii  
Honorable Daniel K. Akaka, United States Senate  
Honorable Daniel K. Inouye, United States Senate  
Honorable Mazie Hirono, United States House of Representatives

**NATIONAL PARK SERVICE**



# **Report on Hawaii State Historic Preservation Division Operations**

**March 19, 2010**

# National Park Service Report on Hawaii State Historic Preservation Division Operations

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## LIST OF ACRONYMS

NPS – National Park Service  
SHPD – State Historic Preservation Division (Hawaii)  
The Act/NHPA – National Historic Preservation Act  
HPF – Historic Preservation Fund  
SHPO – State Historic Preservation Office  
CLG – Certified Local Government  
OMB – Office of Management and Budget  
DOI – Department of the Interior  
OIG – Office of Inspector General (DOI)  
FY – Fiscal Year  
ACHP – Advisory Council on Historic Preservation  
PWRH – Pacific West Region, Honolulu (NPS)  
WASO – Washington Support Office (NPS)  
GIS – Geographic Information System  
MOA – Memorandum of Agreement  
PA – Programmatic Agreement  
ARRA – American Recovery and Reinvestment Act  
RC – Review and Compliance  
MCA – Mandated Corrective Actions  
DOD – Department of Defense  
NEPA – National Environmental Protection Act  
NR – National Register of Historic Places  
HABS/HAER – Historic American Building Survey/Historic American Engineering Record  
HPRB – Historic Places Review Board  
NAPC – National Alliance of Preservation Commissions

## Executive Summary

In July 2009, the National Park Service (NPS) conducted a technical site visit and evaluation of the Hawaii State Historic Preservation Division (SHPD), in accordance with the National Historic Preservation Act (the Act), as amended, 36 CFR 61.4, 43 CFR 12.83, and the Historic Preservation Fund Grant Manual, Chapter 1.F, which requires the National Park Service to conduct periodic program audits to ensure that State Historic Preservation Offices meet applicable accountability standards and that major aspects of the State's program are consistent with the mandates of the Act. The scope of the National Park Service review was limited to the Federal historic preservation program areas that are defined in Section 101.B.3 of the National Historic Preservation Act and funded by the National Park Service through an annual grant from the Historic Preservation Fund.

The NPS conducted this visit as the result of a pattern of several years of recurrent problems with SHPD's performance in conducting the federally mandated HPF activities. In December 2002, the Hawaii State Auditor issued a report on its comprehensive audit of the Hawaii Department of Land and Natural Resources, including the SHPD. This report identified mismanagement within the SHPD that resulted in significant programmatic and financial risks for NPS-funded grant activities.

In 2004, in response to the State Audit, the Department of Interior Office of Inspector General (OIG) investigated the National Park Service's oversight of the HPF-funded activities in Hawaii. The OIG concluded that the NPS had not taken sufficient steps to monitor the SHPD's correction of problems identified in the State Audit. In October of 2007, the OIG again reviewed the NPS's oversight of the SHPD and its administration of its HPF-funded activities, and concluded that several of the corrective actions recommended in the 2002 audit report had not been implemented, likely impacting the SHPD's administration of Federally-mandated historic preservation responsibilities.

In order to monitor the correction of the problems identified in the State audit, NPS compiled a list of items for SHPD to submit to NPS in order to document compliance with the State Audit's recommendations. From 2007 – 2009 NPS staff provided technical assistance SHPD, both in Hawaii and from its Washington, DC, offices to insure that all HPF program requirements were met. Because the SHPD continued to demonstrate problems meeting basic requirements of the HPF, NPS assembled a team of historic preservation and grants management professionals to visit the SHPD offices to evaluate its compliance with HPF-funded activities, and to create a technical assistance plan for the office. The NPS team consisted of:

- Paul Chattey, Chief, Historic Preservation Programs Manager, Southwest Regional Office, Santa Fe, NM
- Paula Falk Creech, Micronesia and American Samoa Program Manager, Oakland, CA
- Ann Huston, Chief, Cultural Resources, Channel Islands National Park, Ventura, CA
- Sue Renaud, National Preservation Planning Coordinator, Washington, DC
- Hampton Tucker, Chief, Historic Preservation Grants, Washington, DC

The NPS team determined that there remain significant operational problems in several of the

non-discretionary Federally-mandated HPF activities, including Survey & Inventory, Review & Compliance, National Register of Historic Places, Certified Local Government administration, and Historic Preservation Planning. These problems have impacted SHPD operations to the point that the responsibilities delegated to States under the National Historic Preservation Act are not currently being successfully fulfilled in Hawaii.<sup>1</sup> Major problems include:

In the Survey & Inventory HPF Program Area:

- The SHPD does not maintain a functional State Inventory of Historic Properties that is readily accessible to State employees, the public, and researchers

In the Review & Compliance HPF Program Area:

- Federal undertakings are frequently reviewed by staff not meeting the appropriate Professional Qualifications Standards.
- The SHPD does not maintain an adequate logging and tracking system to ensure that timely and accurate determinations are reached by appropriately qualified staff. The tracking log examined by the NPS team was incomplete and not kept up-to-date.

In the National Register of Historic Places HPF Program Area:

- Nomination files examined contained little review documentation. Interviews with State Review Board members indicated that substantive critical review of National Register nominations is not routinely conducted by SHPD staff.

In the Certified Local Government HPF Program Area:

- SHPD does not currently evaluate CLG operations in Hawaii as required by the Act.

In the Historic Preservation Planning HPF Program Area:

- The planning cycle for Hawaii's NPS-approved State Plan expired on September 30, 2009; Hawaii does not currently have an approved State Plan. This requirement is not yet met, although efforts are under way. The SHPD has established a State Plan Committee, conducted public opinion surveys, and held briefings for the Historic Places Review Board.

The NPS has compiled a series of corrective actions that span a 2-year time period.

Implementation of these corrective actions will correct the problems identified in this report. A timeline of these corrective actions, with detailed milestones for SHPD to meet, is found in Appendix H of this report. Failure to meet the milestones laid out in this timeline will result in the suspension of Hawaii's HPF grant until NPS is satisfied that corrections have been made. NPS has determined that the most critical deficiencies are in the HPF program areas of Survey & Inventory and Review & Compliance. The initial tasks to be undertaken by SHPD will therefore address these two program areas. NPS will establish a position in the NPS Pacific West Region, Honolulu, (PWRH) for a period of two years, to provide oversight of this corrective action plan. This oversight will extend to all Federally-mandated activities, and will specifically review all Section 106 determinations to ensure that the appropriate professionally qualified staff conducted reviews. This position will also ensure that HPF funds are monitored and tracked in accordance with grant administration guidelines.

Section 1 of this report contains a description of program requirements for State Historic Preservation Offices as defined in the National Historic Preservation Act, the history and conditions leading to the July 2009 NPS site visit, and a broad overview of the site visit team's

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<sup>1</sup> Detailed findings are compiled in Section 2 of this report

findings.

Section 2 of the report contains the detailed findings, mandated corrective actions, for the HPF Program Areas evaluated by the NPS.

Appendices contain detailed information relevant to the content of the report.

# National Park Service Report on Hawaii State Historic Preservation Division Operations

## Introduction

In July 2009, the National Park Service (NPS) conducted a technical site visit and evaluation of the Hawaii State Historic Preservation Division (SHPD), in accordance with sections 101(b) and 102 of the National Historic Preservation Act (the Act), as amended (16 USC 470, et seq), 36 CFR 61.4, 43 CFR 12, and the Historic Preservation Fund Grant Manual, Chapter 1.F, which requires the National Park Service to conduct periodic program audits to ensure that major aspects of the State Historic Preservation Office programs are consistent with the mandates of the Act. What follows is a report produced from information gathered during this evaluation. The scope of the National Park Service review was limited to the Federal historic preservation program areas that are defined in the Section 101.B.3 of the National Historic Preservation Act and funded by the National Park Service through an annual grant from the Historic Preservation Fund. The NPS team consisted of:

Mr. Paul Chattey, Chief, Historic Preservation Programs Manager, Southwest Regional Office, Santa Fe, New Mexico

Ms. Paula Falk Creech, Micronesia and American Samoa Program Manager, Oakland, CA.

Ms. Ann Huston, Chief, Cultural Resources, Channel Islands National Park, Ventura, CA.

Ms. Sue Renaud, National Preservation Planning Coordinator, Washington, D.C.

Mr. Hampton Tucker, Chief, Historic Preservation Grants, Washington, D.C.

Mr. John Renaud, Historian, Washington, D.C., provided valuable advice. The National Park Service also acknowledges the assistance of the United States Army for providing funding for a NPS staff position in the Hawaii State Historic Preservation Division, which aided in the compilation of findings in this report.

Information gathered by the NPS through reviews of SHPD files, interviews with SHPD staff, and with local and Federal stakeholders indicated that there are systemic problems in several of the Federally supported programs mandated through the National Historic Preservation Act. Details of these findings are documented in Section 2 of this report. Specifically, problems in the areas of Survey and Inventory, Review and Compliance, National Register of Historic Places (NR), Certified Local Governments (CLG), and Historic Preservation Planning indicate that the Hawaii SHPD is not satisfactorily meeting the minimum requirements of the National Historic Preservation Act, see section 101(b), as outlined in the Historic Preservation Fund Grants Manual, and required by accepting annual Historic Preservation Fund (HPF) grant assistance from NPS. This report outlines the actions that the SHPD must follow to correct the problems identified by the NPS in specific HPF Program Areas, and to ensure continued eligibility for funding through the Historic Preservation Fund. The NPS will oversee SHPD progress to ensure that the SHPD fulfills each of the corrective actions in a timely manner. A NPS staff person stationed in Honolulu will oversee the SHPD's compliance with these actions.

In accordance with 43 CFR 12, Subpart C (Uniform Administrative Requirements for Grants to State and Local Governments), Office of Management and Budget (OMB) Circulars A-87 (Cost Principles for State and Local Governments) and A-133 (Audits of States, Local Governments, and Non-Profit Organizations), and the *Historic Preservation Fund Grants Manual*, the NPS has designated the Hawaii State Historic Preservation Division a high-risk recipient as of the issuing of this report. NPS carries out this action under the authority given by the Act, (16 U.S.C. 470 et seq.) and 43 CFR 12.52, Administrative and Audit Requirements and Cost Principles for Assistance Programs, which implements OMB Circular A-102. As a consequence of being designated high-risk, the Hawaii SHPD must comply with the Mandated Corrective Actions described in this report. At the end of two years, the NPS will review the operations of the SHPD to determine if all corrective actions have been satisfactorily fulfilled. If the NPS determines that all corrective measures have been satisfactorily implemented, Hawaii SHPD will be removed from high-risk status.

Section 1 of this report contains a description of program requirements for State Historic Preservation Offices as defined in the National Historic Preservation Act, the history and conditions leading to the July 2009 NPS site visit, a broad overview of the site visit team's findings, and corrective actions that the SHPD must follow in order to retain Historic Preservation Fund grant assistance.

Section 2 of the report contains the detailed HPF program area findings and mandated corrective actions required of the SHPD. Appendices contain detailed information relevant to the report's content.

## **Section 1.**

### **Programmatic Requirements of State Historic Preservation Offices**

Section 101(b)(1) of the Act directs the Secretary of the Interior (acting through the Director of the National Park Service) to issue regulations governing State Historic Preservation Programs. The Act and these implementing regulations, 36 CFR 61, authorize the Secretary to approve a State Historic Preservation Office (SHPO) if he/she determines that the program provides for:

- A. the designation and appointment by the Governor of a "State Historic Preservation Officer" to administer such program in accordance with Section 101(b)(3) of the Act and for the employment or appointment by such officer of such professionally qualified staff as may be necessary for such purposes;
- B. an adequate and qualified State historic preservation review board designated by the State Historic Preservation Officer unless otherwise provided for by State law;
- C. adequate public participation in the State Historic Preservation Program, including the process of recommending properties for nomination to the National Register of Historic Places.

In section 101(e), the Act also authorizes the Secretary to administer a program of matching grants to states with approved programs, for the purposes of carrying out the mandates of the Act. The National Park Service (NPS) awards grants annually through the Historic Preservation

Fund (HPF) to approved State Historic Preservation Offices for the purpose of carrying out the mandates of the Act.

Section 101(b)(3) of the Act, as amended, defines the specific responsibilities that the State Historic Preservation Officer must fulfill in administering a State's preservation program, in order for a State to receive and retain approved status from the Secretary of the Interior and to receive grant assistance through the HPF. These responsibilities include:

- A. Directing and conducting a comprehensive survey of historic properties and maintaining inventories of such properties.
- B. Nominating eligible properties to the National Register of Historic Places.
- C. Preparing and implementing a Comprehensive Statewide Historic Preservation Plan.
- D. Administering the program of Federal grant assistance for historic preservation within the State.
- E. Advising and assisting Federal and State agencies and local governments in carrying out their historic preservation responsibilities.
- F. Cooperating with the Secretary of the Interior, the Advisory Council on Historic Preservation, and other Federal, State, and local governments, organizations, and individuals to ensure that historic properties are taken into consideration at all levels of planning and development.
- G. Providing public information, education, training, and technical assistance relating to historic preservation.
- H. Cooperating with local governments in the development of local historic preservation programs, and certifying these programs, pursuant to the Act and related regulations.
- I. Consulting with the appropriate Federal agencies in accordance with the Act on: Federal undertakings that may affect historic properties, and the content and sufficiency of any plans developed to protect, manage, or to reduce or mitigate harm to such properties.
- J. Provide advice and assistance in the evaluation of proposals for rehabilitation projects that may qualify for Federal assistance (e.g., preservation tax incentives).

When establishing requirements and standards for SHPOs to follow in the administration of the Federal Historic Preservation Program, the NPS consulted with SHPOs through the National Conference of State Historic Preservation Officers to identify the types of activities generally performed by SHPOs in order to accomplish the 10 responsibilities defined in Section 101(b)(3) of the Act. The NPS consolidated these activities into 9 HPF program areas. Requirements, eligible activities, and ineligible activities specific to each of these program areas are defined in Chapter 6 of the NPS's Historic Preservation Fund Grants Manual. Chapter 6 of the HPF Grants Manual also defines general (i.e., applicable to multiple program areas) minimum requirements for HPF grant-assisted activities, eligible grant-assisted activities, and ineligible activities. The HPF program areas defined by the NPS and the States in the HPF Grants Manual consist of:

1. Program Administration
2. Historic Preservation Planning
3. Survey and Inventory

4. National Register of Historic Places
5. Development/Acquisition/Covenants
6. Preservation Tax Incentives
7. Review and Compliance
8. Local Government Certification
9. Other Activities eligible for HPF grant assistance, including general public education and technical assistance

In order to receive HPF grant assistance, the NPS requires that SHPOs annually perform eligible activities in each HPF program area. SHPOs identify activities to be accomplished in each program area as a component of their annual application for HPF grant assistance. The NPS requires that SHPOs report program accomplishments in each program area in the End-of-Year Report due at the end of each calendar year.

Several of these program areas are comprised wholly or partially of non-discretionary activities. These are activities that are specifically required of SHPOs under the terms of the Act. These activities include:

1. the maintenance and upkeep of an accessible inventory of historic properties in the State;
2. consulting with Federal agencies on the impact of undertakings on historic properties;
3. processing complete nominations of eligible properties to the National Register of Historic Places;
4. cooperating with local governments to certify local historic preservation programs and passing through 10% of their annual HPF grant funds to these Certified Local Governments; and
5. preparing and implementing a comprehensive Statewide Historic Preservation Plan.

As a general rule, all work supported by HPF or matching share must meet the Secretary of the Interior's "Standards." These Standards and associated guidelines cover the following topics (see Appendix A):

1. Preservation Planning
2. Identification
3. Evaluation
4. Registration
5. Historical Documentation
6. Architectural and Engineering Documentation
7. Archeological Documentation
8. Treatment of Historic Properties
9. Historic Preservation Professional Qualification Standards

When reviewing properties and projects to determine historic significance and impacts, SHPOs are required, by 36 CFR 61.3(b) and section 102(a)(6) of the Act, to document that grant-assisted work meets the Secretary's "Standards" and other Historic Preservation Fund Grants Manual requirements. Adequate documentation for this requirement is an official written record

verifying which staff members conducted the work and/or the review, and/or wrote the opinion or recommendation; the final opinion or recommendation; and the date of the review, opinion, and/or recommendation. When an opinion pertains to more than one type of resource, and when staff members meeting the professional qualifications in different disciplines review the eligibility of the resource, each review must be documented. When individual reviewer opinions differ, the final decision must be clearly apparent. SHPOs may include this information in the appropriate project files or maintain a central file or logging system which references the project file. This documentation may take the form of written notes, use of a pre-printed stamp or review sheet, memoranda to files, or copies of letters.

#### Background leading to the July 2009 NPS site visit

In its July 2009 visit to the Hawaii SHPD offices, the NPS historic preservation review team focused on the non-discretionary program activities delegated to States under Section 101(b)(3) of the National Historic Preservation Act of 1966, as amended. Through staff interviews and document review, and meetings with stakeholders, the NPS team examined the SHPD's performance in implementing the mandates required of State Historic Preservation Offices (SHPO) under the Act.

The NPS conducted this visit as the result of a pattern of several years of recurrent problems with SHPD's performance in conducting the federally mandated HPF activities. In December 2002, the Hawaii State Auditor issued a report outlining its comprehensive audit of the Hawaii Department of Land and Natural Resources, including the SHPD. This report identified mismanagement within the SHPD that resulted in significant programmatic and financial risks for NPS-funded grant activities.

In 2004, in response to the State Audit, the Department of Interior Office of Inspector General (OIG) investigated the National Park Service's oversight of the HPF-funded activities in Hawaii. The OIG concluded that the NPS had not taken sufficient steps to monitor the SHPD's correction of problems identified in the State Audit. The OIG recommended that NPS require the SHPD to contract for a follow-up audit to verify that the corrective actions contained in the 2002 State Audit report were fully implemented. The NPS required this audit as a condition of its Fiscal Year (FY) 2005 HPF grant to Hawaii.

In October 2007, the OIG again reviewed the NPS's follow-up oversight of the SHPD and its administration of its HPF-funded activities. The OIG found that while the SHPD did contract for the required follow-up audit, submission of the report to the NPS was untimely, and the report concluded that several of the corrective actions recommended in the 2002 audit report had not been implemented. The OIG's 2007 report concluded that the NPS continued to provide insufficient oversight of the HPF program in Hawaii and recommended that NPS reopen its investigation into the SHPD's implementation of the State Audit recommendations. The OIG directed that if all of the conditions of the State Audit have not been corrected, the NPS should suspend Hawaii's HPF grant until NPS independently verifies that satisfactory corrections have been made.

In response to the OIG's 2007 recommendations, and through a series of conference calls and

correspondence with the SHPD, NPS compiled a list of items for SHPD to submit to NPS to document compliance with the State Audit's recommendations. NPS sent two historic preservation and grants administration professionals to the SHPD office for a week to provide HPF technical assistance. Additionally, from October 2008 to July 2009, NPS assigned a staff person with expertise in the HPF programs to provide extensive on-site assistance to the SHPD. Finally, the Advisory Council on Historic Preservation (ACHP) provided several on-site training opportunities to SHPD in review and compliance procedures.

The SHPD has met several of the audit compliance conditions required by NPS, but has not yet successfully finalized a policy regarding the office's inventories of, and curation of, artifacts. As of the date of this report, the SHPD is also operating without an approved Statewide Historic Preservation Plan. Hawaii's approved State Plan was due for revision in 2006. Since 2006 NPS has extended, at SHPD's request, completion of the State Plan. Additionally, in Fiscal Years 2005-2007, the SHPD did not pass through 10% of its HPF allocation to Hawaii's Certified Local Governments, and continued to require substantial technical assistance from NPS in meeting annual HPF reporting requirements. During this period, the SHPD lost several staff, leaving the SHPD unable to satisfactorily meet HPF requirements related to maintaining a state inventory, consulting with Federal agencies on the impact of undertakings on historic properties, cooperating with local governments on the development of local historic preservation programs, and preparing and implementing a comprehensive statewide historic preservation plan.

## **Section 2.**

### Overview of Findings

The NPS findings indicate that there remain significant operational problems in several of the non-discretionary Federally-mandated HPF activities. Evidence of these problems was reinforced by a series of newspaper articles about the SHPD, as well as through interviews and surveys conducted with SHPD staff, historic preservation professionals in the State, Native Hawaiians, and concerned citizens. These interviews and surveys demonstrated a general lack of confidence in the current management and operations of the SHPD. Highlights of public survey responses are provided in Appendix B, and a list of newspaper articles and other miscellaneous information relevant to the site visit is found in Appendix C. Additionally, staff attrition in the past year, coupled with a State hiring freeze, lengthy contracting procedures, and severe budgetary shortfalls, have hampered the SHPD's ability to carry out its non-discretionary activities efficiently and effectively. A list of staff that have left the SHPD in the past five years is included in Appendix D, as well as a list of current staff.

The evaluation of the SHPD conducted by the NPS team in July 2009 revealed problems in the HPF program areas of Survey & Inventory, Review & Compliance, National Register of Historic Places, Certified Local Government administration, and Historic Preservation Planning. Detailed findings in each of these program areas follow later in this report.

The NPS recognizes that the SHPD has made significant improvements in some programs as the result of outside technical assistance and its desire to improve the program.

- Mr. Randolph Lee has demonstrated a working knowledge of HPF grants administration procedures. Mr. Lee has also taken the initiative to oversee the Certified Local Government Program and was pivotal in providing essential training to Hawaii's CLGs. Additionally, he ensured the successful pass-through of Hawaii FY 2008 and 2009 HPF funds to CLGs.
- Under the direction of Mr. Ross Stephenson, the SHPD's National Register program has the potential for success and growth. Although there remain significant problems with the National Register program area, which are detailed later in this report, Mr. Stephenson's academic background, his knowledge of Hawaii history, and an ability to analyze and undertake a critical review of National Register nominations, will ensure a stronger program in the future. Mr. Stephenson met extensively with the NPS team during the July 2009 site visit and the team is confident that with the proper training and oversight, he will administer a successful program.
- Historic Architect Ms. Susan Tasaki has both the academic background and technical experience to oversee the SHPD's Federal review and compliance responsibilities. At the time of the NPS site visit, Ms. Tasaki was the only member of the SHPD staff qualified to conduct and oversee architectural reviews. The workload resulting from this lack of architectural staff is untenable.
- The NPS team also visited the SHPD field offices on Maui and Hawaii (Big Island), meeting with archeology, culture, and history staff. The NPS team concluded that while the field offices lack a sufficient number of staff to complete the workload generated by State and Federal review and compliance undertakings, the files, logs, and libraries in both offices are well organized, and the staff are well qualified and dedicated.
- NPS also recognizes that Ms. Laura Thielen, Chairperson, Department of Land and Natural Resources and State Historic Preservation Officer, has made great efforts to correct many of the grant administrative-related problems of the SHPD that were present prior to her appointment as SHPO.
- Progress is being made in revising the Statewide Historic Preservation Plan, although this has been slow. A strong feature is the active involvement of the members of the State Plan Committee.

SHPD is required by 36 CFR 61.4(e)(1) to have full-time access to a Prehistoric or Historical Archeologist, Historian, and Architectural Historian who meet the Secretary's (Historic Preservation) Professional Qualification Standards for these disciplines. The NPS team evaluated the resumes of professional staff Tasaki, Stephenson, Conte, Donham, Davis, and Cayan against the Secretary's (Historic Preservation) Professional Qualification Standards. This evaluation concluded:

- Tasaki – meets the Architecture and Historic Architecture (Historic Preservation) Professional Qualification Standards
- Stephenson – meets the History (Historic Preservation) Professional Qualification Standards
- Conte – meets the Archeology (Historic Preservation) Professional Qualification Standards
- Davis – meets the Archeology (Historic Preservation) Professional Qualification Standards
- Donham – meets the Archeology (Historic Preservation) Professional Qualification Standards
- Cayan – does not meet any of the (Historic Preservation) Professional Qualification Standards; this does not mean that she does not possess adequate qualifications to perform the position she holds

Therefore, the NPS team’s analysis concluded that the SHPD employs the required Historian (National Register Coordinator Stephenson). NPS also learned that SHPD has contracted with an Architectural Historian who meets the Professional Qualification Standards for that discipline. In addition, the three archeologists employed in SHPD’s island offices all meet the Qualification Standards for that discipline. The SHPD consequently meets the minimum professional staffing requirement of the Act. Unfortunately, the SHPD Phone Directory web page erroneously lists Architectural Branch staff Tasaki and Stephenson as architectural historians ([www.state.hi.us/dlnr/hpd/hpphone.htm](http://www.state.hi.us/dlnr/hpd/hpphone.htm); accessed 10/28/09). This should be updated to reflect Tasaki’s qualifications as Historic Architect, and Stephenson as Historian.

#### Summary of Findings and Corrective Actions

The National Park Service has determined that the operational problems associated with the administration of the Hawaii SHPD have impacted SHPD operations to the point that the responsibilities delegated to States under the National Historic Preservation Act are not currently being successfully fulfilled in Hawaii. In order to ensure that the SHPD satisfies these non-discretionary activities, the NPS, in consultation with the Advisory Council on Historic Preservation, has established a Mandatory Corrective Action Plan, with a two-year timeline for completion that the SHPD must follow in order to continue to receive HPF grant assistance and to continue as an approved state program. The NPS has prioritized these corrective actions in order that the SHPD first addresses and corrects the most significant problems identified by the NPS review team. These priorities fall in the HPF program areas of Survey and Inventory and Review and Compliance. Appendix G consists of a table presenting, by HPF program area, the SHPD’s requirements under the Act, the NPS team’s findings related to each of these requirements, and the specific corrective actions required to correct any problems identified. Appendix H presents a timeline of the required corrective actions. The NPS will establish a position in the NPS Pacific West Region, Honolulu, (PWRH) to provide oversight of this corrective action plan. This oversight will extend to all Federally-mandated activities, and will specifically review all Section 106 determinations to ensure that the appropriate professionally-qualified staff conducts reviews. This individual will collaborate with the ACHP in the development of training and guidance on Section 106 reviews to ensure consistency with the

Section 106 regulations. ACHP will also collaborate with the NPS and SHPD in the oversight of Section 106 reviews.

In addition to the corrective actions found in the chart of HPF program area findings, Appendix G the NPS will also oversee the following actions:

1. NPS Grant Administration in Honolulu. For FY 2010, 2011, and 2012, NPS administration responsibilities for Hawaii's HPF grant will be transferred to the NPS Pacific West Region, Honolulu. The NPS Washington Support Office (WASO) will work closely with NPS PWR staff to ensure that HPF funds are monitored and tracked in accordance with grant administration guidelines.
2. Scope of Work for Inventory Automation. SHPD, NPS, and partners will work to develop a plan of financial and technical assistance for the automation and update of the State Inventory.
3. GIS Funding. SHPD must provide documentation that the \$30,000 proposed in FY 2009 funds under Project Activity Database Report HI-09-018, for the automation and re-establishment of the State Geographic Information System (GIS), has been obligated through contract or subgrant agreement. If not, NPS will recapture these funds to locate the expertise to undertake this task.
4. ACHP Technical Assistance. ACHP will work with SHPD to review existing Programmatic Agreements and identify opportunities for working with Federal agencies to establish new program alternatives that serve to streamline Review and Compliance activities.
5. ACHP Partnership Assistance. ACHP will provide support and technical assistance to the SHPD in establishing partnerships with Federal agencies to support Federal agency compliance with Section 106 in Hawaii.
6. ACHP Training. ACHP will be available to provide training in Hawaii to all SHPD staff and managers, as well as other Section 106 stakeholders in the State. ACHP will work with SHPD to determine an appropriate opportunity to develop and provide training that is specifically designed to address these requirements and the preservation challenges and opportunities unique to Hawaii. ACHP will explore the possibility of developing Section 106 training materials and modules for the SHPD to provide directly to Federal agencies, Native Hawaiian organizations, State and local governments, and the public. ACHP will work with Federal agencies to develop additional Section 106 training that can be provided via webinar or other means to improve coordination of reviews by the SHPD.
7. ACHP Quarterly Review and Compliance Consultation. ACHP, SHPD, and NPS will schedule quarterly discussions on Section 106 and review and compliance activities to ensure that complex projects and Programmatic Agreements are properly coordinated.
8. Use of HPF Grant Funds. SHPD must use all Federal HPF grant funds to satisfy the non-discretionary activities mandated in the NHPA before using HPF funds on discretionary activities. Use of HPF funds for discretionary activities will require prior approval from NPS oversight staff/team.
9. HPF Contract Positions. NPS will work with SHPD to use up to \$215,000 of Hawaii's FY 2010 HPF funds currently budgeted to contracts to hire or contract archeologists and architectural specialists to supplement existing staff. NPS will assist SHPD in developing the most cost effective and streamlined method to contract these positions if

State budgetary restrictions pose difficulties. (See Review & Compliance MCA-3)

Consequences of Failure to Implement the Corrective Action Plan

Failure within a year's time to make adequate progress on all the requirements specified in the corrective action plan detailed above and in Appendix G will result in suspension of Hawaii's HPF grant assistance. Failure to complete all of the requirements within two year's time will result in removal of the State's approved status, termination of all active grants, and ineligibility for any new grants until approved program status has been regained.

The loss of HPF grant funds and Hawaii's approved program status would negatively impact the economy of the State. There are existing HPF matching grant agreements between NPS and Hawaii totaling in excess of \$1.1 million. The loss of HPF grant funds and corresponding loss of staff would create great uncertainty in how government agencies operating in Hawaii would comply with Federal and State laws, and would cause serious delays in economic stimulus projects that will have measurable benefits for Hawaii's economy. Without an approved State Historic Preservation Program, the availability of Federal assistance provided through the SHPO would be restricted or unavailable to the citizens and property owners of Hawaii. A lack or shortage of qualified SHPO staff would be very likely to cause delays in properties being nominated to the National Register of Historic Places, which would adversely affect the eligibility of these properties for Federal and State historic preservation tax incentives, and/or for historic preservation grant programs, including the Save America's Treasures grant program. A further lack or shortage of qualified SHPO staff would cause delays in compliance reviews required by Section 106 of the National Historic Preservation Act, which would drive up the costs of many Federally assisted construction projects funded by other Departments of the Federal Government. The absence of some of these services, for example, the review of Federal undertakings, would seriously and negatively impact the ability of Hawaii to benefit from many other programs of Federal assistance. A failure to implement the actions of this report may result in irreparable harm to locally and nationally significant historic properties of importance to the people of Hawaii and the nation.

## **SURVEY AND INVENTORY PROGRAM AREA**

Survey is activity directly pertinent to the location, identification, and evaluation of historic and archeological resources. Inventory activity relates to the maintenance and use of previously gathered information on the absence or presence of historic and archaeological resources within the State.

Survey and Inventory is the backbone of the Historic Preservation program, as significant sites are identified and records maintained of the sites. This data directly impacts Planning, National Register, Preservation Tax Incentives, and Review and Compliance, and will lead to informed decision making regarding Hawaii's irreplaceable historic and prehistoric resources.

### **PROGRAM REQUIREMENTS**

#### **National Historic Preservation Act, as amended, §101(b)(3)(A)**

*It shall be the responsibility of the State Historic Preservation Officer to administer the State Historic Preservation Program and to – ...in cooperation with Federal and State agencies, local governments, and private organizations and individuals, direct and conduct a comprehensive statewide survey of historic properties and maintain inventories of such properties.*

#### **Procedures for State, Tribal, and Local Government Historic Preservation Programs, 36 CFR 61.4(b)**

*It is the responsibility of the SHPO to carry out the duties and activities that section 101(b) of the Act describes.*

#### **Chapter 6, Section H of the *Historic Preservation Fund Grants Manual***

##### **Survey Program Requirements (6.H.2) – Summary** (see Appendix SI-1 for complete text)

- 6.H.2.a** All surveys funded by HPF grant monies or used as allowable matching share must meet the Secretary of the Interior's "Standards for Identification."
- 6.H.2.b** HPF assisted surveys, or any survey whose costs are contributed as nonfederal matching share, must be designed to lead to nominations of significant properties to the National Register (or to a determination of eligibility if the owner objects).
- 6.H.2.c** Assisted activity must produce data to the State Historic Preservation Office that can be readily integrated into the State's Comprehensive Statewide Historic Planning Process.

##### **Inventory Program Requirements (6.H.2):**

- 6.H.2.d** States must maintain an inventory of properties surveyed including survey reports,

inventory forms, and research designs.

**6.H.2.e** State inventory activities funded by HPF grant monies or used as allowable matching share must meet the Secretary of the Interior's Standards for Evaluation.

**6.H.2.e.4** Inventory data are accessible to the public in an organized, legible, and accessible manner.

**FINDINGS – Survey and Inventory Program**

The NPS site visit team reviewed survey reports filed for the most recent HPF reporting period, which included Fiscal Years 2008. Additionally, the team interviewed SHPD professional and administrative staff to assess procedures for compiling survey and inventory information. The team reviewed a sampling of the State inventory to evaluate compliance with the Secretary's Standards for Evaluation.

**6.H.2.a, b, c – Secretary's Standards for Identification, National Register Nominations, Planning Data**

| Requirement   | Findings  |
|---|---|
| a. Surveys must meet the Secretary of the Interior's "Standards for Identification."<br>b. Surveys must be designed to lead to nominations to the National Register.<br>c. Surveys must produce data that can be readily integrated into the State's Preservation Planning Process. | <ul style="list-style-type: none"> <li>No HPF-funded surveys were conducted in the last three years.</li> </ul> |

During FY 2008 and 2009, the SHPD did not conduct HPF-funded surveys of historic properties. Interviews with professional staff confirmed that the SHPD has not conducted HPF-funded surveys in the past three years. In general, surveys have generally been conducted as the result of State and Federal review and compliance activities. Funds allotted by the SHPD to CLGs for survey activity in FY 2005, 2006, and 2007 were recaptured by NPS due to failure of the SHPD to pass through the required funding to the CLG. In FY 2008 and 2009, the SHPD successfully passed through HPF funding to the CLGs or Maui and Kauai to undertake surveys of Maui historic properties and of the Poipu Beach Park Mauka Archaeological Preserve, respectively.

**6.H.2.a – Secretary's Standards for Identification**

| Requirement   | Findings  |
|---|---|
| Surveys must meet the Secretary of the Interior's "Standards for Identification." | CLG and other surveys do not appear to meet this requirement. |

The SHPD does not maintain a system for ensuring or documenting that surveys generated as the result of review and compliance activities are prepared according to the Secretary of Interior Standards for Identification and Evaluation, as the standards should be utilized as a basis for defining requirements.

Because a survey often results as a mitigation activity under Review and Compliance, research designs are required that specify the objectives of the survey, methods to be used, expected results, and area of potential effect. Survey reports should summarize the design and methods of the survey and provide a basis for others to use the results. Because HI SHPD has had a high turnover of staff, it is not apparent that HI SHPD qualified program staff perform reviews to ascertain that this requirement is met.

The team could not determine that qualified SHPD archaeologists or architecture specialists review all survey reports, as reviews are not documented in writing. This review is necessary to determine that survey reports have acceptable research designs and contexts that are clearly provided in compliance with the Secretary of the Interior’s Standards for Identification, HPF Grants Manual, Chapter 6, Section C.H.2.a.

**6.H.2.d -- Inventory**

| <b>Requirement</b>  | <b>Findings</b>  |
|---|--|
| States must maintain an inventory of properties surveyed. | New property data from surveys are not being incorporated into the inventory. This requirement is not met. |

Inventory data resulting from Section 106 and other review and compliance activities is not being systematically incorporated into the State’s inventory. Archeological site forms are being submitted through review and compliance projects and are being assigned HI State site numbers. However, the team found no evidence that the sites are being systematically entered into the State’s inventory.

Survey reports are filed in the library of either the headquarters office in Kapolei, or one of the field offices, but organization is lacking. Former SHPD staff provided the team with a list of 146 archeological reports that are missing or cannot be located within the SHPD library.

Interviews indicated that not all professional staff were aware of the existence of site inventory forms for archeological and architectural resources.

The inventory in the Hilo office is routinely updated and reports and files appear to be very well organized.

**6.H.2.e – Secretary’s Standards for Evaluation**

| <b>Requirement</b>  | <b>Findings</b>   |
|---|---|
| Inventoried properties must be evaluated in accord with the Secretary of the Interior's "Standards for Evaluation." | It was not possible to determine if this requirement is met, due to the inaccessibility of inventory records. |

Due to the inaccessibility of many inventory records, NPS could not examine and verify that properties are evaluated according to the National Register criteria, that inventory records include sufficient information on which to base preservation decisions, and that information in the inventory records is accessible to the public when appropriate. Records are not maintained in one file, nor were the inventory records sufficiently cross-referenced to ensure that users are directed to all records pertaining to an individual property.

**6.H.2.e.4 – Inventory Accessibility**

| <b>Requirement</b>                           | <b>Findings</b>   |
|--|---|
| Inventory data are accessible to the public. | <ul style="list-style-type: none"> <li>• The inventory is disorganized, not functional, and difficult for SHPD staff, the public, and researchers to access.</li> <li>• Efforts are being made to improve the accessibility of the library through digitizing its holdings. This project is not yet completed.</li> <li>• SHPD partner is examining the GIS system for needed updates; project is not yet completed.</li> </ul> |

The SHPD should be commended for its recent efforts to digitize library files through a Docu-Share system. When completed, this system will be a powerful tool to both the staff and the public. Interviews, however, indicated that the project has not been supported by SHPD management and numerous efforts to train current HI SHPD staff have been postponed.

The SHPD makes its library and files available to researchers. Organizational problems and incomplete files, however, result in inconsistent information on site ownership, map location, site description, conditions, and site boundaries. SHPD management is aware of the constraints placed on the program because of the absence of a functional inventory system, yet little effort has been made to update the inventory records or digitize the backlog of site information. Because the size of the State inventory is quite large, the lack of organization and accessibility impose a burden on staff, partners, and researchers seeking information for review and compliance activities and reviews. This could lead to decisions being based on partial information with detrimental effects to Hawaii’s cultural resources.

The State's Inventory of historic properties is maintained in several different file systems that span the SHPD central office in Kapolei, and the field offices on Maui, the Big Island, and Kauai. According to interviews with SHPD staff, inventory data in the central office is current only through 2005. Each field office maintains a current inventory, but the format for recording this information varies in each office. Because inventory data currently is not managed in a standard, integrated system that is readily accessible to Federal, State, local planners, or outside researchers, it therefore cannot be used to establish legitimate research or planning needs.

The SHPD maintained a GIS that was linked to its website, and included archaeological portions of the State inventory. The GIS web pages are still accessible on SHPD's web site (<http://www6.hawaii.gov/dlnr/shpdgis>, accessed 12/8/09), but it has not been updated since February 2005, and its technology is outdated and of limited usefulness. At the time of the site visit, interviews confirmed that only one member of the Kapolei staff had a working knowledge of the GIS system.

In Hawaii's FY 2009 annual HPF workplan, the SHPD allotted \$30,000 in HPF grant funds (Project Activity Database Report #HI-09-018) to contract with a consultant to update and reactivate the GIS system. At the time of the site visit, this project had not yet begun. The Office of Hawaiian Affairs maintains a GIS system and has offered to share data with the HI SHPD and to provide assistance to revitalize, improve, and advance the HI SHPD GIS system to include all historic property categories. By December 2009, SHPD had established a relationship with the Pacific Disaster Center to examine the current GIS system and provide a report on what would be needed to update and maintain the system (December 4, 2009 letter from Ms. Laura Thielen, SHPO, to Mr. Hampton Tucker, Chief, Historic Preservation Grants Division, NPS).

In interviews with the NPS team, preservation partners stated that there is a need to improve the efficiency of the site inventory form that would include pertinent information and documentation. For example, at the completion of a survey, site forms should be codified to include not only the TMK number, but site number, name, location information, site type, historic context, and National Register eligibility.

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## **MANDATED CORRECTIVE ACTIONS**

**MCA-SI-1. Develop Procedural Standards for Survey.** The HI SHPD must develop and implement written procedural standards to ensure and document that survey work is conducted and reports produced that minimally meet the Secretary of Interior Standards for Identification and Evaluation, and that work is conducted or supervised by individuals who meet the professional qualification standards in accordance with 36 CFR.61. (6.H.2.a) These procedures must be submitted to NPS for approval prior to implementation.

**MCA-SI-2. Establish and Maintain a Current and Accessible Statewide Inventory.** The HI SHPD must establish a functional, coherent, standardized, and accessible inventory system that meets the Secretary's Standards. The inventory must be integrated into a database of all of the State's inventory data, and accessible from all SHPD branches. All survey data resulting from

review and compliance activities, CLG subgrants, or in-house surveys, must be incorporated into the State's inventory. Property site types and periods of significance should be used and fields identified in order to facilitate research and planning. Careful consideration and review of the existing systems and records must be studied to ensure that sufficient information is included to make decisions about the significance of properties. Such a system will greatly expedite analysis of existing data and development of consistent and defensible statements of significance and treatment options. It will provide a gauge of preservation needs and provide a crucial liaison between the HI SHPD and preservation partners. (6.H.2.d, 6.H.2.e) NPS recommends that this inventory be on-line, ideally web- and GIS-based. Given the review workload, the inventory should be updated on a frequent and regular basis, so that the most current and up-to-date information is available to SHPD's professional staff reviewers and to researchers and contractors.

**MCA-SI-3. Archival Specialist.** SHPD should hire or contract with a specialist (archivist, library specialist, etc.) to design and implement a historic/cultural resource inventory database and a digitized library of SHPD cultural resources reports. This inventory and library should be readily accessible to SHPD professional staff and to researchers and contractors conducting Section 106 or State 6E assessments.

## **RECOMMENDATIONS**

**Recommendation-SI-1. Trained Staff.** At least one experienced staff person should be trained in the use of the inventory and library database and this staff person's time should be dedicated to maintenance of this inventory and library.

**Recommendation-SI-2. Standard Survey Forms.** Historic property site survey forms should be standardized to allow the recording of appropriate information about Hawaiian, archeological, architectural, historic/cultural landscape, and underwater resources. If separate forms are used for each resource type, each form should cross-reference site forms for other types of cultural resources to facilitate recognition of the diversity of cultural resources in a particular area.

**Recommendation-SI-3. Preservation of Existing Data.** Data contained in existing files and maps that are in fragile or damaged condition should be transferred to more permanent media.

**Recommendation-SI-4. Partnerships to Implement Inventory.** NPS recommends that SHPD explore the possibility of Federal Agency stakeholders contributing financial or other support to assist in updating and automating Hawaii's State Inventory. NPS also recommends that SHPD include active roles for local stakeholders in updating and automating the State Inventory.

**Recommendation-SI-5. Docu-Share.** SHPD should continue to digitize library files using the existing Docu-Share System. All SHPD staff should be fully trained in the use of the Docu-Share system and any inventory database systems.

## REVIEW AND COMPLIANCE PROGRAM AREA

Review and Compliance refers to State activities that advise and assist public (Federal, State, and local government) agencies in carrying out their historic preservation responsibilities broadly described and established under Sections 106 and 110 of the National Historic Preservation Act, as amended, and implemented through 36 CFR 60, 61, 63, and 800; as well as in other Federal historic preservation-related law. State and local government responsibilities are those established in specific State or local legal and regulatory mandates which parallel in intent and objective the Federal laws cited above.

### PROGRAM REQUIREMENTS

#### **National Historic Preservation Act, as amended, §101(b)(3)**

- (E) It shall be the responsibility of the State Historic Preservation Officer to administer the State Historic Preservation Program and to – . . .advise and assist, as appropriate, Federal and State agencies and local governments in carrying out their historic preservation responsibilities;
- (F) cooperate with the Secretary, the Advisory Council on Historic Preservation, and other Federal and State agencies, local governments, and organizations and individuals to ensure that historic properties are taken into consideration at all levels of planning and development; and
- (I) consult with the appropriate Federal agencies in accordance with this Act on-
  - (i) Federal undertakings that may affect historic properties; and
  - (ii) the content and sufficiency of any plans developed to protect, manage, or to reduce or mitigate harm to such properties.

#### **Procedures for State, Tribal, and Local Government Historic Preservation Programs, 36 CFR 61.4(b)**

It is the responsibility of the SHPO to carry out the duties and activities that section 101(b) of the Act describes.

#### **Protection of Historic Properties, 36 CFR 800**

The regulations of the Advisory Council on Historic Preservation for compliance with Section 106 of the Act apply primarily to Federal agencies, and where these responsibilities involve SHPOs, they deal with the Federal agency's responsibility to consult with the SHPO at a number of steps in the process, but the SHPO is not required to respond. There are a few requirements that specifically obligate the SHPO to action – primarily to advise and assist the Federal agency 30-day review period, and sign Memoranda of Agreement (MOAs) and Programmatic Agreements (PAs). In addition, the Council's regulations specifically mention Native Hawaiian organizations. See Appendix RC-1 for relevant citations.

**Chapter 6, Section O of the Historic Preservation Fund Grants Manual (see Appendix RC-2 for complete text)**

- 6.O.2.a Federal agency requests must be reviewed, monitored, and responded to within a prescribed review period.
- 6.O.2.a.2 In order to prevent situations in which delays in processing are a continuing, ongoing, or recurring problem leading to the fact or the perception that the process is an unreasonable obstacle, the State shall track Federal agency requests from the date of receipt to final action and shall ensure that requests are reviewed and responded to within the prescribed time frame. The tracking system shall contain at a minimum the following:
- (1) the name of the undertaking or contain an identifier code which references the project/undertaking or resource name;
  - (2) the date the request was received by the State;
  - (3) the result or outcome of the review; and
  - (4) the date the State's written opinion was sent to the requesting Federal Agency, or the date the case was closed without a letter.
- 6.O.2.b Federal agency requests must be reviewed and final recommendations made and approved by qualified staff who meet the applicable Secretary of the Interior's (Historic Preservation) Professional Qualification Standards [36 CFR 61.4(e)].
- 6.O.2.c The National Register criteria for evaluation are consistently applied in responding to Federal agency requests. The State shall not issue an opinion until minimum documentation requirements are met. See Section C.6.
- 6.C.6.a. The eligibility review must be adequately documented.
- 6.C.6.b. Opinions must be based on minimum documentation
- 1) A pictorial or written description sufficient to convey accurately the current appearance and condition of the property, in order to permit an assessment of integrity to be made; and
  - 2) A statement of significance or non-significance with sufficient historic context to make an evaluation of National Register eligibility.
- 6.O.2.d The Secretary of the Interior's "Standards for Archeology and Historic Preservation" must be Consistently Applied by States in Evaluating Products Sent To States Pursuant to Agreements with Federal Agencies. When States review and certify their concurrence of specific products of Federal agencies as meeting the stipulated Secretary's "Standards," the State must ensure, and file documentation must support, that the certification is consistent with applicable NPS policy and guidelines. Similarly, file documentation should explain a State's decision that the products do not meet the stipulated Secretary's "Standards."
- 6.O.2.e Inventory data resulting from Section 106 activities must be incorporated into the State's inventory information system or cross-referenced with the files.

## **FINDINGS – Review and Compliance**

### General Program Area Observations and Findings

During the NPS site visit, the Team reviewed a random selection of recent review and compliance files. Abstracts of selected documents collected as part of the NPS team's site visit can be found in Appendix RC-2. These document abstracts are numbered for easy reference in the discussion of Findings, below. Additionally, the Team interviewed representatives from each branch of the US military, and from National Park Service sites in Hawaii, to learn about the successes and problems of the Section 106 review process in Hawaii.

The NPS Team did not examine Review and Compliance activities associated with Hawaii Revised Statutes, Chapter 6E, Historic Preservation (HRS 6E). To the extent that staff time spent on these reviews is used as match for SHPD's HPF grant, these activities must also meet the requirements of Chapter 6 of the HPF Grants Manual.

### Heavy Workload

The combination of tourism, urban development, Native Hawaiian interests, a sizable military presence, and increasing activity due to Federal stimulus funding of the American Recovery and Reinvestment Act (ARRA) has generated an exceptionally heavy review workload for the HI SHPD. Nearly all of the HI SHPD resources are focused on the Review and Compliance program area for the Federal and State compliance processes, and this program area constitutes the majority of the workload facing SHPD staff.

Rapid staff turn-over during the past several years, corresponding erosion of institutional memory, and diminished staff, have adversely affected the quality of reviews, weakened relationships with Federal agencies and others in the review process, and created difficulties for cultural resources preservation.

Federal requests are not being adequately reviewed because sufficient time is not available, and program staff involved in project reviews are sometimes not included in consultation meetings with Federal agencies. In addition, the NPS team found no evidence that substantive background research is performed by all staff reviewing projects. This results in a lack of thorough professional evaluation of Federal agency requests, especially because there is little evidence that management routinely briefs or discusses the results of consultation meetings with the program staff performing the review work.

### Accuracy & Quality of Reviews is Often Inadequate

Differences between the Section 106 and State 6E processes are often not distinguished in outgoing SHPD letters to Federal agencies (see the letters abstracted in Appendix RC-2). Many letters do not accurately reference the applicable laws and regulations. SHPD letters to Federal agencies for Section 106 purposes often use the State 6E form letter or refer to elements of the

State process, such as significance criterion E, which refers to Native Hawaiian cultural affiliation, and is not part of the Section 106 process. Some response letters seemed to require the Federal agency to comply with state regulations. For example, a number of letters use the phrase, “no adverse effect with mitigation,” which is not a determination used in the Section 106 process; it is, however, standard usage in the State 6E process (for example, RC-2#9, 11, 14, 20, 25, 38). In addition, the documentation provided to the NPS team suggests that SHPD staff have an inadequate understanding of the Section 106 and 36 CFR 800 process (RC-2#3). For example, one staff person indicated in an informal communication with a Federal agency staff person that SHPD was “working under the NHPA architectural review period for 106’s which is 45 days” (RC-2#33).

The appropriateness of the review and associated recommendations were found by the team to sometimes be inadequate. Copies of SHPD letter responses and comments shared by federal agencies and outside groups illustrate that some Section 106 and State 6E reviews are incomplete, inappropriate, and inconsistent with relevant law and regulation. For example,

- The State 6E form contains a check-list of reasons for determining “no historic properties will be affected,” which includes three items dealing with previous alteration to the land, all of which may actually represent historical uses of the land that must be assessed under 36 CFR 800, such as historic cane field landscapes, historic neighborhoods, or Native Hawaiian trails. This suggests a lack of SHPD staff understanding or recognition that archeological resources of the historic period, cultural landscapes, traditional cultural places, and underwater cultural heritage all merit attention under Section 106 and 36 CFR 800 (see RC-2#6, 8, 10, 13, 26, and 35).
- The June 15, 2009, letter (RC-2#5) reporting on SHPD’s review of the Army project to install photovoltaic panels on a roof of a historic building in the Kilauea Military Camp determined there would be “no adverse effects on historic resources,” but the review apparently did not assess the visual effects of these panels on other properties in the National Register historic district.
- The April 6, 2009, SHPD letter (RC-2#26) on the Environmental Assessment for the construction of a maintenance shed at Doris Duke’s Shangri-La stated “no historic properties will be affected...due to prior alteration of the land by residential development and urbanization” (State 6E form letter). This response does not address the historic structures on the property or the historic designed landscape, ignores the significance of the “residential development” of the Shangri-La estate, as well as the Native Hawaiian petroglyphs identified in the archeology report in the EA’s appendix.

#### Inadequate consultation with Federal Agencies [NHPA §101(b)(3)(E), (F), and (I)]

The HI SHPD does not conduct an organized program of consultation with Federal agencies. Information gained from interviews and public questionnaires across the board reports a poorly orchestrated system that does not provide agencies with adequate technical advice to comply with Section 106 of the NHPA. For example, the NPS team could find no evidence that former efforts to improve coordination with the Air Force on the PPV Housing project (RC-2#32) have continued. This type of consultation is beneficial to Federal agencies in carrying out their

stewardship responsibilities, and one of the requirements of SHPOs under the Act.

The NPS team found no evidence that the SHPD provides assistance to Federal agencies in identifying individuals and organizations that should be consulted, or to Native Hawaiian organizations on how they can contact Federal agencies to share their views. This may result in stakeholders not understanding their roles in the Federal consultation process. In stakeholder interviews, the NPS team heard repeatedly that Native Hawaiians and Native Hawaiian Organizations, as well as others (RC-2#31), are frustrated in their attempts to participate actively in the Section 106 process, as well as in the State 6E process. These constituents, however, seemed to frequently misunderstand the relative jurisdictions of the two regulatory processes, which could result in confrontational consultation efforts. This creates a problem for both the SHPD and Federal agencies, because uninformed and uninvolved Native Hawaiian organizations can lead to damage and/or loss of Native Hawaiian cultural resources and an atmosphere of distrust.

The Act states that the SHPD must:

- advise and assist...Federal agencies...in carrying out their historic preservation responsibilities (Section 101(b)(3)(E));
- cooperate with...Federal agencies... to ensure that historic properties are taken into consideration at all levels of planning and development (Section 101(b)(3)(F));
- consult with Native Hawaiian organizations in assessing the cultural significance of any property in determining whether to nominate such property to the National Register (Section 101(d)(6)(C)).

The Act states that Federal agencies must:

- consult with any...Native Hawaiian organization that attaches religious and cultural significance to properties...that may be eligible for inclusion on the National Register (Section 101(d)(6)(B));
- consult with other Federal, State, and local agencies, Indian tribes, Native Hawaiian organization in carrying out the agency's preservation-related activities (Section 110(a)(2)(D));
- consult with...Native Hawaiian organizations to ensure that the agency's procedures for compliance with Section 106 provide a process for the identification and evaluation of historic properties for listing in the National Register and evaluating the effects on such properties (Section 110(a)(2)(E));

The NPS team learned from several Federal agency sources that, increasingly, consultation between Federal agencies and SHPD tends to occur orally at the highest levels, with little to no documentation or active participation by professionally qualified SHPD staff.

### Lack of public outreach

The HI SHPD is currently involved in lawsuits and high profile cases, primarily associated with the State 6E process. Nevertheless, media and public attention often do not distinguish between Federal and State legal requirements, resulting in complaints about the Federal program's requirements. In spite of all of the public controversy, SHPD has made little outreach effort to disseminate information and clarify the Federal and state compliance processes to the participants and the public. The HI SHPD does not work closely with State planning representatives, which could help expedite compliance activities.

### SHPD Island Offices

In general the Hilo and Maui SHPD Field Offices are well organized, timely, and professional. Staff interviews indicated that only 10% of their reviews are triggered by Section 106, with 90% of their workload spent on State and local permitting actions (State 6E). Both the Hilo and Maui offices use tracking logs for all Review and Compliance projects. The NPS team received copies of the logs, and all required information [6.O.2.a.2] was complete. There is coordination between the Archeology and Culture programs in the field offices, and with the Architectural program at SHPD Kapolei. The Hawaii Archeologist (Donham), the Assistant Hawaii Archeologist (Davis), and the Maui Archeologist (Conte) meet the Secretary's (Historic Preservation) Professional Qualification Standards for Archeology. Overall, the field office staff have exceptional experience and knowledge in Review and Compliance actions and appear to go out of their way to provide assistance to the community.

Interviews with staff in the Maui office indicate problems in communications between the Archaeology and Cultural branches, which has led to the impression among some in the public of the exclusion of Native Hawaiian concerns.

At the time of the NPS site visit, the Kauai SHPD office has been closed and all furniture, equipment, and files, including sets of human remains, had been moved to the Deputy SHPO's (██████████) residence. The responsibility for Section 106 reviews of projects on Kauai is carried out by the Deputy SHPO/Archeologist stationed in the SHPD office in Kapolei, Oahu. This situation is undesirable, especially for the Native Hawaiian community, who would like the human remains to be reinterred quickly.

6.O.2.a.2 - Timeliness of Reviews and a Tracking System

| Requirement   | Findings   |
|---|--|
| The State shall ensure that Federal agency requests are reviewed and responded to within the specified time period.   | Reviews are generally accomplished within the required 30-day time period. There are exceptions.   |
| The State shall track Federal agency requests from the date of receipt to final action and shall ensure that requests are reviewed and responded to within the prescribed time frame.   | Results of documents examined and Federal agency interviews suggest the possibility that reviews are expedited to meet the 30-day time period at the expense of accuracy and quality of the reviews and replies to Federal agencies. |
| The tracking system shall contain at a minimum the following:<br>(1) the name of the undertaking or contain an identifier code which references the project/undertaking or resource name;<br>(2) the date the request was received by the State;<br>(3) the result or outcome of the review; and<br>(4) the date the State's written opinion was sent to the requesting Federal Agency, or the date the case was closed without a letter. | The logging and tracking system used by SHPD is incomplete, not kept up-to-date, lacks required information, and is difficult to use.  |

The SHPD has established a process where all Federal and State agency reviews are initiated in the Oahu Kapolei office. Cases are logged in by SHPD clerical staff. All cases are initially reviewed by the Deputy SHPO to determine which professional staff and/or field office will conduct the review. Letters of effect are signed by either the Deputy SHPO or the Administrator. Administrative staff maintains a tracking log with fields to note determinations of effect and relevant response dates.

The office maintains a system for logging the receipt of projects and correspondence. Section 106 projects are assigned due dates and routed to the Deputy SHPO for distribution to appropriate professional staff (architectural, cultural, or archaeological) for review. Information in the electronic tracking system examined by the team contained no information in several key fields, including "Date Completed" and "Determination" and "HP Staff Assigned." Because of these omissions, the review team could not determine that the HI SHPD consistently reviewed projects within the 30-day period. At the time of the NPS team visit, there was no way to track the timeliness of reviews, other than the examining by hand the individual response letters that mention the receipt date of the Federal agency request.

The heavy review workload carried by individual staff limits the time available to them for

consultation and updating the project logging, tracking system, and inventory.

If, as required, the HI SHPD had used the log to track Federal agency requests from the receipt date until final action, it would have been possible to confirm if reviews were generally completed within the 30 day period. A sampling of files indicated that the staff is meeting its 30-day deadlines for the most part. Several instances revealed delayed responses, however (see RC-2#4, 8, 13, 17, 21, 38, and 42 for a total 35 months overdue). The team was informed by Federal agencies that they suspected that some response letters were being back-dated in order to meet the 30-day deadline. In addition, there is some evidence to suggest that SHPD staff believe they have a 45-day review period for architectural reviews (RC-2#35). State law and rules mandate a 90-day project review period [HRS 6E-8 and HAR 13-275-3(a)].

Project files are piled in boxes awaiting close-out in the logging system. As a result, project review information is disorganized and not easily accessible, except very generally by date.

The review files only contain the response letter to the applicant or Federal agency and the incoming Federal agency request (report, etc.). The SHPD document number on the letter includes the initials of the person who prepared the letter, which is the only indication of who may have carried out the review. In the files sampled by the team, there were no staff review notes, review checklists, or other information to support the conclusions in the response letter to the agency. The NPS understands that at one time the SHPD initiated the use of review checklists and standardized forms. Re-establishing this procedure would markedly enhance the quality of review work produced by the HI SHPD.

Federal agency staff provided additional evidence in support of the finding of inadequate project reviews files and inadequate logging and tracking systems. Several stated that they have received multiple review letters with different findings for the same project (see RC-2#6, 30, 42, and 43), indicating that duplicate reviews have taken place. This indicates a lack of coordination in the reviews themselves and a lack of management oversight and quality control. Contributing to this problem is the lack of an institutional memory at SHPD that could reduce the potential for duplicate reviews.

SHPD response letters are dated and generally contain the final SHPD opinion or recommendation. However, several letters were sloppily prepared, with grammatical and spelling errors, wrong citations for projects and/or project locations (TMKs), incorrect addressee names, or the letters were incomplete. Federal agency staff stated that SHPD seems not to review many of the outgoing letters before they are signed and mailed. For example, see the letter dated September 17, 2009, on the Army project Ke'amuku Maneuver Area, Island of Hawaii (RC#2). Again, this indicates a lack of quality control and management oversight.

#### 6.O.2.e - Integration of Review and Compliance Data into State Inventory

| Requirement   | Findings  |
|---|---|
| Inventory data resulting from Section 106 activities must be incorporated into the State's inventory information system or cross-referenced with the files. | Data from review and compliance (RC) activities are not systematically integrated into an accessible State Inventory. |

The HI SHPD could not demonstrate that data and products generated from Review and Compliance work (survey data, determinations of eligibility, etc.) were systematically integrated into the inventory database. This lack of information would contribute to duplicative and inefficient staff work and delays in responding in a timely manner to Federal agency requests.

The Hawaiian preservation community has repeatedly requested the HI SHPD to place a priority on the inventory and to reinstate, upgrade, and maintain the Geographic Information System. In addition, the preservation community has requested reinstating the weekly web listing of SHPD reviews, reports, and plans required by State law that permit public review and comment. A recent visit to SHPD's website [December 11, 2009] showed that this weekly web listing has been resumed, with summary information on reviews completed from the week ending August 21, 2009, until the present. However, limited information is provided; the format is inconsistent, and the majority of the weekly lists only contain information on reviews with "no effect" determinations, which seems to be inconsistent with the State requirements as explained on the SHPD web page ([www.state.hi.us/dlnr/hpd/reviews.htm](http://www.state.hi.us/dlnr/hpd/reviews.htm)).

#### 6.O.2.b - Reviews Conducted by Qualified Staff

| Requirement  | Findings  |
|--|---|
| Federal agency requests must be reviewed and final recommendations made and approved by qualified staff. | Federal undertakings are often reviewed by staff not meeting the appropriate Professional Qualifications Standards. |

Coordination of reviews among SHPD staff appears to be lacking. Incoming Federal agency requests are not routinely circulated among Archaeology, Architecture, and Cultural branches to ensure relevant resource types are identified. As a result, archaeological resources associated with historic buildings and cultural landscapes are sometimes not addressed, and vice versa. The majority of review letters examined by the NPS team represented results of archeological review (see Appendix RC-2). If Architectural and Cultural staff reviewed these projects, their review comments may have been sent separately and/or the NPS team was not provided with copies of their letters. The review team noted that separate letters are typically sent when there are comments from Archeology and Architecture staff.

SHPD archeologists inappropriately reviewed and responded to projects such as cell antenna collocation projects (RC-2#7, 10, 17, 21, 22, and 27), while no information was available to document that the appropriate professional architecture staff reviewed these projects. Cell antenna collocation projects place cell antennas on existing cell towers. Ground disturbance was

not noted in any of the letters. Consequently there was nothing for an archaeologist to comment on. There likely was very little for the architecture staff to comment on, but it appears they did not have the opportunity to comment. Project reviews such as these would lend themselves to a programmatic agreement with the appropriate Federal agency, to streamline routine SHPD review.

Staffing levels are problematic. The Archeologist in SHPD's Oahu (Kapolei) office is not only responsible for review of archeological projects in Oahu, Kauai, and Maui, but also for carrying out Deputy SHPO duties. Federal agency staff reported that the quality of archeological reviews has severely decreased following the departure in 2009 of archeologists in the Oahu and Maui offices.

Due to the volume of the architectural review workload, which includes projects on all islands, some architectural reviews have recently been assigned to the National Register Coordinator, who does not meet the Professional Qualification Standards for Architectural History (see RC#5, which presents this staff person as an architectural historian). In addition, he has not received sufficient training in Section 106 and his work is not being coordinated with or supervised by the office's Historic Architect. In addition, this same staff person appears to be conducting archaeological reviews for which he is not qualified (RC#1). In this case, it is unclear whether this staff person conducted the review and wrote the letter, or whether qualified staff (Deputy SHPO & Archaeologist) conducted the review and directed the unqualified staff person what to write.

A consistent observation from Federal agencies is that Federal undertakings are sometimes reviewed and approved by staff and management with the inappropriate professional qualifications. The majority of SHPD letters in response to Federal agency requests that the NPS team reviewed were signed by the Deputy SHPO/Archeologist, including letters providing comment on historic buildings or projects that do not involve archeological resources (RC#5, 17, 18, 21-23).

#### 6.O.2.c - Application of National Register Criteria for Evaluation

| Requirement  | Findings  |
|--|---|
| The National Register Criteria for Evaluation are Consistently Applied in Responding to Federal Agency Requests. | National Register Criteria for Evaluation not consistently applied when reviewing Federal undertakings. |

NPS team review of the architectural files indicated that National Register criteria had been applied consistently by the former staff previously assigned to conduct Architectural reviews (who did meet the Professional Qualification Standards for Architectural History). However, with current staff review assignments, Federal agencies have reported that review letters often do not address the National Register criteria and statements in response letters, and demonstrate little understanding of the review process, lack of insightful comments on property treatment, and lack of thorough understanding of the subject matter (see Appendix RC-2).

Review and Compliance case files demonstrate that the HI SHPD does not consistently apply National Register criteria for evaluation or the applicable Secretary's Standards in determining if historic properties are present and whether the Federal undertaking will affect resources. For example, SHPD's December 23, 2008, letter to the Haleakala National Park on the review of the "Archeological Inventory Survey of the Kipahulu Unit" (RC #36) does not respond to the Park's request for SHPD concurrence on National Register eligibility for 17 sites and concurrence on ineligibility for one. In addition, few to none of the Section 106 letters addressed National Register criteria or eligibility, with notable exception of the excellent letter abstracted as RC#40 (Appendix RC-2).

### **MANDATED CORRECTIVE ACTIONS**

MCA-RC- 1. Coordinated Staff Reviews. Compliance reviews must be conducted by professional staff in all disciplines, and a single letter containing SHPD consolidated comments and recommendations must be produced. This must include the Historical Architect, the Archeologist, the Historian, the Architectural Historian, and the Hawaiian Cultural Historian. Procedures for coordinating these reviews must be included in the Compliance Review Process mandated under MCA-2, below.

MCA-RC-2. Develop Procedures for Review and Compliance. SHPD must establish and follow a clear and explicit Compliance Review Process that meets statutory and regulatory requirements (NHPA Sections 101(b)(3)(E), (F), and (I); 36 CFR 61; and 36 CFR 800).

- a. SHPD must establish and follow a written compliance review process that clearly distinguishes between the Federal Section 106 process and the State 6E process. SHPD must prepare a written procedures manual for this process, which includes a standard, centralized logging and tracking system that meets the requirements in the HPF Grants Manual chapter 6.O.2.a.2. The draft manual must be submitted to NPS for approval prior to implementation.
- b. This process must comply with NHPA Sections 101(b)(3)(E), (F), and (I); 36 CFR 800, and the Review and Compliance Program Area requirements in Chapter 6, Section O of the HPF Grants Manual. This procedures manual must be more detailed than the "Historic Preservation Review Process" flow chart on SHPD's website (accessed 10/28/09).
- c. SHPD must consult with Federal agencies and others involved in the Section 106 process, including Native Hawaiian organizations, to establish an agreed-upon process for agency requests and SHPD reviews, identify the roles of various staff and organizational participants in the process, identify expectations of all parties, agree upon submission materials and schedules for reviews, and other relevant topics, including the development of PAs for routine undertakings (e.g., NPS PA with "streamlined review" projects)(see Recommendation RC-2 below). This discussion must also include development of proactive strategies to establish and maintain

ongoing relationships between SHPD and Federal agencies, beyond the project-specific requirements of Section 106 review (see Recommendation RC-3, below).

- d. The procedures manual must include steps, actions, strategies, or approaches that will ensure the process is open and transparent, in order to eliminate public perception of “behind closed doors” decision-making.
- e. SHPD must design, implement, and maintain a centralized compliance review logging and tracking system that is accessible on-line by Kapolei and neighbor island office staff in real time. This system must include information on projects reviewed since January 2005 in order to provide context to the tracking system and to ensure the inclusion of initial reviews related to ongoing projects. A centralized tracking system would optimize time spent conducting reviews by allowing review submissions to be sent directly to the appropriate office, rather than through Kapolei, and would facilitate access to information on previous reviews.
  - (1) The compliance review logging and tracking system must clearly distinguish between the Section 106 process and the State 6E process. Separate form letters, review check-lists, etc., must be designed so each process is easily identifiable. We do not advise creating separate logging and tracking systems for the Federal and State processes, because a single, centralized system that logs and tracks projects submitted for review under both the Federal and the State compliance processes will maximize the ease of SHPD oversight of the process, ensure projects reviewed under both federal and state laws will receive coordinated attention, and facilitate public and applicant access to reviews under both processes, especially where projects may be governed by both processes.
  - (2) This system must make it possible to retrieve files and data in a timely manner, usually 24-48 hours. The system should include the name of the SHPD reviewer assigned to the review, and maintain basic information such as project name, location, owner, nature of action, SHPD determination, and the project’s status in the review process, such as date received, date determination was made, and date of transmittal.
- f. SHPD reviews of State 6E projects in accordance with State law must comply with all requirements for Section 106 reviews, if these activities are supported by HPF or HPF matching funds.
- g. NPS recommends that SHPD consider assigning each project its own unique project number identifier for easier reference, especially for multiple projects on a single tax map parcel (TMK #) and for multiple phases of large or lengthy projects.
- h. NPS recommends that SHPD explore the potential and feasibility of CLG participation in the Section 106 review process.

- i. NPS recommends that review information be accessible to the public and others. The SHPD's web site should be updated on a regular basis to provide current information on all reviews received, including findings, for easy access by Federal, State, and local agencies, consultants, and the general public. This must include accessible, open and transparent project review tracking for both Section 106 and 6E reviews so Federal agencies and applicants can go on-line to see the status of a project's review and the results of that review. This web version must provide more detail than the current weekly "Determinations and Reviews" list ([www.state.hi.us/dlnr/hpd/reviews.htm](http://www.state.hi.us/dlnr/hpd/reviews.htm), accessed 10/28/09).

MCA-RC-3. Professionally Qualified Staff. Additional staff meeting the Secretary's (Historic Preservation) Professional Qualification Standards must be hired, or contracted with, in order to adequately carry out the workload related to SHPD's Section 106 review responsibility.

- a. At least one Historical Architect and one Archeologist must be assigned to review DoD projects. The volume of DoD projects needing reviews suggests that at least two professional staff should be dedicated to work solely on DoD projects.
- b. SHPD must recognize the value of historical archeological resources and cultural landscapes, and address their needs in compliance reviews.
- c. The SHPD Phone Directory on its web site must be to accurately reflect staff areas of responsibilities.
- d. NPS recommends that SHPD explore means to convert "at will" professional staff to full civil service status to provide continuity to SHPD relationships with Federal agencies and others involved in the Federal and State compliance processes.

MCA-4: Staff Training. All Section 106 Review & Compliance staff must attend and successfully complete training in the Section 106 review process that covers the basics, advanced topics, dealing with Traditional Cultural Properties, developing Memoranda of Agreement and Programmatic Agreements, and how the Section 106 process coordinates with other federal laws, such as the National Environmental Protection Act (NEPA) and section 4(f) of the U.S. Department of Transportation Act.

- a. All R&C staff must become fully knowledgeable about existing MOAs & PAs.
- b. For six months to one year following training, the review work of newly hired staff must be reviewed by existing professional staff who meet the Secretary's (Historic Preservation) Professional Qualification Standards for the relevant discipline(s) to ensure consistency of response, compliance with the Act, 36, CFR 61, 36 CFR 800, and HPF Grants Manual requirements, including application of the National Register criteria and the Secretary's Standards and Guidelines.

## RECOMMENDATIONS

Recommendation RC-1. Technical Assistance. SHPD should develop and deliver guidance and explanatory materials to Federal, State, and local government agencies (including local planning, zoning, and permitting departments and CLG commissions and staff), as well as to Native Hawaiian organizations, historic property owners, and other major stakeholders. This material should explain the differences between the Federal Section 106 process and the State 6E process.

Recommendation RC-2. SHPD should work with ACHP to identify Federal programs and activities that may benefit from program alternatives to Section 106, and advocate to Federal agencies for the development of these alternatives. SHPD should work with Federal agencies to assist agencies in determining appropriate opportunities for developing program alternatives under Section 106. Examples might include Programmatic Agreements to cover recurring and routine undertakings that do not merit full SHPD review.

Recommendation RC-3. Reach out to stakeholders and establish relationships that will help improve the compliance review process. SHPD should convene regularly scheduled meetings with Federal, State, and local agencies, with Native Hawaiian groups, Historic Hawaii Foundation and other history groups, university programs, the tourism industry, local government agencies, community organizations, and others who share interests in Hawaii's historic and cultural resources. At a minimum, these meetings should discuss issues of concern related to Federal and State compliance processes, the similarities and differences between the federal and state processes, what is covered by each process, strategies for minimizing controversy, options for stakeholder involvement in the processes, etc. (see MCA-RC-2 and Recommendations RC-1 and RC-2, above).

- a. For Federal projects, SHPD should contact ACHP and discuss the possibility of ACHP hosting and facilitating a meeting with SHPD and DoD, other federal agencies, and others involved in Section 106 undertakings (e.g., HIDOT) to discuss issues, establish an agreed-upon process for 106 review, roles of various parties, expectations, schedules, etc., including the development of MOAs or PAs for routine undertakings (e.g., NPS PA with "streamlined review" projects) (see MCARC-2 and Recommendation RC-2 above).
- b. SHPD should consult with ACHP to gain technical assistance, guidance, and training on the role of participants in the Section 106 process, including the role of Native Hawaiian organizations.
- c. SHPD should convene a similar meeting with those involved in the State 6E process, to accomplish the same goals.

## NATIONAL REGISTER PROGRAM

The National Register program area includes activity directly pertinent to the documentation and evaluation of a historic or archeological resource for their potential eligibility for listing in the National Register of Historic Places.

### PROGRAM REQUIREMENTS

#### **National Historic Preservation Act, as amended, §101(b)(3)(B)**

*It shall be the responsibility of the State Historic Preservation Officer to administer the State Historic Preservation Program and to – ...identify and nominate eligible properties to the National Register and otherwise administer applications for listing historic properties on the National Register.*

#### **National Historic Preservation Act, as amended, §101(d)(6)(C)**

*In carrying out his or her responsibilities under subsection (b)(3) of this section, the State Historic Preservation Officer of Hawaii shall –*

- (i) Consult with Native Hawaiian organizations in assessing the cultural significance of any property in determining whether to nominate such property to the National Register;*
- (ii) Consult with Native Hawaiian organizations in developing the cultural component of a preservation program or plan for such property; and*
- (iii) Enter into a memorandum of understanding or agreement with Native Hawaiian organizations for the assessment of the cultural significance of a property in determining whether to nominate such property to the National Register and to carry out the cultural component of such preservation program or plan.*

#### **Procedures for State, Tribal, and Local Government Historic Preservation Programs, 36 CFR 61.4(b)(3)(i)**

*It is the responsibility of the SHPO to carry out the duties and activities that section 101(b)(3) of the Act describes. In performing those duties...As part of the process of recommending a property to the National Register, the SHPO must comply with the consultation and notification procedures contained in 36 CFR 60.*

#### **National Register of Historic Places, 36 CFR 60.6 – Selected Sections**

(complete text on-line at <http://www.nps.gov/history/nr/regulations.htm>)

- (a) The State Historic Preservation Officer is responsible for identifying and nominating eligible properties to the National Register. Nomination forms are prepared under the supervision of the State Historic Preservation Officer. The State Historic Preservation Officer establishes statewide priorities for preparation and submittal of nominations for all properties meeting National Register criteria for evaluation within the State. All nominations from the State shall be submitted in accord with the State priorities, which shall be consistent with an approved State historic preservation plan.*
- (b) The State shall consult with local authorities in the nomination process. The State provides notice of the intent to nominate a property and solicits written comments...*

- (c) *As part of the nomination process, each State is required to notify in writing the property owner(s)... of the State's intent to bring the nomination before the State Review Board...*
- (j) *Completed nomination forms or the documentation proposed for submission on the nomination forms and comments concerning the significance of a property and its eligibility for the National Register are submitted to the State Review Board. The State Review Board shall review the nomination forms or documentation proposed for submission on the nomination forms and any comments concerning the property's significance and eligibility for the National Register. The State Review Board shall determine whether or not the property meets the National Register criteria for evaluation and make a recommendation to the State Historic Preservation Officer to approve or disapprove the nomination.*
- (k) *Nominations approved by the State Review Board and comments received are then reviewed by the State Historic Preservation Officer and if he or she finds the nominations to be adequately documented and technically, professionally, and procedurally correct and sufficient and in conformance with National Register criteria for evaluation, the nominations are submitted to the Keeper of the National Register of Historic Places, National Park Service, United States Department of the Interior, Washington, D.C. 20240. All comments received by a State and notarized statements of objection to listing are submitted with a nomination....*
- (o) *The State Historic Preservation Officer signs block 12 of the nomination form if in his or her opinion the property meets the National Register criteria for evaluation. The State Historic Preservation Officer's signature in block 12 certifies that:*
  - (1) *All procedural requirements have been met;*
  - (2) *The nomination form is adequately documented;*
  - (3) *The nomination form is technically and professionally correct and sufficient;*
  - (4) *In the opinion of the State Historic Preservation Officer, the property meets the National Register criteria for evaluation. ....*
- (r) *Nominations which are technically or professionally inadequate will be returned [by the Keeper] for correction and resubmission. When a property does not appear to meet the National Register criteria for evaluation, the nomination will be returned with an explanation as to why the property does not meet the National Register criteria for evaluation...*
- (u) *State Historic Preservation Officers are required to inform the property owners and the chief elected local official when properties are listed in the National Register...*

## **Chapter 6 of the Historic Preservation Fund Grants Manual**

### **National Register Program Requirements (6.C.6 and 6.I.2) – Summary**

(see Appendix NR-1 for complete text)

**6.C.6** National Register Criteria for Evaluation must be applied consistently [in all program areas].

**6.C.6.a** The eligibility review must be adequately documented.

**6.C.5** – Adequate documentation is an official written record verifying who on the staff conducted the review, and/or wrote the opinion or recommendation; what the final opinion or recommendation was; and the date of the review, opinion, and/or recommendation. When an opinion pertains to more than one type of resource, and if staff members meeting the professional qualifications in different disciplines review the eligibility of the resource, each review must be documented. When individual reviewer opinions differ, the final decision must be clearly apparent.

**6.C.6.b** SHPO opinions of National Register eligibility must be based on minimum documentation. States must ensure that at least the minimum level of documentation is the basis for all

responses to Federal agency requests (i.e., opinions that the property is eligible, that it is not eligible, or that there is not sufficient information to determine National Register eligibility). The necessary amount of documentation for an evaluation will vary depending upon the situation.

- 6.I.2.a All activities in the Program Area must meet the Secretary's Standards for Evaluation and Registration.
- 6.I.2.b Annually, the State must nominate eligible resources to the National Register of Historic Places.
- 6.I.2.c A reasonable percentage of nominations must be derived from State-conducted surveys.
- 6.I.2.d Nominated properties must meet the National Register Criteria for Evaluation, and must be documented according to National Register standards:
  - (1) for substantive documentation and analysis in the description of properties and in the justification of the properties' significance and,
  - (2) technical documentation. A State must demonstrate a comprehensiveness of resources in its nomination of properties.
- 6.I.2.e The State's nomination procedures must comply with the requirements of the National Historic Preservation Act and with National Register regulations (36 CFR 60).
- 6.I.2.f States must assist the public and private sector in nominating historic properties to the National Register of Historic Places. States must document that HPF-funded nominations and nominations used as nonfederal matching share must be conducted, prepared, reviewed, or verified by persons from the appropriate disciplines who meet the requirements for the "Secretary of the Interior's Historic Preservation Qualifications."

### **FINDINGS – National Register Program Area**

The team interviewed staff in the SHPD's architecture and archeology branches to evaluate the SHPD's procedures for reviewing and processing nominations submitted to the National and State Registers of Historic Places. The team examined National Register nomination files maintained by SHPD and nominations submitted to the SHPD and forwarded to the State Review board over the past year. The team also examined Review Board meeting minutes and public notifications for the last two years. Additionally, the team met with NPS staff of the National Register of Historic Places in Washington, D.C. to assess the quality of the nominations submitted by the Hawaii SHPD for listing in the National Register of Historic Places.

**6.C.6.a. and 6.C.5. – Documentation of Eligibility Review  
6.I.2.a. and 6.I.2.d. – Compliance with the Secretary’s Standards for  
Evaluation and Registration, National Register Criteria for Evaluation,  
and National Register Documentation Standards**

| Requirement  | Findings   |
|--|--|
| <p><b>6.C.6.a.</b> The eligibility review must be adequately documented.</p> <p><b>6.C.5.</b> Documentation must be an official written record.</p> <p><b>6.I.2.a.</b> Activities must meet the Secretary’s Standards for Evaluation and Registration.</p> <p><b>6.I.2.d.</b> Nominations must meet the National Register Criteria for Evaluation and National Register documentation standards.</p> | <p>Nomination files examined contained little review documentation, and interviews and documents examined suggest that these requirements are not met.</p> |

All National and State Register nominations should undergo substantial technical review by SHPD qualified staff to determine whether nominations contain an acceptable level of documentation to warrant listing. In cases where documentation is not sufficient, or nominations are incomplete, nominations should be returned to the preparer, with notes from SHPD, for revision. The nominations reviewed by the team, and interviews with State Review Board members indicate that this level of review is not being conducted by SHPD staff. Review Board members expressed dissatisfaction and frustration with the number of incomplete, or ineligible, nominations presented for their consideration.

The nomination forms examined by the review team contained few review notes from SHPD qualified professional staff, and no comments or recommendations made by the SHPD professional staff to the Review board.

National Register nominations submitted to the State Review Board are not thoroughly evaluated by SHPD staff, National Register criteria were often not properly applied, and the evaluation of integrity and period of significance were not justified.

In the sampling of nominations to be forwarded to the Review Board for consideration, several properties were not eligible for listing in the National Register, based on the documentation included in the nomination forms.

Additionally, there appeared to be no clear determination of which properties were under consideration for listing in the State Register or the National Register. Letters to owners following State Register listing by the Review Board indicate that nominations will be forwarded to the National Register for consideration. The majority of properties reviewed by the Review Board are not forwarded to the National Register for listing, however, and completed nominations remained in the files, unsigned by the SHPO. It is unclear how SHPD decides which nominations will be forwarded on to the National Register for listing.

The team found no evidence that NR nominations are routed to Hilo and Maui SHPO staff for their review.

**6.I.2.b. – Annual Nominations**

| <b>Requirement</b>  | <b>Findings</b>                                |
|---|--|
| Annually, SHPO must nominate eligible resources to the National Register. | Five nominations were forwarded during FY2009. |

A sampling from the State and Federal Register files indicated most nominations are submitted for State Register listing to qualify for property tax benefits. Additional resources submitted for consideration included a ranch, a historic roadway, a traditional cultural property, and a Japanese American World War II internment camp. There were no archeological properties nominated during the time period examined by the team.

NPS team review of SHPD’s National Register files, and interviews with the NPS staff of the National Register of Historic Places, document that during FY 2009, the SHPD forwarded five nominations to the National Register for listing. Of these five nominations, three were returned to the SHPD for technical and substantive revisions (see attached National Register reviewer comments, Appendix NR-3. As of December 2009, SHPD was working with the National Register staff on making the recommended technical and substantive revisions (December 4, 2009, letter from Ms. Laura Thielen, SHPO, to Mr. Hampton Tucker, Chief, Historic Preservation Grants Division, NPS).

**6.I.2.c. – Nominations Derived From State Surveys**

| <b>Requirement</b>   | <b>Findings</b>  |
|--|--|
| A reasonable percentage of nominations must be derived from State-conducted surveys. | Recent CLG survey projects appear designed to produce nominations. |

The team could find no functional relationship between HI SHPD’s survey and inventory activities and the National Register process. HI SHPD has no well-developed linkages between planning priorities, review and compliance, survey and inventory priorities, and the registration process.

Interviews with Hawaii’s Certified Local Governments indicate that efforts appear to have been initiated to nominate properties representing themes developed in CLG-funded surveys and studies, thus satisfying the requirements for nominations from HPF-funded surveys.

**6.I.2.e. – SHPD Procedures Meet National Register Regulations, 30 CFR 60**

| <b>Requirement</b>   | <b>Findings</b>  |
|--|--|
| <b>CFR 60.6(a)</b> – Establish statewide National Register nomination priorities, consistent with an approved State Plan; nominations are submitted in accord with these priorities. | <ul style="list-style-type: none"> <li>• State Plan 2001, approved 12/14/01, contains Appendix A, Hawaii &amp; National Register Action Priorities (see Appendix NR-3). Could not verify that these priorities guide nominations.</li> <li>• Notification requirements are met.</li> <li>• Professional staff evaluations of property</li> </ul> |
| <b>CFR 60.6(b) &amp; (c)</b> – Consultation with local authorities and notification of intent to nominate  |  |

|   |   |
|---|---|
| <p>properties and bring nominations before the State Review Board.</p> <p><b>CFR 60.6(j)</b> – Completed nominations and comments concerning property significance and eligibility are submitted to the State Review Board. The Board shall review this information and determine if the property meets the National Register criteria and recommends to SHPO approval or disapproval.</p> <p><b>CFR 60.6(k)</b> – SHPO receives Review Board’s recommendation and comments, and if nominations comply with evaluation criteria etc, forward the nomination to the Keeper, along with comments received.</p> <p><b>CFR 60.6(o)</b> – SHPO signs the nomination to certify that procedural requirements are met; nomination is adequately documented; nomination is technically and professionally correct and sufficient; and property meets National Register criteria.</p> <p><b>CFR 60.6(u)</b> – SHPO informs property owners and chief elected official when properties are listed in the National Register.</p> | <p>significance and eligibility are limited or not existent, and are not provided to the State Review Board.</p> <ul style="list-style-type: none"> <li>• State Review Board lacks sufficient information to perform is mandated responsibilities.</li> </ul> |
|---|---|

Adequate notification is consistently given to property owners prior to the Review Board meetings.

The nomination forms examined by the review team contained few review notes from SHPD qualified professional staff, and no comments or recommendations from the SHPD professional staff to the Review Board. Consequently, the State Review Board has been placed in a position of not receiving sufficient information to make informed decisions according to National Register criteria, policies, standards, and guidelines.

In the sampling of nominations to be forwarded to the Review Board for consideration, several properties were not eligible for listing in the National Register, based on the documentation included in the nomination forms.

While the SHPD provides advance copies of National Register nominations to the Review Board, members interviewed stated that their review comments have not been encouraged or have been disregarded by SHPD staff. Interviews with Review Board members also indicated comments on nominations returned to the SHPD by the NPS’s National Register of Historic Places are not routinely shared with the Board.

### 6.I.2.f. – Public Assistance in Nominating Properties

| Requirement  | Findings |
|--|----------|
| States must assist the public and private sector in nominating properties to the National Register |          |

Frequently, National Register nominations forms submitted to the SHPD are prepared by either professional consultants or graduate students at the University of Hawaii. The preparation of National Register nominations by students should be encouraged, and serves as good academic training. It is apparent, however, that the students preparing these nominations do not yet have sufficient academic training. For example, nominations do not consistently appear to include documentation on the historic landscape elements such as fences, roads, plantings, etc., that are planned elements of the properties and should be documented and considered contributing resources. Nominations such as these should be returned to the preparer with SHPD comments and direction.

#### General

The team was not shown any kind of tracking mechanism to monitor or follow up on nominations received for listing in the State or National Registers. In the past year the SHPD has hired staff to oversee the National and State Register programs. The NPS team worked with this staff member and was encouraged by steps he has taken to organize register files and develop review procedures. With the proper training and supervision, his oversight promises to substantially improve this program area.

### MANDATED CORRECTIVE ACTIONS

**MCA-NR-1. Documented Review Procedures.** SHPD must develop and implement written review procedures to document decisions and recommendations for National Register nominations. These procedures must ensure that when an evaluation of a property is made, applicable National Register criteria are clearly identified, a statement explaining the significance or non-significance of the property is fully documented, and that the review was conducted by staff meeting the appropriate Professional Qualification Standards. **Guidance is available in the National Register Bulletin, *Policies and Procedures for Processing National Register Nominations*, available on-line at [www.nps.gov/history/nr/publications/bulletins/nrb19/](http://www.nps.gov/history/nr/publications/bulletins/nrb19/).**

**MCA-NR-2. National Register Tracking Logs.** SHPD must develop and implement written standard National Register review procedures and tracking logs that meet statutory and regulatory requirements for the National Register Program Area. SHPD should initiate a system to track the review and listing status of all incoming National Register Nominations.

**MCA-NR-3.** Initiate annual training in National Register procedures for State Review Board. **Each Review Board member should be given a hard copy, or the web address, for the *Manual for State Historic Preservation Review Boards*, available on-line only at [www.np.gov/history/hr/publications/bulletins/strevman/](http://www.np.gov/history/hr/publications/bulletins/strevman/).**

## **RECOMMENDATIONS**

**Recommendation-NR-1. Integrate National Register Data with Complementary HPF Program Areas.** Procedures should be developed to incorporate new data derived from Survey and Inventory and Review and Compliance program elements in order to operate a dynamic and flexible set of historic contexts, preservation criteria, and goals and priorities for National Register nominations.

**Recommendation-NR-2. Promotion of National Register Program.** Greater efforts should be made to promote the National Register process. Consideration should be given to undertaking a comprehensive look at ways that the SHPD can promote interest, cooperation, and involvement of preservation partners, CLGs, and the public in the National Register process.

**Recommendation-NR-3. National Register Training.** Develop a National Register training module for University students submitting National Register Nominations.

**Recommendation-NR-4. Encourage Listing of Native Hawaiian and Archeological Resources.** Collaborate with educational institutions and Native Hawaiian Organizations to increase the number of Native Hawaiian cultural and archeological sites listed in the National Register.

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# **LOCAL GOVERNMENT CERTIFICATION PROGRAM AREA**

The Certified Local Government (CLG) program area includes activity directly pertinent to the assistance and leadership of the State in developing local historic preservation programs, assisting local government to become certified pursuant to the Act, monitoring and evaluating implementation of Certified Local Government program delivery, and monitoring and evaluating CLG performance under subgrants.

## **Program Requirements**

### **National Historic Preservation Act**

Section 101(b)(3)(h) of the National Historic Preservation Act, as amended, requires a SHPO cooperate with local governments in the development of local historic preservation programs and assist local governments in becoming certified.

Section 101(c) requires that a SHPO provide a mechanism for the certification by the State Historic Preservation Officer of local governments to carry out the purposes of the Act.

Section 103(c) requires that a minimum of 10% of the annual apportionment distributed by the Secretary to each State for the purposes of carrying out the Act be transferred by the SHPO to certified local governments.

### **36 CFR 61, Procedures for State, Tribal, and Local Government Historic Preservation Programs**

This section of the CFR outlines additional responsibilities of the State. Specifically, 36 CFR 61(6)(e)(2)(iv) requires that a SHPO must make available to each Commission orientation materials and training designed to provide a working knowledge of the roles and operations of Federal, State, and local historic preservation programs, and historic preservation in general.

### **Chapter 6, Section I of the Historic Preservation Fund Grants Manual**

#### **National Register Program Requirements (6.I.2)**

- 6.I.2a All activities in the Program Area must meet the Secretary's Standards for Evaluation and Registration.
- 6.I.2.b Annually, the State must nominate eligible resources to the National Register of Historic Places.
- 6.I.2.c A reasonable percentage of nominations must be derived from State-conducted surveys.
- 6.I.2.d Nominated properties must meet the National Register Criteria for Evaluation, and must be documented according to National Register standards: (1) for substantive documentation and analysis in the description of properties and in the justification of the properties' significance and (2) technical documentation. A State must demonstrate a comprehensiveness of resources in its nomination of properties.
- 6.I.2.e The State's nomination procedures must comply with the requirements of the National Historic Preservation Act and with National Register regulations (36 CFR 60).

- 6.I.2.f States must assist the public and private sector in nominating historic properties to the National Register of Historic Places. States must document that HPF-funded nominations and nominations used as nonfederal matching share must be conducted, prepared, reviewed, or verified by persons from the appropriate disciplines who meet the requirements for the “Secretary of the Interior’s Historic Preservation Qualifications.”

**Chapter 6, Section C – additional requirements applicable to the National Register Program Area require that the National Register Criteria for Evaluation be applied consistently:**

- 6.C.6.a The eligibility review must be adequately documented.
- 6.C.6.b Opinions Must Be Based On Minimum Documentation. States must ensure that at least the minimum level of documentation is the basis for all responses to Federal agency requests (i.e., opinions that the property is eligible, that it is not eligible, or that there is not sufficient information to determine National Register eligibility). The necessary amount of documentation for an evaluation will vary depending upon the situation.

**Chapter 9, Section I of the Historic Preservation Fund Grants Manual  
National Register Program Requirements (6.I.2)**

- 9.G The State reviews and processes Certification Applications, Requests for Decertification, and amendments to Certification Agreements in accordance with the Act and 36 CFR 61.
- 9.D Governments are certified when the SHPO and the Secretary certify that the local government has agreed to, in accordance with the Act and 36 CFR 61:
- a. Enforce Appropriate State or Local legislation for the Designation and Protection of Historic Properties
  - b. Establish an Adequate and Qualified Historic Preservation Review Commission by State or Local legislation.
  - c. Maintain a System for the Survey and Inventory of Properties that Furthers the Purposes of the Act.
  - d. Provide for Adequate Public Participation in the Local Historic Preservation Program.
  - e. Satisfactorily Perform the Responsibilities Delegated to it Under the Act
- 9.J The State includes CLGs in the National Register Nomination process for Nominations within local government jurisdictions.
- 9.L
1. The State evaluates its CLGs at least once every four years in a manner consistent with 36 CFR 61 and NPS-approved State CLG procedures and Chapter 9, HPF grants manual.
  2. States shall establish written procedures and standards to evaluate CLG performance in program operation and administration. Performance standards and procedures must be included in the Certification Agreement, or referenced therein. These standards and procedures must be made available to local governments at the time of application for certification. The procedures and standards for evaluating CLG performance should include elements such as quantity, quality, and timeliness.
  3. The SHPO shall maintain written records for all CLG evaluations. States may define the format of the evaluation report/records.
- 9.I The State provides orientation and training designed to provide a working knowledge of

the roles and operations of Federal, State, and local preservation programs, in accordance with 36CFR 61.(e)(2)(iv), and should encourage CLG's to adopt the appropriate Secretary of the Interior's "Standards for Archeology and Historic Preservation" relevant to their activities.

- 9.K The State must pass through at least 10% of its HPF grant allocation to the CLGs for project activities based on the priorities of the State Plan.

**FINDINGS - Certified Local Government Program Area:**

9.K – HPF Pass-Through to Certified Local Governments

| Requirement  | Findings  |
|--|---|
| The SHPO must transfer a minimum of 10 percent of the State's annual apportionment of HPF funds to CLGs for HPF eligible activities. | HPF funds successfully passed through to CLGs in FY 2008 and 2009. This requirement has been met. |

The HI SHPD currently has two CLGs, Maui and Kauai. FY 2008 was the first time in three years that the HI SHPD successfully passed through the required 10% of HPF funds to CLGs. In the previous three years, the HI SHPD missed the deadline to obligate CLG funds. In those years NPS was therefore required to recapture 10% of the HPF funds awarded to the SHPD.

9.L – Evaluation of Certified Local Governments

| Requirement  | Findings                               |
|--|--|
| The SHPO shall monitor and conduct periodic evaluations of CLGs. | SHPO does not currently evaluate CLGs. |

HI SHPD has not completed the required evaluations of CLGs in Hawaii for at least five years. It was evident through staff interviews that SHPD professional and administrative staff were unaware of this requirement.

9.I – Training for Certified Local Governments

| Requirement | Findings |
|-------------|----------|
|-------------|----------|

|   |   |
|---|---|
| <p>The SHPO shall provide orientation materials and training in accordance with local needs to CLGs. The orientation and training shall be designed to provide public information, education and training, and technical assistance in historic preservation.</p> | <p>SHPO has initiated recent on-site trainings to CLGs. Consultation between CLGs and SHPOs on the development of HPF-funded projects should be more closely coordinated.</p> |
|---|---|

The team found little evidence of consultation between the Maui CLG, the Maui SHPD field office, and the SHPD Oahu office in the development of CLG projects. There was no evidence that the Oahu SHPD office forwards project application information to the Maui SHPD for review, potentially resulting in unnecessary project activities. The Maui HI SHPD field office staff informed the team that in the past there have been areas surveyed under CLG projects that were already covered in the State inventory. To avoid duplication of effort, the Maui SHPD expressed interest in reviewing CLG project applications as well as draft products produced by the Maui CLG.

Program training was provided to both CLGs by the Management Assistant, Financial Manager, and NPS. Both of the CLGs expressed appreciation and gratitude for the site visit.

Hawaii County expressed an interest in becoming a CLG and sent a letter to HI SHPD requesting assistance. The Hilo SHPD expressed an interest in working with Hawaii County concerning local ordinances, and offered to provide technical assistance to assist Hawaii County in obtaining certification as a CLG.

The Maui CLG has demonstrated competent efforts to protect and preserve cultural resources on Maui, in spite of elevated development, heightened demolition, loss of wooden structures due to termites and the upsurge of real estate costs. The Maui CLG has placed priority on endangered and rare projects, and Historic American Buildings Survey/Historic American Engineering Record (HABS/HAER) projects have been initiated and carried out to document these resources. The Maui CLG should be commended for its efforts to safeguard resources in the face of threatened development.

**MANDATED CORRECTIVE ACTIONS**

**MCA-CLG-1:** SHPD must follow the existing Hawaii CLG Procedures Manual and notify Maui and Kauai CLGs that SHPD will evaluate CLG operations in 2011. CLG's must be notified of procedures and standards that will be used to evaluate their performance in program operation and administration. CLGs must be notified in writing of evaluation results. The NPS should be copied on notification to CLG's of upcoming evaluations, and on the results of these evaluations.

## **RECOMMENDATIONS**

**Recommendation-CLG-1:** SHPD will support (Big Island) Hawaii in taking steps towards Certification.

**Recommendation-CLG-2:** SHPD should revise and update CLG procedures in consultation with current Maui and Kauai CLGs.

**Recommendation-CLG-3:** SHPD should use management procedures and guidelines provided by NPS to ensure all work is performed in accordance with Secretary's Standards and meets government-wide and program specific requirements for project management.

# HISTORIC PRESERVATION PLANNING PROGRAM

Preparing and implementing a comprehensive statewide historic preservation is one of the State Historic Preservation Officer's responsibilities under the National Historic Preservation Act [§101(b)(3)(C)]. Additional requirements are found in 36 CFR 61.4(b)(1); Chapter 6, Section G of the *Historic Preservation Fund Grants Manual*, and the Secretary of the Interior's Standards and Guidelines for Preservation Planning. The Historic Preservation Planning Program includes those State activities related to fulfilling this responsibility. It is also worth noting that among the State legislated mandates of the Hawaii State Historic Preservation Division is the "preparation, review, and revisions of a state historic preservation plan, including budget requirements and land use recommendations" [Hawaii Revised Statutes, Chapter 6E, Part 1, Section 6E-3].

Statewide historic preservation planning is the rational, systematic process by which the State Historic Preservation Office (SHPO), with the active participation of stakeholders and the general public, develops a vision and goals for historic preservation throughout the State, so that effective and efficient preservation decisions and/or recommendations can be made. The SHPO seeks to achieve that vision through its own actions and through influencing the actions of others. The vision and goals are based on analyses of resource data and user needs. The Secretary of the Interior's Standards and Guidelines for Preservation Planning provide additional explanation on how SHPO responsibilities for Historic Preservation Planning can, in part, be carried out.

## **PROGRAM REQUIREMENTS**

### **National Historic Preservation Act, as amended, §101(b)(3)(C)**

*It shall be the responsibility of the State Historic Preservation Officer to administer the State Historic Preservation Program and to – ...prepare and implement a comprehensive statewide historic preservation plan.*

### **Procedures for State, Tribal, and Local Government Historic Preservation Programs, 36 CFR 61.4(b)(1)**

*The SHPO must carry out a historic preservation planning process that includes the development and implementation of a comprehensive statewide historic preservation plan that provides guidance for effective decision-making about historic property preservation throughout the State.*

### **Chapter 6, Section G of the *Historic Preservation Fund Grants Manual***

#### **Historic Preservation Planning Program Requirements (6.G.2.) – Summary** (see Appendix PP-2 for complete text)

- 6.G.2.a** Each SHPO shall develop a Comprehensive Statewide Historic Preservation Planning Process that:
- (1) Meets the circumstances of each State;
  - (2) Achieves broad-based public and professional involvement throughout the State;
  - (3) Considers issues affecting the broad spectrum of historic and cultural resources within the State;
  - (4) Is based on the analysis of resource data and user needs;

- (5) Encourages the consideration of historic preservation concerns within broader planning environments at the Federal, State, and local levels; and
  - (6) Is implemented by SHPO operations.
- 6.G.2.b.** Each SHPO shall develop and update a Statewide Historic Preservation Plan (hereafter State Plan) that describes a vision for historic preservation in the State as a whole and outlines future direction for the SHPO.
- 6.G.2.b.1)** The State Plan shall be a single, concise, printed document.
  - 6.G.2.b.2)** The State Plan shall be developed in such a way as to encourage Statewide public and professional involvement...
  - 6.G.2.b.3)** The State Plan shall address, at a general level, the full range of historic resources within the State, including buildings, structures, sites, objects, districts, and sites, including prehistoric and historical archaeology.
  - 6.G.2.b.4)** The State Plan shall contain, at a minimum, the following elements or sections:
    - a) summary of how the State Plan was developed, including...how the public participated;
    - b) summary assessment of the full range of historic and cultural resources throughout the State, including current important issues..., threats, and opportunities...;
    - c) guidance for the management of historic and cultural resources..., such as...goals [and] objectives;
    - d) the time frame of the State Plan (or “planning cycle”)...;
    - e) a bibliography of ...support documents used in preparing the State Plan.
  - 6.G.2.c.1)** A completed final draft State Plan must be submitted to NPS for approval....
  - 6.G.2.d.1)** When the State Plan...is revised at the conclusion of its planning cycle, NPS views this revised State Plan as a new document that must meet the requirements of this section and approved by NPS.
  - 6.G.2.d.2)** An approved revised State Plan must be in place at the expiration of the original Plan’s planning cycle...
  - 6.G.2.d.3)** If a State Plan’s planning cycle ends without an approved revised State Plan, the consequences will be the same as if the revised Plan was denied approval – additional grant application materials are required (*HPF Grants Manual* Chapter 7, Section C.1.j and C.i.k.) and the NPS may take additional administrative action (see *HPF Grants Manual* Chapter 25, Section E, Overdue or Unacceptable Reports).
  - 6.G.2.f.** Each SHPO shall ensure that, in general, HPF expenditures and matching share are used to implement the State Plan...

## **FINDINGS – Historic Preservation Planning Program Area**

### **Background and Status of the Preservation Planning Program**

At the time of the NPS team’s site visit in July 2009, Hawaii had an approved Statewide Historic Preservation Plan. This Plan had been approved by the NPS on December 14, 2001 as meeting the

requirements for statewide historic preservation plans outlined in the *HPF Grants Manual* (see excerpt above and in Appendix PP-2). The planning cycle for this Plan was five years, from 2002 to 2006. This Plan was a revision of the 1991 State Functional Plan for Historic Preservation, which was developed in accordance with State law (Chapter 226, Hawaii Revised Statutes), and approved on by the NPS on August 18, 1995, as meeting the requirements for statewide historic preservation plans outlined in *The National Register Programs Guideline (NPS-49)* (now called the *HPF Grants Manual*).

Hawaii's approved State Plan was due for revision in 2006, with the final draft revised Plan to be submitted for NPS review and approval no later than December 31, 2006. On October 6, 2006, however, then-SHPD Administrator Ms. Melanie Chinen informed NPS that Hawaii was extending the planning cycle of the 2001 State Plan to September 30, 2007, and requested that NPS retain the approval status of this Plan for that extended period, to which NPS agreed on October 19, 2006.

By September 30, 2007, the end of the extended planning cycle, HI SHPD had not submitted a final draft revised State Plan for NPS review and approval. This meant that, as of October 1, 2007, Hawaii did not have an approved State Plan [Chapter 6, Section G.2.d.3)]. In early October 2007, SHPD staff Mr. Tim Lee contacted NPS WASO Preservation Planning Program for guidance on revising the State Plan, and technical assistance was provided. The timing of this inquiry suggested that little to no progress had been made on revising the Plan.

In late December 2007, SHPD Architecture Branch chief Mr. Bryan Flower contacted NPS WASO Preservation Planning Program and indicated that a planning cycle extension was needed in order to revise the Plan. On February 5, 2008, Ms. Laura Thielen, Hawaii SHPO, informed NPS WASO Preservation Planning Program by letter that the planning cycle for the State Plan was being extended to September 30, 2009, and requested that NPS retain the approval status of this Plan for that extended period, to which NPS agreed on February 13, 2008.

### **Progress in Plan Revision**

Several important Plan revision activities took place during January and February 2008.

- Ms. Holly McEldowney (former Acting SHPD Administrator, then with Hawaii State Parks) was assigned to lead the plan revision effort.
- She had numerous e-mail and telephone conversations with Ms. Sue Renaud, NPS WASO Preservation Planning Program, on various planning issues, and it was clear that she had a solid understanding of the Program requirements, as well as the strategies and efforts needed to revise the State Plan.
- A five-member Plan Revision Steering Committee was established and met at least three times to discuss a range of topics that suggested a high level of commitment to ensuring completion of the Plan revision, such as State Plan requirements, level of effort issues, compilation of background information, Plan document organization, anticipated public and professional participation, funding needs, Plan revision schedule, seeking advice from the Historic Places Review Board, CLG participation, other potential participants, public outreach, and a preliminary discussion of preservation issues.

At some point between February and November 2008, however, this Plan revision effort stalled.

Efforts resumed during November and December 2008, with the assistance of Ms. Paula Creech, NPS WASO, then in Hawaii on a detail assignment to provide on-site technical assistance to SHPD. The

following activities were accomplished:

- Ms. McEldowney prepared and delivered a PowerPoint presentation to various groups, including the Historic Places Review Board and CLGs, and has received positive feedback and interest in participating in the Plan revision.
- Ms. Renaud provided additional technical assistance, including examples of SHPO public opinion questionnaires and developed a planning guide tailored specifically for the SHPD.
- Ms. McEldowney prepared a draft Plan revision time-line with activities and a schedule to ensure the completion of the Plan revision and the submission of the final draft revised Plan to NPS by September 30, 2009. NPS provided comments on the time-line to clarify various points.

In January 2009, however, a new Plan advisory group, the State Plan Committee, was established, with a larger membership than the previous committee, drawn from major stakeholder groups, such as the Society for Hawaiian Archaeology, Office of Hawaiian Affairs, Historic Hawaii Foundation, Friends of SHPD, the consulting industry (Mason Architects and Kaimipono Consulting), Federal agencies (National Oceanic and Atmospheric Administration), University of Hawaii-Manoa Historic Preservation Program, National Trust for Historic Preservation, and Native Hawaiian groups.

This committee has been meeting fairly consistently every two weeks since February 25, 2009, to discuss various issues related to revising the State Plan. Committee members have been very dedicated and actively involved in the Plan revision process, including researching and writing draft sections of the revised Plan, reviewing and discussing revisions to draft text, and providing input and guidance to SHPD on approaches for revising the Plan, such as developing the public opinion questionnaire and holding public meetings. The committee continued to meet at least through early August 2009, and meetings were scheduled into January 2010. Committee members' commitment and high level of effort in helping SHPD revise the State Plan is impressive and commendable.

In early March 2009, Ms. Pua Aiu, SHPD Administrator, informed Ms. Renaud that she would now be responsible for revising the State Plan. An updated Plan revision time-line was prepared by Ms. Creech and Ms. McEldowney, and shared with NPS and the State Plan Committee.

On May 22, 2009, SHPD posted a public opinion questionnaire on the SurveyMonkey web site, and Ms. Aiu sent an e-mail to Committee members inviting them to share the announcement with their organizations. Historic Hawaii Foundation posted a feature item on its web site with a link to SurveyMonkey on May 26, 2009. By June 16, 256 respondents had completed the questionnaire. This is a fairly good response, although it should not be considered representative of the breadth of viewpoints that the revised State Plan should address, especially Native Hawaiian perspectives, because the availability of the questionnaire was not widely announced.

During July and August 2009, the State Plan Committee continued work on the draft revised Plan and providing feedback to Ms. Aiu in organizing the public and stakeholder meetings and arranging a contract for a meeting facilitator.

On August 7, the draft goals, objectives and the outline of the revised State Plan were posted on SHPD's web site for public review, but it is uncertain how its availability was, or will be, announced.

At its August 8 meeting, the Historic Places Review Board was given a briefing on the Plan revision by the Deputy SHPO (Ms. Nancy McMahon) and two State Plan Committee members, and received copies of the draft revised Plan with the invitation to provide comments. The meeting's agenda was lengthy, so

there was no discussion about the revised Plan.

State Plan Committee meetings scheduled for August were cancelled, and it seems apparent that its meetings for September, October, and early November were also cancelled since there had been little progress on getting the facilitator contract approved. This is unfortunate because the Committee could have been working on other Plan revision activities, such as identification of issues, summarizing information about historic and cultural resources, organizing public and/or stakeholder meetings as co-sponsors, or identifying other volunteers to work on revising the Plan.

On November 13, 2009, Ms. Aiu sent an e-mail update on the Plan revision process to the State Plan Committee, stating that “we are in a holding pattern” due to the lack of progress in getting approval on the contract for a public meeting facilitator. This suggests that the Committee has not been meeting during September, October, and November. She reported SHPD is looking into alternative ways for holding the public meetings, and that SHPD has “presented the outline of the State Plan” to the following groups:

- Society for Hawaiian Archaeology
- Oahu Island Burial Council – November 10, 2009
- Kauai Island Burial Council – November 12, 2009
- Association of Hawaiian civic clubs

By December 2009, the SHPO reported that the Plan revision effort “has been stalled,” largely due to “the state’s severe budget shortfall” (December 4, 2009 letter from Ms. Laura Thielen, SHPO, to Mr. Hampton Tucker, Chief, Historic Preservation Grants Division, NPS). The SHPO expects to use other means to hold public meetings and complete the Plan revision by the submission due date of April 1, 2010.

### **Challenges and Deficiencies in the Preservation Planning Program**

While there has been progress in revising the State Plan since 2006, this progress has been slow and disjointed, with lots of work remaining. It should not take three years to revise a State Plan – one year is typically adequate for most SHPOs.

In Hawaii’s case, however, SHPD faces many difficult challenges in carrying out all of its HPF program mandates, including the following:

- Frequent and heavy staff turn-over for several years – ten years ago SHPD had a staff of 25 (not including the SHPO, Deputy, and Administrator); by mid-2009, SHPD has 11 staff;
- Frequent turn-over in management, with associated disruptions in SHPD procedures and operations;
- Budget limitations, hiring freeze, and imminent staff layoffs;
- Marked increase in Federal and State project review workload and a large review backlog; and

SHPD has been making a valiant effort to revise the State Plan while coping with these and other challenges, but this effort has not been as successful as might be expected. Revising the State Plan provides an excellent opportunity, should SHPD managers chose to take advantage of it, to re-engage their stakeholders and the public, to reestablish relationships with the historic preservation, cultural resource management, and Native Hawaiian communities, and to strengthen the statewide historic preservation program. Unfortunately, it does not seem that SHPD managers have been willing or able to take advantage of this opportunity.

A respondent to the survey of public opinion on SHPD stated it well (with a little paraphrasing):

*This is the time for kokua, working together. It must begin with a full vetting of important issues...*

*Then appropriate plans can be developed and actions designed to properly address identified issues. Our communities have great wisdom and skills – we must be engaged in the process to improve the protection of our Hawaiian heritage.*

**Plan Revision Deficiencies**

The work that has been accomplished to date on revising the State Plan is adequate, but more should have been accomplished during the past three years. There is much additional work to be completed in order to meet the requirements for statewide historic preservation plans outlined in the *HPF Grants Manual* (see above).

Deficiencies identified to date and work that still needs to be done include:

**6.G.2.a. – Planning Process**

| Requirement   | Findings   |
|---|--|
| <p>Each SHPO shall develop a Preservation Planning process that:</p> <ul style="list-style-type: none"> <li>(1) Meets the circumstances of each State;</li> <li>(2) Achieves broad-based public and professional involvement;</li> <li>(3) Considers issues affecting the broad spectrum of historic and cultural resources;</li> <li>(4) Is based on analysis of resource data and user needs;</li> <li>(5) Considers preservation concerns within broader planning environments;</li> <li>(6) Is implemented by SHPO operations.</li> </ul> | <p>There is no up-to-date planning process that meets this requirement. The March 3 Time-Line and the “Planning Guide for Hawaii” are not being used to guide the plan revision process.</p> <p>Plan revision efforts do not follow a typical planning process, such as that outlined in the “Planning Guide for Hawaii,” and an alternate process has not been developed.</p> |

A planning process was, in a general sense, outlined in the Plan Revision Time-Line dated March 3, 2009, but it did not contain the level of detail to document that it meets this requirement.

This time-line has not been updated since then, despite repeated requests, as well as the requirement that a timeline be developed (see letter of March 4, 2009, to Ms. Laura Thielen, SHPO, from the NPS Associate Director, Cultural Resources, and the May 6, 2009 and June 5, 2009 e-mails from Ms. Renaud to Ms. Thielen, Ms. Aiu, and Ms. McMahan, containing specifications for updating the existing time-line). During the NPS team’s site visit, SHPD committed to submitting a preliminary detailed Plan revision time-line no later than July 31, 2009 (a date suggested by Ms. Aiu). This updated time-line was not submitted then, and has not been submitted at the time of this writing.

The guidance that NPS developed specifically for SHPD, “Planning Guide for Hawaii,” outlined and explained a typical planning process, yet SHPD decided not to use it, or to share it with the State Plan Committee. Following the process described in this Guide is not a program requirement, although most States have followed a process like this, and Hawaii should feel free to develop a Plan revision process that meets its circumstances and capabilities.

**6.G.2.b. – Statewide Preservation Plan**

| <b>Requirement</b>   | <b>Findings</b>  |
|--|--|
| Each SHPO shall develop and update a Statewide Preservation Plan that describes a vision for historic preservation in the State and outlines a direction for the SHPO. | Vision and mission statements have been drafted; if they are organizational vision and mission statements for SHPD, they do not meet this requirement. |

Typically, vision and mission statements are among the first elements of a Plan to be produced. Hawaii’s draft vision and mission statements have apparently been derived from purposes in the State law establishing the SHPD. This is reasonable, as long as these statements do not present a SHPD-focused organizational vision and mission, which would not meet the requirements for statewide historic preservation plans outlined in Chapter 6.G.2.b. of the *HPF Grants Manual*. Stakeholders and the public must be given the opportunity to comment on the draft vision and mission statements.

| <b>Requirement</b>   | <b>Findings</b>   |
|--|---|
| <b>6.G.2.b.1)</b> The Plan is a single, concise, printed document. | The revised Plan has not yet been drafted, but NPS expects that it will meet this requirement, based on preliminary drafts that have already been produced. |

Plan revision efforts to date have only produced vision and mission statements and the goals and objectives, and preliminary drafts of a few other Plan sections.

The draft revised Plan posted on SHPD’s web site and presented to the Historic Places Review Board in August, and to the Oahu Burial Council and the Kauai Burial Council in November, only contains text of the vision and mission statements, and goals and objectives, with an outline of the other sections of the Plan. Draft text for some of these sections that had been developed by State Plan Committee members was not included, which meant the Board and Council members lacked information that could have helped them understand the broader context for the vision, mission, goal, and objective language.

| <b>Requirement</b>  | <b>Findings</b>   |
|---|---|
| <b>6.G.2.b.2)</b> The Plan shall be developed to encourage Statewide public and professional involvement. | <p>This requirement is not yet met, although efforts are under way.</p> <p>Active participation by Native Hawaiian organizations, the Historic Places Review Board, the Island Burial Councils, and other stakeholders is essential, and has not yet taken place.</p> <p>A State Plan Committee has met regularly and members have worked hard on various topics related to revising the Plan.</p> <p>An on-line public opinion survey has been completed, and steps are being taken to meet with</p> |

|  |   |
|--|---|
|  | other organizations to discuss issues related to revising the Plan. |
|--|---|

Public and stakeholder participation is essential – the State Plan Committee and the public questionnaire alone are not sufficient to meet the requirements in the *HPF Grants Manual*. There have been no public meetings or meetings with stakeholders, although representatives of some stakeholders are members of the State Plan Committee. Because issues associated with historic preservation and Native Hawaiian concerns can be controversial and contentious, having a facilitator organize and run these meetings will be a key factor in making sure the public and stakeholders have the opportunity to share their views and have their voices heard. This effort, if there is a strong commitment to and support for carrying it out, will have far-reaching benefits, beyond the revised Plan itself, in re-establishing good relationships between SHPD and its stakeholders.

During the NPS team’s site visit, the State Plan Committee discussed holding public meetings and obtaining the services of a facilitator. Ms. Renaud also discussed with Ms. Aiu the need to schedule meetings with a variety of stakeholders.

SHPD briefed the Historic Places Review Board on the State Plan revision at its August 2009 meeting, and in October and November SHPD briefed the Society for Hawaiian Archaeology, Oahu Island Burial Council, Kauai Island Burial Council, and the Association of Hawaiian civic clubs.

During August and September, Ms. Aiu completed the paperwork to obtain a contract for facilitator services at a cost of \$76,130. Unfortunately, with the current budget situation, it does not seem likely this contract request will be approved. In early October and mid-November, Ms. Aiu communicated with State Plan Committee members that she is exploring other options, including taking advantage of other meetings where they can engage the public and stakeholders.

Additional deficiencies related to public participation include:

**Lack of SHPD Staff Involvement.** The only SHPD staff involved in the Plan revision effort are the Administrator and the Deputy SHPO, yet one staff member has a Ph.D. in urban planning with a Historic Preservation Certificate from the University of Hawaii. All staff should be involved in revising the Plan, not only because their expertise and insights will make valuable contributions, but also because they will be asked to help implement it once it is approved.

**Inadequate Historic Places Review Board Involvement.** The Review Board has apparently not been involved in the Plan revision effort, except for a briefing at the Board’s August 8 meeting, where SHPD staff invited the Board’s comments. According to the Review Board meeting minutes, this briefing did not involve any substantive discussion of preservation issues. Island Burial Councils have also not been involved, until the November 10 and 12, 2009, SHPD presentations to the Oahu and Kauai Burial Council meetings. Board and council members, by virtue of their willingness to serve and being appointed to these positions, are very committed to Hawaii’s heritage and their perspectives and involvement will make excellent contributions to the plan revision effort.

**Lack of Native Hawaiian Perspectives.** The draft text of the revised Plan contains little context that is unique to Hawaii, except the State name. Apparently SHPD has taken Washington State’s Plan and made minor changes to apply it to Hawaii. Although it can be very helpful to look at a number of State Plans for useful ideas, it is never a good idea to copy another State’s Plan verbatim, changing little but the State

name. A State Plan must respond to the needs and circumstances of each State, and what works for one State will not necessarily work for another. The Plan must contain considerably more information about Native Hawaiian issues and concerns, including burials, and Native Hawaiian groups must be invited to participate in the Plan revision effort.

| Requirement   | Findings  |
|---|---|
| <p><b>6.G.2.b.2)</b> The Plan shall address the full range of historic resources in the State, and</p> <p><b>6.G.2.b.4)b)</b> The Plan shall contain a section that summarizes an assessment of the full range of historic resources, including important issues, threats, and opportunities.</p> | <p>This requirement is not yet met, but some work on this requirement has been done by one or more members of the State Plan Committee.</p> |

The required assessment of resources, issues, threats, and opportunities has received limited attention. State Plan Committee members have volunteered to collect information and identify issues, trends, and success stories, but this effort is incomplete and has not been informed by broader involvement of the preservation community, Native Hawaiians, federal agencies, other stakeholders, and the public. Plan revision work carried out during 2008, under the previous Plan revision project manager and advisory committee, has apparently not been incorporated into the 2009 efforts. In addition, there appears to have been little attempt to identify accomplishments under the 2001 Plan, which is typically a major component in revising a State Plan. Evaluating such accomplishments can help identify successes to be celebrated as well as areas needing additional attention.

| Requirement   | Findings   |
|---|--|
| <p><b>6.G.2.b.4)c)</b> The Plan contains guidance for managing historic and cultural resources throughout the State, such as... goals and objectives.</p> | <p>This requirement is not yet met. Goals and objectives have been drafted, but they were derived from those in Washington State’s Plan. They are not based on broad-based public and professional involvement, consideration of issues affecting historic resources, analysis of resource data and user needs, or an assessment of preservation concerns in the broader planning arena.</p> |

Developing goals and objectives at this point in the planning process, however, is premature. Goals and objectives should be crafted to address issues, threats, and opportunities that have been identified during public and stakeholder meetings, professional analysis of historic and cultural resource needs, and assessment of other factors that affect resource preservation. These activities have not yet taken place, so the goals and objectives that the State Plan Committee has worked so hard to create will eventually need to be revised.

| Requirement   | Findings  |
|---|---|
| <p><b>6.G.2.b.4)a)</b> The Plan contains a summary of how the State Plan was developed, including how the public participated.</p> <p><b>6.G.b.4)d)</b> The Plan identifies the time frame of</p> | <p>These requirements are not yet met, because a complete draft revised Plan has not yet been prepared.</p> |

|   |  |
|---|--|
| the State Plan (or “planning cycle”).               |  |
| <b>6.G.b.4)e)</b> The Plan contains a bibliography. |  |

**6.G.2.c. and 6.G.2.d. NPS Approval of State Plans**

| Requirement  | Findings  |
|--|---|
| <p><b>6.G.2. c.1)</b> A final draft State Plan must be submitted to NPS for approval.</p> <p><b>6.G.2.d.1)</b> A revised State Plan must be submitted to NPS for approval.</p> | <p>These requirements are not yet met, because a complete draft revised Plan has not yet been prepared.</p> |

| Requirement  | Findings   |
|--|--|
| <p><b>6.G.2.d.3)</b> If a State Plan’s planning cycle ends without an approved State Plan, the consequences will be the same as if the revised Plan was denied approval.</p> | <p>The planning cycle for Hawaii’s NPS-approved State Plan expired on September 30, 2009; Hawaii does not currently have an approved State Plan.</p> |

During the NPS team’s site visit, it became clear that SHPD was not going to be able to meet the September 30, 2009, deadline for submitting the final draft revised State Plan to NPS for review and approval. Ms. Renaud and Ms. Aiu agreed to change the date to April 1, 2010 (date suggested by Ms. Aiu) to provide adequate time to carry out the public and stakeholder meetings and incorporate their views in the revised Plan. This change in submission date does not extend the NPS-approval status of the 2001 Plan. As a result of continued budget and staffing restrictions, other urgent SHPD priorities (as discussed in this report), and lack of progress in obtaining approval for a meeting facilitator contract, it is unrealistic to expect that this submission date can be met.

**6.G.2.f. Implementing the Approved State Plan**

| Requirement  | Findings   |
|--|--|
| <p><b>6.G.2.f.</b> Each SHPO shall ensure that...HPF expenditures and matching share are used to implement the State Plan.</p> | <p>Hawaii does not currently have an approved State Plan. Therefore, its HPF Annual Grant Application must contain additional materials as outlined in Chapter 7, Section C.1.j and C.1.k of the <i>HPF Grants Manual</i>.</p> |

**Temporary Re-allocation of Plan Revision Resources.** In order for SHPD to begin making improvements as quickly as possible, the NPS Acting Director recommended in a letter dated September 3, 2009, that the staffing and funding resources devoted to revising the State Plan (e.g., management oversight and the proposed \$76,000 contract for a facilitator) be re-allocated temporarily to Inventory and Review and Compliance Program improvements, and to acquiring the required qualified staff expertise.

This recommendation was made because the need for improvement in these areas is far more critical at

this point than is the need to revise the Plan. In addition, a critical mass of staff that should be assigned to Plan revision activities does not exist at this point.

In addition, given the negative stakeholder and public opinions of SHPD operations that the NPS site visit team heard, NPS believes that it is highly unlikely that a revised Plan produced under current conditions will have the public and stakeholder support necessary to its successful implementation. In fact, none of the stakeholder individuals who met with the NPS team, except for State Plan Committee members, were aware that the State Plan was being revised. Upon learning that this effort was under way, many expressed a lack of confidence that their views would either be sought or addressed in the revised Plan.

Postponing the Plan revision process until improvements have begun in the areas cited, and adequate SHPD funding and staffing resources can be allocated toward its completion, will result in a far better product that will have the support of the public and preservation's stakeholders.

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### **MANDATED CORRECTIVE ACTIONS**

**MCA-PP-1. Postpone Plan revision activities and re-allocate its support resources.** For the reasons cited immediately above, SHPD must postpone Plan revision activities and re-allocate its staff time and funding (such as management oversight and the \$76,000 requested for facilitator services) to support other Mandated Corrective Actions identified for improving the Inventory, Review and Compliance activities, and obtaining necessary qualified staff.

- a. Plan revision activities must be included in Hawaii's HPF Annual Grant Applications for FY 2010, FY 2011, and FY 2012, and the Grant Application must contain additional materials identified in Chapter 7, Section C.1.j and C.1.k, of the *HPF Grants Manual*.
- b. Approximately 6 months after SHPD begins to implement this Corrective Action Plan, or when SHPD can demonstrate that improvements have been made in the Inventory and in Review and Compliance activities, and that qualified staff expertise has been secured, SHPD must submit the written Plan Revision Process to WASO Planning Program for review and approval (see MCA-PP-2).
- c. Consider contracting with a consultant to revise the Plan if SHPD managers and staff are not available to participate actively in the Plan revision effort.

**MCA-PP-2. Develop and follow a clear and explicit Plan Revision Process.** SHPD must develop and follow a written Plan revision process that will produce a final draft revised State Plan that meets the requirements for statewide historic preservation plans outlined in the *HPF Grants Manual*. This written Plan Revision Process must be submitted to NPS WASO Planning Program for review and approval (see MCA-PP-1) before implementing, and must describe the following:

- a. An outline of Hawaii's Plan Revision Process (NPS recommends basing this process on the *Planning Guide for Hawaii*), including a list of steps, description of tasks involved in each step, staff or other personnel assigned to each task, and the schedule, or time frame, for carrying out the tasks and steps.
- b. The Plan Revision Process outline must follow the "Specifications for Updating the Time-Line for Revising Hawaii's Statewide Historic Preservation Plan" sent to SHPD by NPS WASO Preservation Planning Program on May 6, 2009 (Appendix PP-1).

- c. The Plan Revision Process must identify specific milestones, and milestone documents must be submitted to NPS WASO Preservation Planning Program for review in accord with the May 6, 2009 “Specifications.” The milestone dates listed in the “Specifications” are no longer relevant and will need to be changed to reflect the actual schedule of Plan revision activities developed by SHPD for the 18 to 24 months following implementation of this Corrective Action Plan. It is recommended that SHPD contact NPS WASO Preservation Planning Program to discuss the Plan revision schedule.
- d. The Plan Revision Process must specifically describe an active participatory role for Native Hawaiian organizations (see MCA-PP-4, below).
- e. The Plan Revision Process must include a plan for public and stakeholder participation, which will include:
  - Identification of who should be involved in the Plan revision and, therefore, should be invited to participate – for example, see the recommended list in Chapter 6, Section G.2.b.2) third paragraph.
  - Selection of the public participation activities that will be carried out and the techniques that will be used. This will include types or formats of events, and the dates, locations, co-sponsors, staff assigned, publicity, etc. for each event. NPS strongly recommends using the SurveyMonkey questionnaire in the public meetings to broaden the response perspectives.
  - Identification of stakeholder organizations with whom SHPD will meet to discuss issues of concern and opportunities for improving preservation, including date and location for each stakeholder meeting.
  - Guidance on public participation can be found on NPS WASO Preservation Planning Program website at [www.nps.gov/history/hps/pad/plancompan/PublicPartic/index.html](http://www.nps.gov/history/hps/pad/plancompan/PublicPartic/index.html).

**MCA-PP-3. Provide roles for SHPD staff, the Historic Places Review Board, and the Island Burial Councils in the Plan revision effort.**

- a. Consult with the Historic Places Review Board (HPRB), the Island Burial Councils, and the CLG Commissions to identify the role(s) each would like to play in the Plan revision, such as co-sponsoring public meetings, holding work sessions with SHPD to analyze public feedback, advising on draft Plan content, helping identify priorities, and reviewing draft Plan text.
- b. Give serious consideration to giving Mr. Ross Stephenson, Ph.D. in urban planning, a prominent role in revising the State Plan.

**MCA-PP-4. Provide an active role for Native Hawaiian organizations in the Plan revision effort.**

Section 101(b)(6)(C) of the National Historic Preservation Act requires the Hawaii SHPO to consult with Native Hawaiian organizations in carrying out her/his responsibilities under Section 101(b)(3). SHPD must consult with a range of Native Hawaiian organizations to identify the role(s) each would like to play in the Plan revision effort, such as co-sponsoring public meetings (especially for meetings of Native Hawaiian communities), convening stakeholder meetings, identifying critical issues, reviewing draft Plan text, etc.

**MCA-PP-5. Provide multiple opportunities for broad public and stakeholder participation in the Plan revision effort.** SHPD must find innovative techniques for providing a broad range of opportunities for the public and stakeholders to be involved in Plan revision, such as televising or videoconferencing public meetings, webinars, blogs, partnering with other organizations to host meetings,

etc. For more information, see [www.nps.gov/history/hps/pad/plancompan/plancompanion.htm](http://www.nps.gov/history/hps/pad/plancompan/plancompanion.htm).

- a. Recommendation. When Plan revision activities can resume, SHPD should give serious consideration to holding a “Preservation Summit” to kick-start the public participation events. A vigorous and continuous public relations campaign (newspaper, web blogs, tweets, radio, TV, etc) in advance of the “Summit,” real-time reporting while it is occurring, and covering follow-up events, could generate lots of interest in historic preservation and the Plan revision. Perhaps scheduling it during Historic Preservation Week in May 2010 could piggy-back on national preservation events to generate interest.
- b. Recommendation. SHPD should seek a number of co-sponsors for the “Summit” to broaden the base of support, such as the University system, the Bishop Museum, and other organizations that share common interests in preservation and education.
- c. Recommendation. Such a “Summit” could include an eye-catching and thought-provoking agenda, a wide range of “opinion leaders” in the Hawaiian heritage and preservation communities as speakers, identifying “big names” from the national and international scene to deliver keynote addresses on various topics, “break-out” discussion sessions on various topics so speakers and attendees can work on identifying issues and solutions, and concluding the “Summit” with a “call to action” that could be followed by a continuing discussion between preservation and the public in a number of public meetings across Hawaii. The National Alliance of Preservation Commissions (NAPC) holds such an event every other year – NAPC Forum. They would be able to provide details; for more information see [www.uga.edu/napc/](http://www.uga.edu/napc/).
- d. Recommendation. Another outcome of the “Summit” that would be very useful for the Plan revision effort, as well as future preservation activities, could be the re-activation of the Archaeology and Architecture Work Groups to resume their deliberations that had begun work in 2006 (as requested by the Hawaii Legislature SR138/SCR 235), and the establishment of a similar work group on Hawaiian heritage.
- e. Recommendation. To broaden feedback from the public, professionals, and stakeholders, include the public opinion questionnaire in meetings with the public, professionals, and stakeholders (see Maryland’s case study in *Reaching Out, Reaching In* on-line at [www.nps.gov/history/hps/pad/plancompan/PublicPartic/RORHome.html](http://www.nps.gov/history/hps/pad/plancompan/PublicPartic/RORHome.html)).

**MCA-PP-6. Submit the draft revised State Plan to NPS WASO Preservation Planning Program for review and approval.**

- a. No later than 12 months following the NPS approval of the Plan Revision Process (MCA-PP-2), SHPD must submit a preliminary draft revised State Plan to NPS WASO Preservation Planning Program for review and informal comment. This draft can be the same as the draft circulated to the public, professionals, and stakeholders for comment.
- b. No later than two months after receiving informal comments from NPS, SHPD must submit a final draft revised State Plan to NPS WASO Preservation Planning Program for review and approval. This draft must address comments received from the public, professionals, stakeholders, and NPS, as appropriate.
- c. Approximately six to eight months after NPS approves the final draft revised State Plan, SHPD must print the report, distribute it widely, and submit two copies to NPS WASO Preservation Planning Program [per Chapter 6.G.2.c.6) of the *HPF Grants Manual*].

## **RECOMMENDATIONS**

**Recommendation-PP-1. Seek Plan revision best practices and guidance from other SHPOs.** Other SHPOs have found ways for dealing with potential impediments to completing the revised Plan, such as limited budgets and staffing, confrontational audiences, distances needed to travel to reach the breadth of the State's citizens, etc. SHPD must reach out to colleagues for best practices and guidance that may help address challenges it faces in revising the State Plan. Subscribing to the NCSHPO listserv is a convenient and inexpensive way to seek such information.

**Recommendation-PP-2. Seek other sources of personnel and funding to support the Plan revision effort, including public and stakeholder participation.** For example, a facilitator for the public meetings might be obtained from another state agency, a federal agency, or the university. The Hawaii Office of State Planning might have services or sources available to the Plan revision effort. Perhaps the Friends of SHPD would be willing to research potential sources of facilitator services, either volunteer or contract. Grant funding might be available from National Endowment for the Humanities, the National Trust for Historic Preservation, or other sources. Consult with SHPO colleagues for ideas on sources of funding and personnel.

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- Appendix A -- Secretary of the Interior's Standards for Archeology and Historic Preservation
- Appendix B -- Summary of Public Opinion on SHPD Operations
- Appendix C -- Hawaii – Miscellaneous Information
- Appendix D -- Hawaii State Historic Preservation Division Staffing
- Appendix E -- ACHP Policy Statement on the ACHP's Interaction with Native Hawaiian Organizations
- Appendix F -- Native Hawaiian Organizations and the Section 106 Process
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- Appendix NR-3 -- Comments NPS National Register of Historic Places Staff on recent Hawaii National Register Nominations Returned to SHPD for Revision
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# APPENDIX A

## SECRETARY OF THE INTERIOR'S STANDARDS FOR ARCHEOLOGY AND HISTORIC PRESERVATION

The Secretary of the Interior's Standards for Archeology and Historic Preservation are the technical performance standards that SHPD must follow in carrying out its responsibilities under the National Historic Preservation Act, program regulations, and the *HPF Grants Manual* [see 36 CFR 61.3(b) and Chapter 6, Section C.5]. These Standards, with associated Guidelines for each, are available on-line at [http://www.nps.gov/history/local-law/arch\\_stnds\\_0.htm](http://www.nps.gov/history/local-law/arch_stnds_0.htm); the Standards are:

### **Preservation Planning**

- I. Preservation Planning Establishes Historic Contexts.
- II. Preservation Planning Uses Historic Contexts to Develop Goals and Priorities for the Identification, Evaluation, Registration, and Treatment of Historic Properties.
- III. The Results of Preservation Planning are Made Available for Integration into Broader Planning Processes.

### **Identification**

- I. Identification of Historic Properties Is Undertaken to the Degree Required to Make Decisions.
- II. Results of Identification Activities are Integrated into the Preservation Planning Process.
- III. Identification Activities Include Explicit Procedures for Record-Keeping and Information Distribution.

### **Evaluation**

- I. Evaluation of the Significance of Historic Properties Uses Established Criteria.
- II. Evaluation of Significance Applies Criteria Within Historic Contexts.
- III. Evaluation Results in a List or Inventory of Significant Properties That Is Consulted in Assigning Registration and Treatment Priorities.
- IV. Evaluation Results Are Made Available to the Public.

### **Registration**

- I. Registration Is Conducted According to Stated Procedures.
- II. Registration Information Locates, Describes, and Justifies the Significance and Physical Integrity of a Historic Property.
- III. Registration Information Is Accessible to the Public.

### **Historical Documentation**

- I. Historical Documentation Follows a Research Design That Responds to Needs Identified in the Planning Process.
- II. Historical Documentation Employs an Appropriate Methodology to Obtain the Information Required by the Research Design.
- III. The Results of Historical Documentation Are Assessed Against the Research Design and Integrated Into the Planning Process.
- IV. The Results of Historical Documentation are Reported and Made Available to the Public.

### **Architectural and Engineering Documentation**

For additional information, see <http://www.nps.gov/history/hdp/standards/standards.htm>.

- I. Documentation Shall Adequately Explicate and Illustrate What is Significant or Valuable About the Historic Building, Site, Structure, or Object Being Documented.
- II. Documentation Shall be Prepared Accurately From Reliable Sources With Limitations Clearly Stated to Permit Independent Verification of the Information.
- III. Documentation Shall be Prepared on Materials That are Readily Reproducible, Durable, and in Standard Sizes.
- IV. Documentation Shall be Clearly and Concisely Produced.

### **Archeological Documentation**

- I. Archeological Documentation Activities Follow an Explicit Statement of Objectives and Methods That Responds to Needs Identified in the Planning Process.
- II. The Methods and Techniques of Archeological Documentation are Selected to Obtain the Information Required by the Statement of Objectives.
- III. The Results of Archeological Documentation are Assessed Against the Statement of Objectives and Integrated into the Planning Process.
- IV. The Results of Archeological Documentation are Reported and Made Available to the Public.

### **Treatment of Historic Properties**

Standards have been established for each of the following Treatment Types:

Preservation  
Rehabilitation  
Restoration  
Reconstruction

### **Professional Qualifications**

(Historic Preservation) Professional Qualification Standards have been developed for the following disciplines:

History  
Archeology  
Architectural History  
Architecture  
Historic Architecture

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# APPENDIX B

## SUMMARY OF PUBLIC OPINION ON SHPD OPERATIONS

### Background

In preparation for the NPS site team's visit to Hawaii, NPS-Hawaii invited the public to share their opinions about the operations and effectiveness of the Hawaii State Historic Preservation Division. This information request is consistent with NPS authority, acting on behalf of the Secretary of the Interior, to review and approve State historic preservation programs under 36 CFR 61.4(d)(2), which states, "The Secretary may use on-site and/or off-site inquiries to perform such evaluation."

In order to focus public comments, a questionnaire containing seven questions with an option to offer additional remarks was circulated to the Hawaii preservation community. Respondents were not asked to provide their names or other identifying information. A total of 27 questionnaires were returned. All responses were extensive, and most provided additional comments.

### Results

NPS does not consider this a statistically rigorous survey, nor has NPS relied on these responses as the sole "evidence" or "documentation" for findings presented earlier in this report. These responses collectively provide a general sense of public opinion and environment within which SHPD operates.

With near unanimity, the respondents expressed a great deal of long-standing frustration, discontent, and lack of confidence with SHPD operations and SHPD's relationships with the preservation community. Many shared examples to illustrate their concerns. Some respondents recognized that SHPD has faced, and continues to face, major challenges in functioning effectively. A few respondents provided examples of SHPD successes, and many offered suggestions for improvement. Summaries of responses to each question are provided below.

#### **1. What are the major successes and organizational strengths of the Hawaii State Historic Preservation Division?**

Twenty-two respondents stated there were no successes.

Several respondents identified successes and strengths, but qualified their answers by identifying problems. The most common responses were:

- Laws – strong state laws for project review and burial treatment; but implementation and enforcement could be improved.
- Data and inventories – large amounts of data and substantial library of reports, but these are not easily accessible, are not up-to-date, has not been synthesized, and project to scan library documents is incomplete.
- Staff, office organization, State Historic Places Review Board – staff who are respectful of Hawaiian civilization; organizational structure is solid and functional when staff vacancies are filled and the experienced, professional managers and branch chiefs provide leadership.
- Island offices – presence is very important, but often not fully staffed.
- Reburial program – many *kupuna iwi* have been reinterred.

- SHPD was very successful throughout the 1990s, but deteriorated after Administrator Hibbard left.

**2. Are there any impediments in accomplishing the preservation and protection of historic properties, including traditional cultural properties? If so, what are they?**

Respondents identified 13 major impediments with the first four listed receiving the most comments:

- Traditional cultural properties are not fully or adequately addressed, especially when review process is dominated by archaeology; Native Hawaiian experts are generally not involved, tend not to understand the TCP concept, and may distrust the process; lack of or inadequate attention (or disrespect) to Native Hawaiian resources.
- Unqualified SHPD leaders and detrimental management style.
- SHPD lack of knowledge, misunderstanding, and/or disregard for compliance with federal and state preservation laws, leading to violations and lawsuits; lack of knowledge about the local development process.
- Flawed implementation of project review process, including improper reviews of work of developers' "hand-picked" consultants.
- Burial council authority has been minimized and undermined by SHPD; lack of adequate training and staffing.
- Inadequate staffing levels in SHPD and high staff turnover.
- Lack of qualified professionals as SHPD staff and throughout Hawaii generally.
- Lack of funding.
- Lack of political support for SHPD and preservation; on the flip side, perception of inappropriate and excessive political interference in SHPD operations.
- Misunderstanding, lack of awareness, and unrealistic expectations by the public, property owners, developers, etc. of the scope and limits of state laws and SHPD's authority under those laws.
- SHPD lacks proper priorities in planning; does not recognize development review as "the most important priority."
- Inadequate staff training.
- Inability of SHPD staff to locate files, reports, records, etc. on cultural resources.

**3. What suggestions do you have to improve overall HI SHPD operations?**

Respondents offered a wide range of suggestions, which fall into the following 18 categories, with the first four being mentioned the most often:

- Completely overhaul SHPD; secure adequate and experienced staff and leadership, including Hawaiian culture experts and qualified professional archaeologists.
- Replace current SHPD management with qualified preservation professionals; improve work environment so it is supportive and productive.
- Develop SHPD office policy and procedures manual, which should address resolving the review backlog, fee structure, field survey, project review improvements, Burial Program and treatment of burial sites.
- Secure adequate funding.
- Re-organize SHPD to give it autonomy and free it from political interference.
- Systematically address records and information management, project tracking systems, inventory databases, GIS, and public accessibility.

- SHPD must properly enforce and comply with the laws, even if doing so is politically difficult.
- Intensive training is needed for SHPD staff and management on federal and state law, ethics, etc.
- Restore island burial council authorities and assign independent legal counsel.
- Solicit, and give serious and respectful consideration to, Native Hawaiian opinions and concerns in carrying out SHPD responsibilities.
- Improve public and stakeholder expectations of what SHPD can and cannot do.
- Elected officials, politicians, and developers need to recognize and support the importance of SHPD and preservation.
- Federal oversight of SHPD operations.
- Audit SHPD finances to identify and resolve problems.
- Discontinue the practice of developers hiring their own archaeologists.
- Establish avenues for community participation.
- Shift SHPD priorities to development project review.
- Establish a citizen advisory panel with authority to act as liaison between affected descendants and the administration.

**4. Do you feel that all HI SHPD partners work toward shared objectives? Do you feel HI SHPD resources are used effectively? If not, why?**

The general consensus among respondents was that SHPD and its partners do not work toward shared objectives, and that SHPD resources are not used effectively. The following highlights the range of responses:

- No – there is no work toward shared objectives between community, general public, Native Hawaiian culture experts, Society of Hawaiian Archaeologists, and SHPD; SHPD ignores their partners and does not communicate; should share fundamental objectives, but priorities are different, such as those of archaeologists and Native Hawaiians, and the differing expectations on what SHPD can do.
- No – it’s hard to evaluate effectiveness when SHPD is disorganized, dysfunctional, distrustful, disconnected, and unsure of common objectives.
- No – resources are not used effectively; for example, documents, reports, records “disappeared,” are “lost,” and hard to access; historic sites system is not functioning & information is not available on-line; Federal and state funds are not used properly to protect sites.
- All partners want SHPD to improve and want to work toward shared objectives, but SHPD makes it difficult.
- No – resources are not used effectively; for example, the time and resources needed to respond to lawsuits instead of doing the work properly in the first place.
- Yes – there seems to be shared objectives between SHPD and developers and politicians.
- Resources could be better used for highly qualified staff, staff training, setting priorities on development review and burial program where greatest impacts to historic properties occur.
- It’s better now under Laura Thielen, but working toward shared objectives is very difficult.
- Two groups most concerned about Hawaiian sites – archaeologists and Native Hawaiians – have come together as a result of the problems of the last seven years.
- Some staff are very effective, some are not.
- Resources are insufficient, misdirected, not audited, and allocated to the minimum required for legal compliance.

**5. Does communication flow freely or are there communication barriers within the HI SHPD that limit how information flows to the public?**

Respondents generally feel that communication does not flow freely, and offer several possible reasons for this lack of communication.

- There is no communication, including inaccessibility of legally mandated on-line information, and lack of replies to phone calls or e-mails.
- Yes, there are communication barriers, within SHPD and between SHPD and others.
- Very weak to no management communication with staff or support for staff sharing information; the flow of some information is restricted; retribution against staff who do communicate.
- Some staff are very helpful and communicate well.
- SHPD does not communicate or consult with the public, even when required by law.
- Some information was made available only after the involvement of the Hawaii Attorney General's office.
- Staff inability to access their own records, or understand the importance of those records, contributes to unresponsiveness to the public.
- Some lack of communication seems deliberate.
- SHPD fear of being sued may account for lack of communication.
- No problem with communication, but staff workload is overwhelming and morale is very low.
- There is fluid communication with those with money and special interests.
- Some communication reflects a political agenda.
- Communication is difficult, especially when value-laden terms are used (e.g., historic preservation, cultural resource, etc.).

**6. How would you describe morale in the HI SHPD? Do you have recommendations for improvement?**

Consensus among the respondents was that morale is very bad, and a number offered reasons for this and several offered suggestions for improvement.

- Morale is very low/poor/bad, which is not surprising given:
  - the heavy workload
  - decreasing financial and emotional support
  - chaotic workplace with atmosphere of mistrust, fear of retaliation, frustration
  - inadequate numbers of senior experienced staff to provide consistency
  - constant staff turn-over
  - absence of qualified staff
  - departures of staff with integrity
- Its better recently, but it was so bad before, it's hard to tell.
- Morale is so-so; it's starting to improve, but some staff have a terrible attitude, and others are glad to have a job.
- Recommendations for improvement include:
  - Thorough audit of the department
  - Training and funding
  - Full staffing and functioning

- More money will not solve the problem
- Increase desire to preserve resources
- Another wholesale clean-up of SHPD, again
- Governor should commit publicly to support SHPD and provide adequate funding and trained professionals
- Systemic change is necessary, such as moving SHPD to OHA or other entity apart from DLNR

**7. Is there a level of comfort expressing ideas with the HI SHPD leaders? Do you think the HI SHPD leaders communicate openly with the public?**

Respondents generally had no comfort expressing ideas with SHPD leaders, and did not think they communicated openly with the public.

- There is no comfort expressing ideas with SHPD leaders, for the following reasons:
  - They don't want to hear it and disregard consulting parties
  - Information shared with them is misused
  - Complaints are treated with disrespect
  - They are very defensive
- No, they don't communicate openly with the public.
- There's a great deal of distrust with SHPD leaders, especially when issues are resolved through political rather than preservation process.
- Yes, expressing ideas with one SHPD leader.
- Generally, but not sure she'll remember or how she'll convey ideas to others.
- Willing to communicate with the public, but doesn't express herself well or understand preservation concepts.
- Yes, they communicate with the public, but only on issues favorable to them.
- They seem openly reluctant to communicate with the public, especially if they are uneasy with the subject matter, and often respond that there is nothing they can do.
- Yes, expressing ideas under court settlement.

**Optional: Please provide any additional comments that you might have relating to the HI SHPD.**

Many respondents repeated or elaborated on answers to the numbered questions. The expressed continued concern about:

- The need for qualified staff and managers in SHPD.
- The need for more staff.
- Increased accessibility to minutes of Burial Council and Historic Places Review Board meetings, to project review information, and to the SHPD library.
- Actual or perceived conflicts of interest, violations of law, unethical behavior, and misunderstanding of law among SHPD managers and staff.
- Problems in carrying out federal and state project review process.
- Lack of understanding of Native Hawaiian issues.

## APPENDIX C

### HAWAII – MISCELLANEOUS INFORMATION

Compiled 11/20/09

#### LETTERS & E-MAIL

August 7, 2009 – [REDACTED], Chair, Advisory Council on Historic Preservation, letter to Governor Linda Lingle, expressing concern about SHPD's "difficulties in maintaining qualified staff to discharge its responsibilities under Section 106" and offering assistance.

August 7, 2009 – [REDACTED], Chair, Advisory Council on Historic Preservation, letter to Dr. Dorothy Robyn, Deputy Under Secretary of Defense, urging DoD to consider how it might provide assistance to SHPD to support its Section 106 review responsibilities.

August 6, 2009 – [REDACTED] e-mail to Hampton Tucker re: Positive Interaction with SHPD on rehabilitating the Sheraton Waikiki and Royal Hawaiian Hotels.

July 23, 2009 – [REDACTED], President, National Trust for Historic Preservation, letter to Hawaii Governor Linda Lingle, urging her to maintain support of SHPD, "this already seriously underfunded state agency," and cautioning that additional staff cuts could result in loss of HPF funding, which could cause "serious delays" in economic stimulus projects.

May 6, 2009 – Friends of SHPD letter to SHPD re: HPF Grant; urge SHPD to focus on the "much more urgently pressing needs of" identifying and inventorying burials and conducting review & compliance of federal & local projects; which would involve:

- Reinstating, upgrading, & maintaining the GIS
- Restoring, updating, & digitizing the library of inventory reports
- Reinstating required weekly web listings of SHPD reviews, reports, & plans that enable public review and comments
- Redesigning the website to provide information more effectively & to facilitate community involvement.

April 17, 2009 – Nancy McMahon, Deputy SHPO and Historic Preservation Manager, memo to All Permitted Archaeological Consultants, subject: General Comments, Spring 2009; re: recent improvements at SHPD (digitizing documents & library, GIS), status and quality of archaeological work, staff vacancies & need for qualified staff.

July 9, 2007 – Friends of the Burial Sites Program [now Friends of SHPD] letter to Governor Linda Lingle, re: "State Historic Preservation Division Crisis"

June 18, 2007 – [REDACTED] e-mail to Paula Creech re: continuing problems at SHPD.

March 21, 2007 – [REDACTED], Ph.D., President, Society for Historical Archaeology, letter to Governor Linda Lingle, expressing concern about the lack of full staffing for SHPD and the inability of SHPD to maintain its GIS and inventory databases.

March 5, 2005 – [REDACTED], Ph.D., President, Society for Hawaiian Archaeology, letter to Governor Linda Lingle, expressing concern about SHPD staff vacancies not being filled with negative impacts on development and construction industries, and urging her to fill the vacancies. [REDACTED]

## NEWSPAPER ARTICLES

Note: articles on burial sites issues are not included.

August 9, 2009 – “State preservation division admits criticisms are correct: An official cites a lack of staff and outdated systems as reasons for poor performance.” *Honolulu Star-Bulletin*; download 8/10/09 of 21 on-line comments on the article – <http://www.topix.net/forum/xource/honolulu-star-bulletin/TRCJ5KLN1R150DP4L>

August 7, 2009 – editorial, “Federal review merits fast track,” *Honolulu Star-Bulletin*, re: NPS site visit and interest in SHPD situation from U.S. Rep. Neil Abercrombie and State Sen. Clayton Hee; download 8/10/09 of 7 on-line comments on the editorial – <http://www.topix.net/forum/source/honolulu-star-bulletin/TLJHE41GSR512GI2I>

August 6, 2009 – “Preservation unit under probe: The state agency has drawn fire for failing to protect ancient sites,” *Honolulu Star-Bulletin*, re: NPS investigation of SHPD; download 8/25/09 of 43 on-line comments on the article – <http://www.topix.com/forum/state/hi/TS7TBRNMH8PLOTOT>

July 4, 2008 – “New Lawsuit Digs Up More Drama for State Agency,” *Pacific Business News* David Brown, former “chief archaeologist” filed another lawsuit against SHPD alleging illegal and unethical activities at the agency, including practices related to burials. Accessed on 11/19/09 at <http://atlanta.bizjournals.com/pacific/stories/2008/07/07/story5.html>.

December 6, 2007 – “Skeletons in the Closet: What is going on at the State Historic Preservation Division?” *Maui Time Weekly*. David Brown, former archaeology branch chief, filed a lawsuit against DLNR alleging his civil rights had been violated and practices at SHPD were illegal, unethical, or cultural sensitive. Downloaded with 2 comments 11/20/09 from [http://www.mauitime.com/Articles-i-2007-12-06-168483.112113-Skeletons\\_in\\_the\\_Closet.html](http://www.mauitime.com/Articles-i-2007-12-06-168483.112113-Skeletons_in_the_Closet.html).

November 29, 2007 – “Hawaii preservation agency chief resigning,” *Honolulu Advertiser*, re: Melanie Chinen resignation. Accessed 11/18/09 – <http://the.honoluluadvertiser.com/article/2007/Nov/29/ln/hawaii711290361.html/?print=on>

July 3, 2007 – “Permit backlog slows Hawaii construction,” *Honolulu Advertiser*, re: backlog of state 6E reviews due to lack of qualified staff.

July 3, 2007 – editorial, “Time to intervene in historic office mess,” *Honolulu Advertiser*, re: “dysfunctional SHPD.”

January 22, 2007 – “Hawaiian burials group seeks development moratorium,” *Honolulu Advertiser*, re: attention needed for burials.

March 23, 2005 – “Overhaul sought at land board,” *Honolulu Advertiser*, re: ouster of Land Board chair Peter Young (SHPO)

## MISCELLANEOUS MATERIALS

November 13, 2009 – David Brown vs. State of Hawaii, et al, U.S. District Court for the District of Hawaii (Civ. No. 07-00556 ACK-LEK), Findings of Fact, Conclusions of Law, and Decision as to Plaintiff’s NAGPRA Claim. – SHPD in violation of responsibilities as “museum” under NAGPRA. Downloaded 11/20/09 from [www.tbdk.com/Documents/09Nov13\\_TrialOrderKay\\_Nagpra.pdf](http://www.tbdk.com/Documents/09Nov13_TrialOrderKay_Nagpra.pdf).

October 2009 – “draft legislation to address the SHPD issues,” by Rep. Lyla Berg; Friends of SHPD circulated as e-mail attachments:

- *Draft* – Hawaii House of Representatives, Twenty-fifth Legislature, 2010 – House Concurrent Resolution: Requesting the Auditor to Conduct a Management Audit of the State Historic Preservation Division of the Department of Land and Natural Resources.

- *Draft* – Hawaii House of Representatives, Twenty-fifth Legislature, 2010 – House Bill: Relating to Historic Preservation. Proposes to require the State Auditor to conduct a management audit and the areas to be covered by the audit.
- *Draft* – Hawaii House of Representatives, Twenty-fifth Legislature, 2010 – House Bill: Relating to Historic Preservation. Proposes to transfer the functions of SHPD from DLNR to the Office of Hawaiian Affairs for a period of one year.
- *Draft* – Hawaii House of Representatives, Twenty-fifth Legislature, 2010 – House Bill: Relating to Damage to a Place of Burial. Proposes to make it unlawful to negligently cause damage to a place of burial.

September 23, 2009 – David Brown vs. State of Hawaii, et al, U.S. District Court for the District of Hawaii (Civ. No. 07-00556 ACK-LEK), Order Granting Chinen’s Motion for Summary Judgment, and the State Defendants’ Joinders Therein and Denying Plaintiff’s Motion for Summary Judgment. Judge dismissed Brown’s First Amendment claim for retaliatory firing, ruling that Brown was speaking as an employee when he spoke out against illegal practices at SHPD. Downloaded 11/20/09 from [www.tbadk.com/Documents/09Sept23Order\\_Kay\\_MSJ\\_1sAmendment.pdf](http://www.tbadk.com/Documents/09Sept23Order_Kay_MSJ_1sAmendment.pdf). Brown’s complaint can be found at [www.tbadk.com/Documents/DaveBrownComplaint3rdAmended.pdf](http://www.tbadk.com/Documents/DaveBrownComplaint3rdAmended.pdf).

After February 2009 but before July 2009 – “Current State of Affairs at SHPD,” re: mismanagement of funds, lack of leadership, severe morale problem, & misguided sense of mission.

December 2008 – “Report to the Twenty-fifth Legislature, 2009 Regular Session: Accomplishments, Recommendations for Changes in State Plan or Future Programs and Account of All Income, Expenditures and Fund Balance of the Hawaii Historic Preservation Fund for Fiscal Year 2007-2008,” prepared by DLNR in response to Section 6E-3, Hawaii Revised Statutes. Accessed 11/17/09 on <http://hawaii.gov/dlnr/reports-to-the-legislature/2009/hp/HP09-Programs-and-Funds-2008.pdf>.

May 2008 – Legislative Reference Bureau, Hawaii State Capitol, “Requests by the Hawaii State Legislature to Agencies and Officials of Federal, State and County Governments and Quasi-Public and Private Agencies, Regular Session of 2008,” p.56, Archaeological and Human Burial Sites, Preservation; Senate Resolution 138; the Archaeology Working Group convened by SHPD [in 2006] be reconvened, continue its work, and submit a report of its findings and recommendations to the Legislature “no later than twenty days prior to the convening of the Regular Session of 2010.”

Senate Resolution 138, Requesting that...the State Historical Preservation Division Revive its Archaeological Working Group. Accessed 10/19/09 on [http://capitol.hawaii.gov/session2008/bills/SR138\\_.htm](http://capitol.hawaii.gov/session2008/bills/SR138_.htm)

December 5, 2007 – State Senator Jill Tokuda, “Commentary – Preservation Division chief’s resignation gives Thielen a chance to make a difference.” Accessed 11/2/09 on [www.capitol.hawaii.gov/site1/info/news/TokudaSHPD.pdf](http://www.capitol.hawaii.gov/site1/info/news/TokudaSHPD.pdf).

November 7, 2007 – David Brown vs. Melanie Chinen, Bob Awana, Laura Thielen, Peter Young, Robert A. Masuda, Nancy McMahon, Melissa Kirkendall, Ashley Chinen, Does 1-20, State of Hawaii, U.S. District Court for the District of Hawaii (Civ. No. 07-00556 ACK-LEK). Alleges illegal, unethical, or culturally insensitive acts carried out by SHPD. Downloaded 11/19/09 from [www.hawaiiankingdom.info/C259362623/E20071213072310/Media/Brown%20v%20Chinen%20Complaint.pdf](http://www.hawaiiankingdom.info/C259362623/E20071213072310/Media/Brown%20v%20Chinen%20Complaint.pdf).

August 21, 2007 – Minutes of the Office of Hawaiian Affairs Board of Trustees. Under agenda item “Community Concerns,” community members expressed concerns about SHPD mismanagement, inability to fulfill legal responsibilities, gradual deterioration of the program, staff shortages, systemic problems rendering program ineffective, negative impact on protection of *iwi* [burials], inability to maintain the GIS, negative economic impacts, increasing law suits, etc. Accessed 11/2/09 on [www.oha.org/images/files/pdf/trustees/minutes/bot/botmin070821.pdf](http://www.oha.org/images/files/pdf/trustees/minutes/bot/botmin070821.pdf).

August 7, 2007 – Friends of SHPD paper, “Examples of Various Policies That Undermine the Effectiveness of the SHPD’s Programs.” Although the examples deal with State law compliance, SHPD’s role in these examples may be relevant to how it deals with its responsibilities under Federal law. Access 11/18/09 on Friends of SHPD google site – <http://sites.google.com/site/friendsofshpd/documents>.

August 7, 2007 – Friends of SHPD press release, “A History of Trying to Work with the Administration” to address “the current crisis befalling the” SHPD. Accessed 11/18/09 on Friends of SHPD google site – <http://sites.google.com/site/friendsofshpd/press-releases>.

August 2, 2007 – Friends of SHPD press release, “Broad Coalition Urges Response to Crisis at State Historic Preservation Division: Cultural History (Burial Sites) and Archaeology Programs Decimated.” Accessed 11/18/09 on Friends of SHPD google site – <http://sites.google.com/site/friendsofshpd/press-releases>.

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## APPENDIX D

### HAWAII STATE HISTORIC PRESERVATION DIVISION STAFFING

#### CURRENT STAFFING (from SHPD web site 2/4/10)

| Name                                | Title  |
|-------------------------------------|--|
| <b>Administration</b>               |  |
| Pua Aiu                             | SHPD Administrator   |
| Randolph M. Lee III                 | Assistant to the Administrator                                       |
| Nancy McMahan                       | Deputy SHPO  |
| <b>Clerical</b>                     |  |
| Kawika Farm<br>(vacant)             | Office Assistant, Maui<br>Office Assistant                           |
| Cicely Lorenzo-Ganir                | Office Assistant   |
| Alexis Caramonte                    | Data Management Specialist   |
| <b>Architecture</b>                 |  |
| (vacant)                            | Architecture Branch Chief  |
| Susan Tasaki                        | Architectural Historian*   |
| Ross W. Stephenson                  | Architectural Historian**  |
| <b>Archaeology</b>                  |  |
| (vacant)                            | Oahu Archaeologist   |
| (vacant)                            | Assistant Oahu Archaeologist   |
| (vacant)                            | Kauai Archaeologist  |
| Patty Conte***                      | Maui Archaeologist   |
| (vacant)                            | Assistant Maui Archaeologist   |
| Theresa Donham                      | Hawaii Archaeologist   |
| Morgan Davis                        | Assistant Hawaii Archaeologist                                       |
| <b>History and Culture</b>          |  |
| Phyllis "Coochie" Cayan<br>(vacant) | History and Culture Branch Chief<br>Historic Sites Specialist, Kauai |
| Analu Josephides                    | Cultural Historian, Kona   |
| Vincent Hinano Rodrigues            | Cultural Historian, Maui   |

\*should be listed as Historical Architect (meets the Secretary's Professional Qualification Standards for Historical Architect, not for Architectural Historian)

\*\*should be listed Historian (meets the Secretary's Professional Qualification Standards for Historian, not for Architectural Historian)

\*\*\*has resigned

#### SHPD STAFF DEPARTURES SINCE 2004

| Staff Name               | Title & Location                             | Date of Departure |
|--------------------------|--|-------------------|
| Holly McEldowney         | Acting Administrator, Oahu                   | October 2004      |
| Elaine (Muffet) Jourdane | Assistant Archaeologist, Oahu                | January 2005      |
| Sara Collins             | Archaeology Branch Chief, Oahu               | January 2005      |
| Eric Komori              | Historic Site Specialist (GIS Manager), Oahu | April 2005        |
| Kana'i Kapeliela         | Cultural Historian                           | May 2005          |

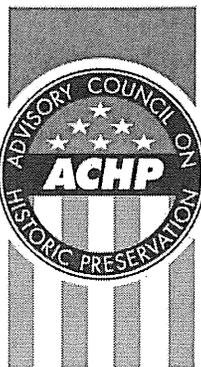
|   |  |   |
|---|--|---|
| Donna Downey<br>Val Curtis<br>Mary Carney<br>Nathan Napoka<br>Thomas Lim              | GIS NPS Database Assistant<br>Interagency Archaeologist, Oahu<br>Assistant Archaeologist, Oahu<br>Cultural Branch Chief, Oahu<br>Architecture Branch Chief, Oahu | June 2005<br>June 2005<br>July 2005<br>September 2005<br>August 2005                          |
| Cathy Dagher<br>Clifford Inn<br>Mary Ann Maigret<br>Sunny Greer<br>David Brown        | Assistant Archaeologist, Maui<br>Public Information Specialist<br>Assistant Archaeologist, Hawaii<br>Cultural Branch Chief<br>Archaeologist, Oahu                | October 2005<br>November 2005<br>May 2006<br>June 2006<br>June 2006                           |
| Chris Monahan<br>Julie Taomia<br>Pi'ilani Chang<br>Adam Johnson<br>(name?)            | Archaeologist, Oahu<br>Archaeologist, Hawaii<br>Cultural Historian<br>Archaeologist, Oahu<br>Cultural Specialist, Hawaii   | August 2006<br>October 2006<br>December 2006<br>April 2007<br>About March 2007                |
| Keola Lindsey<br>Melissa Kirkendall<br>Tim Lee<br>Jocelyn Nazareno<br>Richelle Paresa | Historic Sites Specialist<br>Archaeologist, Maui<br>Administrative Assistant, Oahu<br>Clerk-Steno, Oahu<br>Clerk-Steno, Oahu                                     | May 2007<br>June 2007<br>After July 2007<br>After July 2007<br>After July 2007                |
| Melanie Chinen<br>Bryan Flower<br>Katie Kastner<br>Teresa Davan<br>Astrid Liverman    | Administrator, Oahu<br>Architecture Branch Chief<br>Architectural Historian, Oahu<br>Assistant Archaeologist, Oahu<br>Architecture Branch Chief, Oahu            | December 2007<br>After February 2008<br>Before December 2008<br>December 2008<br>January 2009 |
| Lauren Mowraski<br>Jenny Pickett<br>Wendy Tolleson<br>Rose Tachera<br>Kaleo Paik      | Archaeologist, Oahu<br>Assistant Archaeologist, Maui<br>Assistant Archaeologist, Oahu<br>Clerk II, Oahu<br>Cultural Specialist                                   | February 2009<br>February 2009<br>May 2009<br>June 2009<br>June 2009                          |
| Jeff Chandler<br>Patty Conte  | Cultural Specialist, Kauai<br>Archaeologist, Maui  | June 2009<br>February 2010  |

# **APPENDIX E**

## **ACHP Policy Statement on the ACHP's Interaction with Native Hawaiian Organizations**

<http://www.achp.gov/NHO%20Policy.pdf>

(Accessed February 18, 2010)



*Preserving America's Heritage*

## **ACHP Policy Statement on the ACHP's Interaction with Native Hawaiian Organizations**

Adopted by the Advisory Council on Historic Preservation  
May 13, 2008  
Washington, DC

### **Introduction**

The history of the United States is enhanced by the many cultures and peoples that make up this nation. These cultures and peoples bring together diverse languages, ceremonies, practices, rites and stories; all of which add to our nation's vibrancy and strength, engender our compassion, and define our collective history.

Native Hawaiians, the indigenous people of our 50th state, bring a culture to this country that is unique. Theirs is a history of a proud people who, like other Native peoples of our country, have struggled to maintain their culture amidst other prevalent influences of American society.

Native Hawaiians have begun to more assertively recall their heritage as a great Polynesian people. Their ceremonies and cultural practices have been reborn and their language is thriving. Their historic sites are reminders of their prowess as ocean navigators, agricultural innovators, and as a successful multi-tiered, complex society that existed for hundreds of years before Europeans left their homelands.

Native Hawaiians bring their values to the historic preservation dialogue, values that are often shared by other Native peoples. Among others, these include:

- A deep love and understanding of the land;
- A respect for the powerful forces of nature;
- An understanding of an ever-evolving society and the need to reflect that in sites and buildings;
- A need to minimize their footprint on the Earth, so as to leave it capable of accommodating many generations to come;
- A historic view that Native Hawaiians stand on the work of past ancestors and have a responsibility to their children to appreciate that context;
- A deep obligation to their ancestors, to their memory and to their resting places; and,
- An enjoyment of their very brief time on this earth and all it has to offer.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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The Advisory Council on Historic Preservation (ACHP), therefore, is committed to fully considering these values as it carries out its responsibilities under the National Historic Preservation Act (NHPA). Furthermore, the ACHP recognizes the significant contribution that Native Hawaiians have and continue to make to the enrichment of this nation.

#### **Authority**

The ACHP, an independent federal agency established by the NHPA, advises the President and Congress regarding historic preservation matters; recommends legislative and administrative improvement to protect America's heritage; encourages federal agencies to make their programs and policies advance the national historic preservation goals; and, through the Section 106 review process, ensures that Indian tribes, Native Hawaiian organizations, state and local governments, and the public have a voice in the federal decisions that affect historic properties.

#### **Purpose**

This policy sets forth the commitments the ACHP makes to ensuring that Native Hawaiian organizations have the opportunities to which they are entitled under the NHPA to participate in the national historic preservation dialogue and program. The ACHP also believes that the NHPA and regulations implementing Section 106 of the NHPA, 36 C.F.R. Part 800, set the minimum standards for federal agency interaction with its preservation partners.

The basis for this policy regarding the ACHP's role, responsibilities, and relationships with individual Native Hawaiian organizations derives from the NHPA, particularly at 16 U.S.C.470a(d)(6). This policy sets forth actions the ACHP will take to oversee the implementation of its responsibilities under the NHPA with respect to the role afforded to Native Hawaiian organizations in the NHPA.

Since the NHPA is the governing authority, all terms used in this policy find their definitions in that Act. Therefore, this policy pertains to Native Hawaiian organizations as defined in the NHPA at 16 U.S.C. § 470w(18) as follows:

Native Hawaiian organization means any organization which-

- Serves and represents the interests of Native Hawaiians;
- Has as a primary and stated purpose the provision of services to Native Hawaiians; and,
- Has demonstrated expertise in aspects of historic preservation that are culturally significant to Native Hawaiians.

"Native Hawaiians" in turn, are defined in the NHPA at 16 U.S.C. 470w(17) as follows:

Native Hawaiian means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

#### **Policy Principles**

This policy sets forth principles that will guide the ACHP's interaction with Native Hawaiian organizations as it carries out its responsibilities under the NHPA. It also provides guidance to the ACHP and its staff and serves as the foundation for ACHP policies and procedures affecting Native Hawaiian issues. Upon adoption of the policy, the ACHP will revisit the *Action Plan on Advisory Council on Historic Preservation Native American Initiatives* (2003) to determine its consistency with this policy and make any necessary revisions.

The ACHP, in carrying out its NHPA responsibilities with regard to projects in Hawaii has found that there are particular challenges for Native Hawaiian organizations in participating in the national historic

preservation program and in having a voice in Federal decisions that impact historic properties of religious and cultural significance to them as ensured by the NHPA (16 U.S.C. 470a(d)(6)(B)). Therefore, the ACHP commits to working with Native Hawaiian organizations and the Native Hawaiian organization representative on the ACHP's Native American Advisory Group (NAAG) to develop and implement measures to address these challenges. The first step toward this goal is the adoption of the following statements of policy:

**1. The ACHP acknowledges Native Hawaiian traditional cultural knowledge, beliefs and practices and recognizes their value in the understanding and preservation of historic properties in Hawaii.**

The ACHP acknowledges the unique nature of Native Hawaiian perspectives and worldview. Accordingly, ACHP will carry out its responsibilities in a manner that reflects this understanding and respect, and sets an example for other federal agencies. In fact, the ACHP's regulations include a reminder to Federal agencies to acknowledge that Native Hawaiian organizations have special expertise in identifying and evaluating the National Register of Historic Places eligibility of properties of religious and cultural significance to them (36 C.F.R §800.4(c)(1)). Therefore, the ACHP, in carrying out its NHPA responsibilities in Hawaii, will:

- Seek to understand and integrate into its work in Hawaii an understanding of the relationship of Native Hawaiians' perspective on their relationship to the land, to nature's forces that affect the land, to the *kuleana* (responsibility) of all Native Hawaiians to be *pono* (honorable) as Native Hawaiians.
- Work with other federal agencies to ensure that they respect, fully acknowledge and consider the traditional knowledge, beliefs and practices conveyed by Native Hawaiian organizations in carrying out their Section 106 responsibilities and to understand their perspective on their relationship to the land and their *kuleana* to be *pono* as Federal agencies make decisions that affect the land.
- The ACHP will encourage and assist, where possible, federal agencies in working with Native Hawaiian organizations and understanding differences in perceptions and worldview.
- Develop guidance materials to guide Federal agencies in seeking and consulting with Native Hawaiian organizations in their decision making pursuant to Section 106.

**2. The ACHP commits to working with Native Hawaiian organizations to fully consider the preservation of historic properties of importance to them.** ACHP also understands and recognizes the connection of *ʻohana* (family) to such places. Therefore, the ACHP will:

- Offer training to Federal agencies regarding their responsibilities to consult with Native Hawaiian organizations and to consider their views in the Section 106 review process.
- Develop guidance on working more effectively with Native Hawaiian organizations and consider the inclusion of *ʻohana* (family) as Native Hawaiian organizations in the consultation process.
- Increase participation of all parties in the *Preserve America* initiative to both acknowledge preservation efforts, educate the public about the importance of preserving Native Hawaiian historic properties, and to raise the visibility of Native Hawaiian historic preservation.

**3. The ACHP acknowledges the important contributions of Native Hawaiian organizations to the national historic preservation program.** Their history is one of many histories that make up the essential fabric of our great nation. Further, the ACHP acknowledges the rights of Native Hawaiian organizations to participate in Section 106 consultation with Federal agencies. Therefore, the ACHP will:

- Identify those Federal agencies with the greatest consultation challenges and develop and implement strategies to assist those agencies in addressing such challenges.
- Work with Federal agencies to adopt policies acknowledging their responsibilities to consult with Native Hawaiian organizations and mechanisms to assist Federal staff in carrying out such responsibilities.

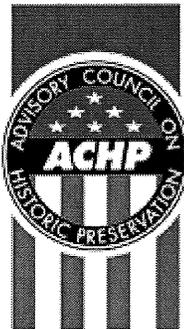
- Encourage federal agencies to be particularly diligent in involving Native Hawaiian organizations early in the review process.
- As directed by Appendix A of 36 CFR Part 800, stand ready to address unreasonable agency decisions that limit Native Hawaiian organization participation in the Section 106 process.
- Encourage federal agencies to approach Section 106 consultation with Native Hawaiian organizations with flexibility.
- Actively encourage and welcome Native Hawaiian organization participation in ACHP and other historic preservation programs beyond the Section 106 review process.

The ACHP understands and accepts its responsibility as a proponent for historic preservation in Hawaii. One of the most important ways in which the ACHP carries out that responsibility is to ensure that Native Hawaiian organizations have the opportunity to participate in the programs of the ACHP, in particular, the Section 106 process as provided for in the NHPA.

The ACHP will encourage participants in the ACHP programs, particularly federal agencies, to also act in accordance with these principles. Further, the ACHP will implement these measures in consultation with Native Hawaiian organizations and considering the advice of the Native Hawaiian organization representative to NAAG.

# APPENDIX F

Home → Working with Section 106 → ACHP Native American Program: Guidance for Federal Agencies → Section 106 and Native Hawaiian Organizations



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## Native Hawaiian Organizations and the Section 106 Review Process

### Introduction

**Participation of Native Hawaiian organizations in consultation**

**Role of Native Hawaiian organizations in initiation of the Section 106 review process (Step I)**

**Role of Native Hawaiian organizations in identification of historic properties (Step II)**

**Role of Native Hawaiian organizations in assessing adverse effects (Step III)**

**Role of Native Hawaiian organizations in resolving adverse effects (Step IV)**

**Requests from Native Hawaiian organizations for ACHP participation**

**Involvement of Native Hawaiian organizations in the development of program alternatives**

### Introduction

The 1992 amendments to the National Historic Preservation Act (NHPA) place major emphasis on the role of Native Hawaiian organizations. Subsequent revisions published May 18, 1999, to the regulations of the Advisory Council on Historic Preservation (ACHP<sup>1</sup>), 36 CFR Part 800, incorporate specific provisions for Federal agencies to consult with Native Hawaiian organizations throughout the process.

### Consultation with Native Hawaiian organizations in the regulations

- The Federal agency (agency<sup>2</sup>) must consult with any Native Hawaiian organization that attaches religious and cultural significance to historic properties that may be affected by an undertaking (henceforth, Native Hawaiian organizations). Such organization is a consulting party.
- The agency must make a *reasonable and good faith effort* to identify Native Hawaiian organizations to be consulted.

- The Native Hawaiian organization may enter into an agreement with the agency regarding any aspect of its participation in the review process. The agreement may provide the Native Hawaiian organization with additional participation or concurrence in agency decisions under Section 106 provided that no modification may be made in the roles of other parties without their consent.

#### **Participation of Native Hawaiian organizations in consultation**

- Section 101(d)(6)(b) of NHPA requires Federal agencies to consult with any Native Hawaiian organization that may attach religious and cultural significance to a historic property that may be affected by an undertaking regardless of its location.
- There may be multiple Native Hawaiian organizations that attach significance to a historic property. The agency is required to consult with *any* Native Hawaiian organization that may attach religious and cultural significance to a historic property, again, regardless of its location.

#### **Role of Native Hawaiian organizations in initiation of the Section 106 review process (Step I)**

- The agency must make a *reasonable and good faith effort* to identify Native Hawaiian organizations that *might* attach religious and cultural significance to historic properties in the area of potential effects and invite them to be consulting parties.
- Native Hawaiian organization can request in writing to be a consulting party.
- The agency can collapse multiple steps in the process, but consulting parties, including Native Hawaiian organizations and the public, must still be given an adequate opportunity to express their views.

#### **Role of Native Hawaiian organizations in identification of historic properties (Step II)**

- The agency gathers information from Native Hawaiian organizations to assist in identifying historic properties that may be of religious and cultural significance.
- The agency consults with Native Hawaiian organizations to carry out identification.
- The agency consults with Native Hawaiian organizations to evaluate National Register eligibility of identified properties. The agency must acknowledge "special expertise" of Native Hawaiian organizations in assessing eligibility of historic properties of religious and cultural significance to them.
- If a Native Hawaiian organization disagrees with an eligibility determination, it may ask ACHP to request the agency to obtain a determination from the Keeper of the National Register. Concurrence of the Native Hawaiian organization in eligibility determination is not required.
- The agency must notify Native Hawaiian organizations of its finding of either *No Historic Properties Affected* or *Historic Properties Affected*. Failure to object within 30 days allows the agency to assume concurrence and proceed.

#### **Role of Native Hawaiian organizations in assessing adverse effects (Step III)**

- The agency consults with Native Hawaiian organizations to apply the *Criteria of Adverse Effect*.
- The agency notifies consulting parties, including Native Hawaiian organizations, of the finding of No Adverse Effect (NAE), and provides documentation. Failure to disagree within 30 days allows the agency to assume concurrence and proceed.

- If the consulting party, including Native Hawaiian organizations, disagrees, it must specify reasons within 30 days. When a timely filing of disagreement is received, the agency must either resolve the disagreement or request ACHP to review the NAE finding. Native Hawaiian organizations can also request ACHP to review Agency finding.
- The agency should seek concurrence of Native Hawaiian organization that attaches religious and cultural significance to the historic property subject to the finding.

#### **Role of Native Hawaiian organizations in resolving adverse effects (Step IV)**

- The agency consults with Native Hawaiian organizations to develop and evaluate alternatives to avoid, minimize, or mitigate adverse effects.
- Native Hawaiian organizations may request ACHP to participate in consultation.
- The agency may invite a Native Hawaiian organization to sign or concur with the Memorandum of Agreement (MOA). Refusal to sign or concur does not invalidate the MOA.

#### **Requests from Native Hawaiian organizations for ACHP participation**

- Any party, including Native Hawaiian organizations, may request that ACHP review the substance of any agency's finding, determination, or decision or the adequacy of an agency's compliance with the regulation.
- A Native Hawaiian organization may request that ACHP enter the Section 106 review process because of concerns about the identification of, evaluation of, or assessment of effects on, historic properties.
- A Native Hawaiian organization may request ACHP involvement in the resolution of adverse effects or where there are questions about policy, interpretation, or precedent under Section 106 or its relation to other authorities such as NAGPRA (see Appendix A of the regulations).

#### **Involvement of Native Hawaiian organizations in the development of program alternatives**

- The agency must consult with affected Native Hawaiian organizations in the development of program alternatives.
- If a program alternative may affect historic properties of religious and cultural significance to a Native Hawaiian organization, the agency shall identify those organizations and consult with them.
- The agency and ACHP must take into account the views of Native Hawaiian organizations in reaching a final decision.

<sup>1</sup>**ACHP: The Advisory Council on Historic Preservation issues regulations to implement Section 106, provides guidance and advice on the application of the procedures in this part, and generally oversees the operation of the Section 106 process. ACHP also consults with and comments to Agency Officials on individual undertakings and programs that affect historic properties.**

<sup>2</sup>**Agency: It is the statutory obligation of the Federal agency to fulfill the requirements of Section 106 and to ensure that an Agency Official with jurisdiction over an undertaking takes legal and financial responsibility for Section 106 compliance in accordance with subpart B of the regulations. The Agency Official has approval authority for the undertaking and can commit the Federal agency to take appropriate action for a specific undertaking as a result of Section 106 compliance. For the purposes of subpart C of the regulations, the Agency Official has the authority to commit the Federal agency to any obligation it may assume in the implementation of a**

**program alternative. The Agency Official may be a State, local, or tribal government official who has been delegated legal responsibility for compliance with Section 106 in accordance with Federal law.**

*Updated April 4, 2003*

<http://www.achp.gov/regs-nhos.html> (accessed February 18, 2010)

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APPENDIX G

PROGRAM REQUIREMENTS, FINDINGS, AND CORRECTIVE ACTIONS

| Citation in Law or HPF Grants Manual | Requirement  | Finding  | Mandated Corrective Action   |
|--------------------------------------|--|--|--|
| <b>SURVEY AND INVENTORY</b>          |  |  |  |
| Chapter 6, Section H.2.a             | All surveys funded by HPF grant monies or used as allowable matching share must meet the Secretary of the Interior's "Standards for Identification   | <ul style="list-style-type: none"> <li>a. No HPF-funded surveys were conducted in the last three years.</li> <li>b. CLG and other surveys do not appear to meet this requirement.</li> <li>c. Surveys and resulting reports do not appear to meet this requirement.</li> </ul>   | <p><b>SI-1. Develop Procedural Standards for Survey</b>, in consultation with the professional historic preservation and cultural resource management community. Written procedures must be submitted to NPS for approval prior to implementation.</p> <p><b>SI-2. Establish and Maintain a Current and Accessible Statewide Inventory</b>, and a written procedures manual for maintaining and updating the inventory, which must be submitted to NPS for approval prior to implementation.</p> |
| 6.H.2.d                              | States must maintain an inventory of properties surveyed.  | This requirement is not met. New property data from surveys and Section 106 projects are not being consistently incorporated into the inventory.   |  |
| 6.H.2.d, e                           | <p>The SHPO must maintain an inventory of properties surveyed including survey reports, inventory forms, and research designs.</p> <p>The SHPO's inventory activities funded by HPF grant monies or used as allowable matching share must meet the Secretary of the Interior's "Standards for Evaluation."</p> | <p>The inventory is disorganized, not functional, and difficult for SHPD staff, the public, and researchers to access.</p> <p>Efforts are being made to improve the accessibility of the library through digitizing its holdings. This project is not yet completed.</p> <p>SHPD partner is examining the GIS system for needed updates; project is not yet completed.</p> <p>It was not possible to determine if this</p> | <p><b>SI-2, above.</b></p>   |

| Citation in Law or HPF Grants Manual | Requirement   | Finding  | Mandated Corrective Action   |
|--------------------------------------|---|--|--|
|                                      |   | <p>requirement is met, due to the inaccessibility of inventory records.</p>  |  |
|                                      | <p><b>REVIEW AND COMPLIANCE</b></p>   |  |  |
| 6.O.2.a.2                            | <p>The State shall ensure that Federal agency requests are reviewed and responded to within the specified time period.</p> <p>The State shall track Federal agency requests from the date of receipt to final action and shall ensure that requests are reviewed and responded to within the prescribed time frame.</p> | <p>Reviews are generally accomplished within the required 30-day time period. There are exceptions.</p> <p>Documentation suggests that reviews may be expedited to meet the 30-day time period at the expense of accuracy and quality of the reviews and replies to Federal agencies.</p> <p>The logging and tracking system used by SHPD is incomplete, not kept up-to-date, lacks required information, and is difficult to use.</p> | <p><b>RC-2. Develop and Follow Written Procedures for R&amp;C activities.</b></p> <ul style="list-style-type: none"> <li>• Written review process must be based on consultation with R&amp;C stakeholders and include a tracking system.</li> <li>• The written process must be submitted to NPS for approval prior to implementing.</li> <li>• Names and resumes of individuals authorized to sign Section 106 letters must be submitted to NPS for approval.</li> <li>• If staff time allocated to review of State 6E project is supported by HPF or matching funds, this work must comply with all requirements for the HPF Review and Compliance Program.</li> </ul> |
| 6.O.2.e                              | <p>Inventory data resulting from Section 106 activities must be incorporated into the State's inventory information system or cross-referenced with the files.</p> <p>Federal agency requests must be reviewed and final recommendations</p>  | <p>Data from Section 106 activities are not systematically integrated into an accessible State Inventory.</p>  | <p>Address this requirement in complying with RC-2, above.</p>   |
| 6.O.2.b                              | <p>Federal agency requests must be reviewed and final recommendations</p>   | <p>Federal undertakings are often reviewed by staff not meeting the</p>  | <p><b>RC-3. Professionally Qualified Staff must be hired or contracted</b></p>   |

| Citation in Law or HPF Grants Manual        | Requirement   | Finding  | Mandated Corrective Action  |
|---|---|--|---|
|   | made and approved by qualified staff.   | appropriate Professional Qualifications Standards.   | with.<br><b>RC-1. Staff Reviews must be conducted by and coordinated among professional staff in all disciplines</b><br><b>RC-4. Staff must receive regular training.</b> |
| 6.O.2.c                                     | The National Register Criteria for Evaluation are Consistently Applied in Responding to Federal Agency Requests.  | National Register Criteria for Evaluation not consistently applied when reviewing Federal undertakings.  | Address this requirement in complying with RC-2, -3, and -4, above.   |
| <b>NATIONAL REGISTER OF HISTORIC PLACES</b> |   |  |   |
| NHPA §101(d)(6)(C)                          | Consult with Native Hawaiian organizations in assessing cultural significance of any property in determining whether to nominate such property to the National Register | Could not verify that this consultation is taking place; interviews with Native Hawaiian organizations suggest that SHPD is not complying with this legal mandate. | <b>NR-4. Consult with Native Hawaiian Organizations on National Register Nominations.</b>   |
| 6.C.6.a.                                    | The eligibility review must be adequately documented;   | Nomination files examined contained little review documentation, and interviews and documents examined suggest that these requirements are not met.                | <b>NR-1. Develop and implement a written review procedure that will meet this requirement.</b>  |
| 6.C.5.                                      | Documentation must be an official written record;   |  | Written procedures manual that includes a review tracking system must be submitted to NPS for approval prior to implementation.   |
| 6.I.2.a.                                    | Activities must meet the Secretary's Standards for Evaluation and Registration;   |  |   |
| 6.I.2.d.                                    | Nominations must meet the National Register Criteria for Evaluation and National Register documentation standards.  |  |   |
| 6.C.6.b                                     | Minimum level of documentation is the basis for responses to Federal agency request.  | Responses to Federal agency requests do not address National Register criteria or eligibility (see Review and Compliance Program section of this                   | Address this requirement in complying with RC-2.  |

| Citation in Law or HPF Grants Manual             | Requirement   | Finding  | Mandated Corrective Action  |
|--|---|--|---|
|  |   | report).   |   |
| 6.I.2.b  | Annually, SHPO must nominate eligible resources to the National Register.   | Five nominations were forwarded during FY2009.   |   |
| 6.I.2.c  | A reasonable percentage of nominations must be derived from State-conducted surveys.  | Recent CLG survey projects appear designed to produce nominations.   |   |
| 6.I.2.e  | The State's nomination procedures must comply with the requirements of the National Historic Preservation Act and with National Register regulations (36 CFR 60). | <ul style="list-style-type: none"> <li>• State Plan 2001, approved 12/14/01, contains Appendix A, Hawaii &amp; National Register Action Priorities (see Appendix NR-3). Could not verify that these priorities guide nominations.</li> <li>• Notification requirements are met.</li> <li>• Professional staff evaluations of property significance and eligibility are limited or not existent, and are not provided to the State Review Board.</li> <li>• State Review Board lacks sufficient information to perform is mandated responsibilities.</li> </ul> | Address these requirements in complying with NR-1, above.                               |
| <b>CERTIFIED LOCAL GOVERNMENT ADMINISTRATION</b> |   |  |   |
| 9.K  | The SHPO must transfer a minimum of 10 percent of the State's annual apportionment of HPF funds to CLGs for HPF eligible activities.                              | <ul style="list-style-type: none"> <li>• HPF funds successfully passed through to CLGs in FY 2008 and 2009.</li> <li>• This requirement has been met.</li> </ul>   |   |
| 9.L  | The SHPO shall monitor and conduct periodic evaluations of CLGs.  | SHPO does not currently evaluate CLGs.   | CLG-1. SHPD must follow existing Hawaii CLG Procedures Manual and notify Maui and Kauai |

| Citation in Law or HPF Grants Manual  | Requirement  | Finding  | Mandated Corrective Action  |
|---------------------------------------|--|--|---|
| 9.1                                   | The SHPO shall provide orientation materials and training in accordance with local needs to CLGs. The orientation and training shall be designed to provide public information, education and training, and technical assistance in historic preservation. | SHPO has initiated recent on-site trainings to CLGs. Consultation between CLGs and SHPOs on the development of HPF-funded projects should be more closely coordinated.   | CLGs that SHPD will evaluate CLG operations in 2011.  |
| <b>HISTORIC PRESERVATION PLANNING</b> |  |  |   |
| 6.G.2.a.                              | Each SHPO shall develop a Preservation Planning process.   | There is no up-to-date planning process that meets this requirement.   | <p><b>PP-1. Postpone Plan revision activities and re-allocated its support resources.</b></p> <p><b>PP-2. Develop and follow a clear and explicit Plan Revision Process.</b> At a specified time, develop a written Plan Revision Process and submit it to WASO NPS Planning Program for review and approval.</p> |
| 6.G.2.b)                              | Each SHPO shall develop and update a Statewide Preservation Plan that describes a vision for historic preservation in the State and outlines a direction for the SHPO.   | In progress. Vision and mission statements have been drafted; if they are organizational vision and mission statements for SHPD, they don't meet this requirement.       |   |
| 6.G.2.b.1)                            | The Plan is a single, concise, printed document.   | In progress. The revised Plan has not yet been drafted, but NPS expects that it will meet this requirement, based on preliminary drafts that have already been produced. |   |
| 6.G.2.b.2)                            | The Plan shall be developed to encourage Statewide public and professional involvement.  | In progress. This requirement is not yet met, although efforts are under way (State Plan Committee, public opinion   | <b>PP-3. Provide roles for SHPD staff, the Historic Places Review Board, and the Island Burial</b>  |

| Citation in Law or HPF Grants Manual | Requirement   | Finding  | Mandated Corrective Action   |
|--------------------------------------|---|--|--|
| 6.G.2.b.2); and<br>6.G.2.b.4)b)      | The Plan shall address the full range of historic resources in the State, and the Plan shall contain a section that summarizes an assessment of the full range of historic resources, including important issues, threats, and opportunities. | survey, briefings for the Historic Places Review Board, etc.).   | Councils in the Plan revision effort.<br><br>PP-4. Provide an active role for Native Hawaiian organizations in the Plan revision effort.<br><br>PP-5. Provide multiple opportunities for broad public and stakeholder participation in the Plan revision effort. |
| 6.G.2.b.4)c)                         | The Plan contains ...goals and objectives.  | In progress. This requirement is not yet met, but some work on this requirement has been done by one or more members of the State Plan Committee.                      |  |
| 6.G.2.b.4)a)                         | The Plan contains a summary of how the State Plan was developed, including how the public participated.   | In progress. This requirement is not yet met. Goals and objectives have been drafted, but they will need to be revised to accommodate public and stakeholder comments. |  |
| 6.G.b.4)d)                           | The Plan identifies the time frame of the State Plan (or "planning cycle").   | In progress. These requirements are not yet met, because a complete draft revised Plan has not yet been prepared.  |  |
| 6.G.b.4)e)                           | The Plan contains a bibliography.   |  |  |
| 6.G.2.c.1); and d.1)                 | A final draft revised State Plan must be submitted to NPS for approval.   | In progress. These requirements are not yet met, because a complete draft  | PP-6. Submit the draft revised State Plan to NPS WASO  |

| Citation in Law or HPF Grants Manual | Requirement   | Finding  | Mandated Corrective Action  |
|--------------------------------------|---|--|---|
|                                      |   | revised Plan has not yet been prepared.  | Preservation Planning Program for review and approval. Submit a preliminary draft for informal comment, and, after addressing comments, submit a final draft revised Plan for approval.                       |
| 6.G.2.d.3)                           | If a State Plan's planning cycle ends without an approved State Plan, the consequences will be the same as if the revised Plan was denied approval. | The planning cycle for Hawaii's NPS-approved State Plan expired on September 30, 2009; Hawaii does not currently have an approved State Plan.  |   |
| 6.G.2.f.                             | Each SHPO shall ensure that...HPF expenditures and matching share are used to implement the State Plan.   | Hawaii does not currently have an approved State Plan. Therefore, its HPF Annual Grant Application must contain additional materials as outlined in Chapter 7, Section C.1.j and C.1.k of the HPF Grants Manual. | PP-1.a. Plan revision activities must be included in Hawaii's HPF Annual Grant Applications for FY 2010, FY 2011, and FY 2012, and Chapter 7 requirements for SHPOs without approved State Plans must be met. |



**APPENDIX H**  
**TIMELINE OF CORRECTIVE ACTIONS**

## APPENDIX SI-1

### Survey and Inventory Program Requirements Chapter 6, Section H *Historic Preservation Fund Grants Manual* (June 2007 Release)

#### H. Survey and Inventory Program Area.

1. General. This section describes objectives, minimum requirements, eligible activities, and ineligible activities for the Survey and Inventory Program Area. Survey is activity directly pertinent to the location, identification, and evaluation of historic and archeological resources. Inventory activity relates to the maintenance and use of previously gathered information on the absence, presence, and (c) of historic and archaeological resources within the State.
2. Requirements. In addition to the General Requirements for Grant-Assisted Activities discussed in Section C, above, the following requirements apply to the Survey and Inventory Program Area.
  - a. All surveys funded by HPF grant monies or used as allowable matching share must meet the Secretary of the Interior's "Standards for Identification," that is:
    - 1) Be undertaken to the degree necessary to make decisions (Standard I).
    - 2) Be conducted according to research designs, which specify the objectives, methods, and expected results of the survey (Standard II).
    - 3) Produce final survey reports, which summarize the design and methods of the survey, provide a basis for others to review the results, and state where information on identified properties is located (Standard III).
  - b. HPF assisted surveys, or any survey whose costs are contributed as nonfederal matching share, must be designed to lead to nominations of significant properties to the National Register (or to a determination of eligibility if the owner objects).
  - c. Assisted activity must produce data to the State Historic Preservation Office that can be readily integrated into the State's Comprehensive Statewide Historic Planning Process.
  - d. States must maintain an inventory of properties surveyed including survey reports, inventory forms, and research designs.
  - e. State inventory activities funded by HPF grant monies or used as allowable matching share must meet the Secretary of the Interior's "Standards for Evaluation." Each State must be able to document that these inventoried properties are:
    - 1) Evaluated against established criteria, which, for the purpose of the National Register Programs, means the National Register criteria (Standard I).
    - 2) Evaluated within an appropriate historic context (Standard II).
    - 3) Accompanied by sufficient information on which to base decisions about subsequent preservation actions (Standard III).

- 4) Recorded in a manner that is accessible to the public (Standard IV).
- f. Additional Reports and other Documentation for Archaeological Resources.
- 1) Appropriate site inventory forms, maps, sketches, profiles, and field notes must be completed to record information about the archeological site(s) being investigated and the methods and techniques being employed.
  - 2) Copies of the site inventory forms must be provided to (and maintained by) the SHPO.
  - 3) A written report (of all results of the investigation) that meets contemporary professional standards, the Secretary's Standards for Identification, and the requirements of Chapter 25 must be prepared, and copies provided to (and maintained by) the SHPO and made available to other potential users, subject to Section 304 of the Act.
  - 4) For any subsequent phase involving development work on the site, the grantee will briefly summarize in the subsequent subgrant file (and Project Notification, if applicable) pertinent archeological information developed as a result of the investigation or testing of the site.
- g. Curation.
- 1) Archeological collections and accompanying data and records must be curated in a repository meeting contemporary professional standards, the Secretary's "Standards for Archeology and Historic Preservation," and 36 CFR 79 except when other disposition is required by 43 CFR 10, the regulations for the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001). However, the costs of ongoing curation are not allowable for HPF grant assistance (see Chapter 13, item D.11.)
  - 2) When archeological collections are to be removed from State, county, municipal, or private property, negotiated arrangements must be made for permanent curation of the collection, or for disposition in accordance with the requirements of the Native American Graves Protection and Repatriation Act (36 CFR 79 and 43 CFR 10). Such arrangements are to be negotiated among the property owner, the SHPO, and the principal investigator prior to reimbursement by the grantee.
- h. Access. Archeological collections and accompanying data and records resulting from grant-assisted work must be made available for scholarly research by qualified professionals for use in research, interpretation, preservation, and resource management needs. If appropriate, collections should be made available to the public through museum display or other means (see Chapter 13, items B.18 and D.29). This access requirement is subject to the provisions of the Native American Graves Protection and Repatriation Act (see 43 CFR 10), Section 304 of the National Historic Preservation Act, and 36 CFR 79.
3. Eligible Activities. In addition to the Eligible Grant-Assisted Activities discussed in Section D, above, eligible activities in the Survey and Inventory Program Area include:
- a. Intensive Level Survey. Intensive level survey is the systematic, detailed field (and archival) inspection of an area designed to identify fully architectural, archeological, and historic properties; and calculated to produce a level of documentation sufficient, without any further

data, to evaluate National Register eligibility.

- b. Reconnaissance Level Survey. Reconnaissance survey entails archival research and a field visit to determine the identity and location of resources present in an area. Such surveys should be designed so that a determination can be made from the results as to when it is worthwhile to obtain the additional level of documentation (through an Intensive Level Survey) necessary for a National Register nomination.
- c. Limited Archeological Testing. During Reconnaissance or Intensive level survey, limited subsurface archeological testing is allowable only to the extent that is needed to collect sufficient information to identify a resource and to assess its eligibility for listing in the National Register of Historic Places.
- d. Resurvey. Resurvey is eligible if its purpose is:
  - 1) to modify previously documented boundaries;
  - 2) to identify resources not a part of the property's earlier eligibility determination (e.g., archeological survey in a historic district); or
  - 3) to establish a property's relationship with other resources as part of the development or refinement of historic contexts. See Section G (Planning), above, and the Secretary of the Interior's "Standards for Archeology and Historic Preservation;" or
  - 4) resurveying in the field to upgrade existing inventory data for use in revising the comprehensive statewide historic preservation plan.
- e. Automating the State Inventory. Automating the State historic resources inventory to conduct analyses of inventory data for planning purposes or to make it more accessible to the broader planning arena in the State is an eligible activity.
- f. Advanced Survey and Inventory Technologies. Developing, purchasing, adapting, or implementing advanced planning/computer technologies and applications to further comprehensive statewide historic preservation planning and other program goals [e.g., computer mapping and analysis technology such as Geographic Information Systems (GIS)] are all eligible activities.
- g. Archeological Survey Activity on Development Projects. Eligible archeological survey activity may be associated with or be a prerequisite for a development project in the following circumstances (see Section K.2., below):
  - 1) If it is necessary in a development project to determine the presence and nature of subsurface features of an above-ground structure or site listed in the National Register, archeological survey using non-destructive remote-sensing techniques or limited archeological testing may be conducted.
  - 2) If the proposed treatment of a non-archeological property will disturb the earth, and if nothing is known about the presence or nature of any archeological resources, a survey is required to identify and locate any archeological resources and to collect information sufficient to evaluate National Register eligibility prior to finalizing the plans for treatment of the property.

- 3) If the preservation treatment is site stabilization or another preservation technique requiring accurate and up-to-date resource data, a resurvey of the site may be needed to confirm site boundaries, location, and condition prior to finalizing plans and specifications for the treatment project.
  - h. Processing Survey Data. Activity directly associated with processing survey data from all (including non-HPF assisted) sources for inclusion in the State inventory is an eligible activity. This includes properties surveyed at a minimum level of documentation and properties surveyed at a National Register level of documentation.
  - i. Survey on Federal Land. Survey on Federal land may be paid for with HPF or matching funds only under the following conditions:
    - 1) The survey is not a mitigation activity performed as a condition or precondition for obtaining a Federal permit or license or funding by other Federal programs.
    - 2) Prior written permission must first be obtained from the Federal agency land manager(s)/or his/her designee. Obtaining a permit under the Archaeological Resources Protection Act constitutes proper written permission as long as the requirements of the Historic Preservation Fund Grants Manual are met.
    - 3) For HPF subgrants, Project Notifications must contain a certification signed by the State Historic Preservation Officer that the requisite permission has been obtained, or include a copy of the certification of permission. For State in-house survey projects or for projects covered by Reduced Review Status (see Chapter 8, Section G), a copy of the signed written permission must be made available in the State office for inspection upon request.
    - 4) The Federal land manager(s) must be sent a copy of the survey report/Final Project Report.
    - 5) The SHPO must consult with the Federal land manager(s) on release of locational information related to resources vulnerable to damage or destruction should its location be released pursuant to Section 304 of the National Historic Preservation Act, as amended, prior to the release of the survey report/Final Project Report.
  4. Ineligible Activities. In addition to the Ineligible Grant-Assisted Activities listed in Section E, above, the following are ineligible activities in the Survey and Inventory Program Area:
    - a. More extensive survey, testing, and data recovery than what is necessary to determine National Register eligibility. However, it may be eligible under other program areas; see Section K.3., Development/Acquisition/Covenants, below.
    - b. Resurvey that does not meet criteria in Section H.3.d., above.
    - c. Archeological survey that does not meet criteria in Section H.3., above.
    - d. Survey on Federal Lands that does not meet criteria in Section H.3.i., above.
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## APPENDIX NR-1

**National Register Program Requirements**  
**Chapter 6, Section I**  
*Historic Preservation Fund Grants Manual*  
(June 2007 Release)

### I. National Register Program Area.

1. General. This section describes objectives, minimum requirements, eligible activities, and ineligible activities for the National Register Program Area. This Program Area is involved with activity directly pertinent to the documentation and evaluation of a historic or archeological resource for its potential eligibility for listing in the National Register of Historic Places.
2. Requirements. In addition to the General Requirements for Grant-Assisted Activity discussed in Section C, above, the following requirements apply to the National Register Program Area:
  - a. All activities in the Program Area must meet the Secretary's Standards for Evaluation and Registration.
  - b. Annually, the State must nominate eligible resources to the National Register of Historic Places.
  - c. A reasonable percentage of nominations must be derived from State-conducted surveys.
  - d. Nominated properties must meet the National Register Criteria for Evaluation, and must be documented according to National Register standards: (1) for substantive documentation and analysis in the description of properties and in the justification of the properties' (c) and (2) technical documentation. A State must demonstrate a comprehensiveness of resources in its nomination of properties.
  - e. The State's nomination procedures must comply with the requirements of the National Historic Preservation Act and with National Register regulations (36 CFR 60). See the Appendices and the National Register Bulletins series for the 36 CFR 60 requirements that apply to this Program Area.
  - f. Each State must assist the public and private sector in nominating historic properties to the National Register of Historic Places. States must document that HPF-funded projects and products used as nonfederal matching share (survey, nominations, Tax Act Applications, etc.) must be conducted, prepared, reviewed, or verified by persons from the appropriate disciplines who meet the requirements for the "Secretary of the Interior's Historic Preservation Qualifications."
3. Eligible Activities. In addition to the Eligible Grant-Assisted Activities discussed in Section D, above, eligible activities in the National Register Program Area include, but are not limited to:
  - a. Preparation and Editing of National Register Nominations.
  - b. Processing Data for National Register Eligibility. Any activity described in 36 CFR 60 related to processing of resource data for National Register eligibility. This includes Review Board activities related to evaluation of properties. This does not include Federal National

Register eligibility opinions which are eligible Review and Compliance activities. See Section O.3, below.

- c. Public Notice. Any activity related to public understanding of and participation in the nomination process.
  - d. NHL designation. Participation in the process for the nomination and designation of a property as a National Historic Landmark is an eligible activity.
4. Ineligible Activities. In addition to the Ineligible Grant-Assisted Activities listed in Section E, above, the following is an ineligible activity in the National Register Program Area:

Federal National Register eligibility opinions rendered pursuant to Section 106 of the Act are eligible in the Review and Compliance Program Area, not the National Register Program Area. See Section O, below.

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APPENDIX NR-2

LIST OF NATIONAL AND STATE REGISTER NOMINATIONS  
REVIEWED BY THE NPS SITE VISIT TEAM

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Hawaii Island

Hakalau Plantation Manager's Residence / 29-2301 Old Mamalahoa Highway, Hakalau  
Walter Henderson Residence / 82 Halaulani Place, Hilo  
W. Hill/Vernon Shutte Residence / 91 Halaulani Place, Hilo  
Laupahoehoe Jodo Mission / 36-1006 Laupahoehoe Point Road, Laupahoehoe  
Levi Lyman Residence / 40 Halaulani Place, Hilo  
Patrick McGuinness Residence / 30 Halaulani Place, Hilo  
Edward Moses Residence / 105 Halaulani Place, Hilo  
James Parker Residence / 72 Halaulani Place, Hilo  
Puakea Ranch / 56-2864 Akoni Pule Highway, Hawi  
Herbert Truslow Residence / 52 Halaulani Place, Hilo  
Crater Rim Drive  
Mauna Loa Road  
Hilina Pali Road

Oahu Island

Ethany Brown Residence / 3404 Kaohinani Street, Nuuanu  
Harold Castle Residence / 55 Kailuana Place, Kailua  
Clarence Cooke Beach Residence / 1548 Mokulua Drive, Lanikai  
Sam Cooke Residence / 2829 Manoa Road, Manoa  
East-West Center (Federal) / East-West Road, Manoa  
Edward Greaney/Zadock Brown Residence / 3115 Noela Drive, Diamond Head  
Fred Harrison Rental Residence / 3050 Kalakaua Avenue, Diamond Head  
Honolulu Star-Bulletin Building / 121 and 125 Merchant Street, Downtown Honolulu  
Honouliuli Internment Camp / Honouliuli Gulch, Waipahu Vicinity  
Thomas Petrie Residence / 1916 Manoa Road, Manoa  
Hermann Rohrig Residence / 2146 Kamehameha Avenue, Manoa  
Edward Sheehan Residence / 239 Kulamanu Place, Black Point  
Tantalus Roundtop Road  
Uluhaimalama

## APPENDIX NR-3

### Comments NPS National Register of Historic Places Staff on recent Hawaii National Register Nominations Returned to SHPD for Revision

## TANTALUS – ROUND TOP ROAD

### Honolulu County, HI

### National Register of Historic Places - Return Comments:

The current documentation is being returned for technical revisions. The basic documentation meets the requirements for National Register listing and approval will be completed upon correction of the items noted below and resubmission of the nomination to the National Register.

#### Location

The correct County and County Code should read: *Honolulu 003*

#### Classification

Singular roadways and linear transportation features are normally categorized as: *Structures*. When the nominated property is presented as a single resource the correct Category of Property should read as *Structure* rather than *district*, and the contributing resource should be revised from site to structure as well. If the individual features of the property (culverts, retaining walls, pull-outs, landscaping, etc.) were all called out and identified as individual contributing resources then district would be an appropriate categorization, but this nomination treats the property as a single linear resource or system.

#### Description

The current narrative should clearly establish that while the general configuration of the roadway (curving roadway following the rugged topography with the use of switchbacks, hairpins, and ridgeline routes) has remained largely unchanged since 1892—1917, the physical materials and engineering of the road surface has clearly evolved and reflects much later engineering technology. [*Physical construction of the road occurred between 1892 and 1917, and the roadway is essentially unaltered from this time.* [7.1] (?). The submitted photographs appear to show otherwise.] Since the nomination is being presented under National Register Criterion C it is important that the description narrative highlight exactly what “engineering” aspects of the roadway system are deemed significant. It would seem that the macro scale qualities of the property that have remained constant (see above) are the most significant and represent the most dramatic aspects of transportation engineering, while the specific modern era paving elements represent less unique aspects from an engineering perspective. (There are plenty of early historic roads that have been paved over in later times. They are not all necessarily eligible. What makes this property a unique engineering accomplishment is the path it takes and how this was accomplished to create not only an effective transportation link, but also an aesthetic landscape that harmonized with the natural topography and took advantage of those features to create a unique recreational resource.) While this is well presented in the significance statement, it should be augmented by the description narrative as well.

#### Significance

The *Level of Significance* should be revised to read: *local*.

The current narrative presents the roadway within the context of Honolulu history, which reflects the appropriate level of significance for the resource. In order to justify a state level of significance additional historic context regarding public road building in the state would be necessary.

The *Period of Significance* on the cover form should be revised to read: 1892—1954, as described and justified in the narrative. Seldom will mere continued function be suitable grounds for taking a period of significance up to the present.

National Register *Criterion B* is not sufficiently justified and should be dropped from the nomination; as should the names of the four Significant Persons on the cover form. While the individuals noted were all associated in various ways with the development of the roadway, none of their individual contributions to the project rise to the level of National Register significance. For many, their efforts to have the road completed had more to do with providing access to their residential lots and the larger developed Tantalus community than with the nominated resource and the establishment of a unique recreational feature. Similarly, the creation of the roadway project appears to have been but a minor aspect of most of their careers and accomplishments in Hawaii. The mere fact that the individuals instrumental in the development of the road were significant in other un-related fields is not sufficient to merit National Register listing this property under Criterion B. Justification under Criterion B will always require a careful evaluation of the specific contributions of the individuals and an analysis of which properties best convey their most significant contributions. The current narrative regarding those individuals associated with the road project can be retained in the nomination to support Criterion A and provide a fuller understanding of the historic development of the area, but the headings and references to Criterion B should be deleted.

The only National Register-listed property within the general vicinity of the nominated roadway is the Van Tassel House. The Tantalus Residences MPS cited in the narrative has not yet been approved or accepted by the NPS. The narrative should be revised to acknowledge this.

Criterion A. The nomination should be slightly more focused on documenting the significance of the roadway as an important tourist/recreational route and civic amenity. As a stand alone entity the roadway and its unique position in the landscape readily conveys that aspect of its historic use and significance. Even if the adjacent homes were removed, this aspect of the property's significance could still be conveyed. On the other hand, the roadway's significance as a component of the development of a unique residential enclave of affluent summer homes is much less secure without the inclusion of the residential resources directly associated with that history. "There are no other mountain ridge residential developments in Honolulu that compare to Tantalus Road-Round Top...compounded by the size of many of the properties is unique." [8.1]. This type of statement appears to point more to the eligibility of the entire residential development rather than just the access road. You wouldn't list a more typical residential neighborhood solely by nominating the access road. By itself, the Tantalus roadway perhaps best conveys the significant characteristics of a scenic, recreational drive. It may be possible by simply massaging the narrative slightly to emphasize this aspect of the property's significance under Criterion A.

### **Geographical Data**

The Verbal Boundary Description and Justification statements should clarify that this nomination includes the roadway alone and not the developed private parcels along the route, nor the landscaping/natural features. It is alright to note these as important characteristics of the setting, but it should be clear that the nominated eligible resource is defined as the roadway proper.

It is unclear what is meant by the term "unclosed site." It may be appropriate to note that the roadway is not a continuous loop road, but all NR boundaries must define "closed sites." They have a fixed beginning and end point and bounds along the length of the entire route. Perhaps the term "linear resource" should be used to replace "unclosed site." If the width of the right of way cannot be given in the verbal boundary description because it does not remain constant, perhaps it is worth adding the following phrase to the end of second sentence. "...The parcel includes the road, lookouts, culverts, retaining walls and curbs within the public right of way, the varying width of which is noted in the

narrative description.”

The U. T. M. Coordinates provided with the nomination did not contain the full number of characters. The *Northing* values should each have 7 digits. In addition, no acreage was provided for the property.

**Photographic Documentation**

Digital photographs must be accompanied by a CD-R containing the electronic .tiff-format images along with a photograph log sheet for inclusion with the nomination. (See NR photo policy for specific details: <http://www.nps.gov/history/nr/publications/bulletins/photopolicy/index.htm> )

## **ULUHAIMALAMA Honolulu County, HI**

### **National Register of Historic Places - Return Comments:**

The current nomination is being returned for technical and substantive revisions. The single largest issue surrounding the property is its physical integrity and the ability of the site to convey its historic functions and significance.

**Certification:**

The current documentation does not contain the appropriate SHPO signature, nor were the correct certification boxes checked.

A single appropriate level of significance should be noted, recommend: *State*

[The current documentation is focused largely on the role of the property in events associated with Hawaiian history, although they may have been played out within the larger context of American political history. Additional context and comparative analysis would need to be presented in order to justify a national level significance.]

**Function:**

The Historic and Current Functions need to be revised.

As a flower garden the appropriate historic functions might include: *Recreation//Culture-Outdoor Recreation; Landscape-Garden*. The appropriate current function is: *Funerary-Cemetery*. *Commerce* should be deleted. (Nothing in the narrative points to the garden as a money-making venture during the historic period, and cemeteries, while potentially commercial in nature, are not generally categorized as such for National Register purposes.)

**Description:**

Architectural Classification should read: *No style*

The current narrative information does not provide a detailed description of the current condition of the property. It merely describes the surrounding neighborhood and points to the current use of the site as a cemetery. No information is provided regarding the current physical condition of the site, as is required of all National Register nominations, even if those physical features are not germane to the proposed significance of the site. Deliberately omitting such information is not acceptable.

The reasoning provided for the lack of descriptive information regarding integrity questions is incorrect. The current physical features of the site are absolutely germane to this property and its potential for listing in the National Register. The narrative can easily note which of the current features are deemed important (if any) to conveying the significance of the property and which are not.

Such descriptive elements as the number and types of gravesites, the materials and designs used, the orientation of the

burials, the separation by walls and demarcations of family plots, the general landscaping, footbridges, commemorative markers, and access points should all be noted. There is no need to provide detailed information regarding the specific burials or the names of those interred in the cemetery. Some sense of the current physical condition and extant features is necessary however.

More important is a discussion of any extant features dating from the original garden use of the site during the historic period of significance. Is there any documentation of the physical character of the site at the time of its historic use? Are any of the features or characteristics still present? The significance narrative (page 14+) speaks of several specific features including a shrub bed, a commemorative *lehua* tree, a waterfall, and native Hawaiian plants that were part of the garden. Are any extant or are remnant features visible?

The current narrative provides no information on which to evaluate how the current property conveys the historic character and significance of the site during its period of significance. Integrity is a pivotal element of any National Register nomination, and is particularly relevant to this site, which on the surface appears to contain no original historic features that convey its function as a royal flower garden. The National Register does not generally list commemorative sites, or the sites where historic events took place where no extant features (standing buildings, structures or landscapes) remain.

**Significance:**

There is little dispute that the Royal Gardens, if intact, would be considered a significant reflection of Hawaiian royal society and political activity at the turn of the century. The current site however offers questionable integrity with regards to the historic period of significance and use from 1891 to 1918. The bulk of the current statement of significance relates the importance of the site to its function as the Royal Gardens during its association to Queen Lili'uokalani. As such, it would be expected that physical features associated with that use would be present to convey its significant associations. This, however, does not appear to be the case.

If the sole extant features of the site are associated with the purported proactive destruction of the site and its conversion to a cemetery, then the narrative statement of significance would need to be dramatically refocused, requiring among other things an analysis of what other sites associated with the Queen and the royal family were similarly removed or impacted, why the most prominent associated features (Palace, Washington Place, etc.) were left intact, and actual documentation of the political intent of the conversion rather than changes attributable to normal land conversions as a result of changes in use or ownership.

Commemorative sites, or "site of" locations are generally not accepted for listing in the National Register. Can it be shown that the former garden location was historically perceived by the Hawaiian public as a site of continuing veneration even after its conversion to a cemetery? Or is the site only viewed today in a more political perspective relative to the historic questions of Hawaiian self identity, sovereignty, and political history?

The background materials relating to the historic context of political activity and development in the Hawaiian Islands may be a bit too extensive. Their direct relevancy to the significance of the Flower Garden is difficult to discern. There is no disputing the effects of Americanization and colonization on Hawaii during the nineteenth century, but condensing the materials or starting with a later period [page 12, Queen Lili'uokalani] would more directly link the background materials to the specific themes and period of significance for this site.

Areas of Significance. The most appropriate areas of significance are probably: *Ethnic Heritage-Hawaiian; Social History; and Politics/Government.*

Significant Dates. The significant dates should refer only to those directly associated with the nominated property, in this case: *1891, 1894, and 1918.* Normally the explanation of these dates is provided in the narrative rather than on the cover form.

Criterion B. Sites nominated under National Register Criterion B normally require a compelling argument as to why that particular property best reflects the important contributions of the associated individual. In the case of Queen Lili'uokalani one might argue that such distinction lies with properties like the I'olani Palace and Washington Place, both recognized landmarks with direct and long-standing associations with the Queen. While the garden had a clear association with the Queen's activities during the historic period, in order to justify Criterion B the nomination will have to document how this property might *best* reflect the important events associated with the Queen's role as the

last reigning Hawaiian monarch in comparison with other similar sites. The issue is particularly pointed in light of the lack of integrity of the property from the time of the Queen's association in comparison to sites like the Palace and Washington Place. A stronger case might be made under Criterion A alone.

The historic role of the Royal Gardens in the last years of the Queen's (and the monarchy's) life makes for a compelling story, but the fact that little remains to convey those historic events makes the listing of the Uluhaimalama extremely problematic. There is no problem with the issue of the historic role of the place in the larger political/social events of the period. The overriding problem is the integrity of the site. From all appearances there is nothing left that even remotely conveys the use or function of the site from the period of significance. The National Register generally does not list such "site of" places. If the nomination is going to rest on the events surrounding the demolition of the garden as retribution for earlier political actions, then the nomination needs to focus a lot more attention on this aspect, including much stronger documentation that this was in fact a premeditated act and not just the normal transfer of an unused plot of former government/royal lands.

#### **Maps**

The nomination did not include an original USGS map.

If a map is going to be used in place of a written verbal boundary description it should be drawn to a scale of 1" = 200 feet. In the case of this property, since the map references city lots, the respective lot numbers should be incorporated into a verbal boundary description narrative that also references the scaled map.

**Verbal Boundary Justification.** The inability to define the exact bounds of the historic flower garden within the footprint of the current cemetery grounds only reinforces the apparent lack of integrity of the site.

## **CRATER RIM DRIVE**

### **Hawaii County, HI**

## **National Register of Historic Places – Return/Review Comments:**

The current nomination is being returned for technical and substantive revisions. The basic documentation outlines a property clearly worthy of listing in the National Register. Approval will be completed upon correction of the items noted below and resubmission of the required materials to the National Park Service.

#### **Certification**

The FPO certification box was not completed. In addition to the National Park Service there may also be additional federal owners within the district (see *Kilauea Military Camp* and *Hawaiian Volcano Observatory*).

#### **Location**

The street address should be amended to add: *Rim Drive circling the Kilauea caldera, Hawaii Volcanoes National Park.*

#### **Classification**

The Resource Count needs to be revised to reflect the corrected status of several properties, see *Description* below. The number of contributing buildings should not include the previously listed *Whitney Seismograph Vault No. 29* and *Old Volcano House #42/Art Center*, which are enumerated separately under "contributing resources previously listed." Both the Halemaumau Overlook (#53) and the Thurston Lava Tube Complex (#80) are listed in the narrative as contributing sites, but the inventory count only provides for one contributing site. Meanwhile two noncontributing sites are listed, but only one site is documented (KMP camp #22) [see below regarding Site #22 status].

#### **Historic Functions**

Although the roadway is obviously the dominant feature of the nomination, the extant historic buildings and their role in park development and the recreational experience of the visitors to the park cannot be overlooked. As such

the historic functions should be amended to recognize these functions—*Recreation and Culture/museum, and Domestic/hotel*.

### **Description**

The description of the *Volcano Art Center* (#5) on page 7.2 and 7.8 mentions adjacent resources (cistern, restrooms), yet these features are not addressed in the resource count. Are they historic and/or of sufficient scale to include? If an item like the landscaped staircase and retaining walls are separately detailed, then all built features should be treated equally.

Likewise, the *Ohia Wing* (#8) mentions a separate garage to the rear? Historic? Entered into resource count? For consistency purposes if features as small in scale as a retaining wall, culverts and pullouts are going to be individually counted then all extant buildings (rustic comfort stations, garages, shelters) should also be individually counted, even if considered part of a visitor use “complex.”

The descriptive narratives for most of the contributing buildings are limited at best. Photographs can usually augment such descriptions, but in this case most of these resources are not documented in the submitted photographic prints. While it is clear that the focus of this nomination and inventory project was the roadway and its unique design features, disregarding the building resources that played an equal role in the total visitor experience at the park seems shortsighted. This is likely to be the only nomination documenting the built visitor amenities at Volcanoes Historic Park and as such should be seen as an opportunity to fully document the park resources. (Are LCS inventory forms available to augment the narratives? Where historic plans are provided for certain buildings the narrative should include references to those materials. It might also be useful to include copies of the HABS/HAER digitized drawings where relevant to describing certain roadway and building features.

Kilauea Military Camp. It is not clear why the *Kilauea Military Camp* is included within the nominated boundaries. If the property is located off of the immediate historic roadway and contains no historic contributing resources, it could be easily excluded from the nomination with the inclusion of a clearer delineation of the boundaries in this area. (*In the vicinity of the Kilauea Military Camp the nominated boundary continues along the direct line of the historic roadway excluding those features not directly associated with NPS management and development of the park and its recreational amenities.*) If excluded, the narrative can keep the concise description of the resource to provide a sense of the development along the roadway, but it would be excluded from the resource count and clearly denoted as outside the boundaries.

If the camp remains included in the nomination, the narrative and resource count cannot simply refer to the entire complex as a single site. Each of the sizable component resources would have to be enumerated and described briefly. Common building forms could be detailed as a group or type. The impact of the adjacent property to the integrity of the nominated roadway would also need to be addressed. As a site that existed during the period of significance and directly utilized the features of Crater Rim Drive and the Park itself, it is not at all clear that the property should be deemed non-contributing if it were to be included in the nomination. The mere fact that a formal evaluation of eligibility has not been made yet is not sufficient to render the property non-contributing.

Exclusion of the camp from the boundaries might require reconsideration of certain roadway features in the vicinity depending on whether they reflected NPS-owned/developed components or the work of other agencies. The inclusion of the camp as a resource would also mean that additional Federal ownership and nomination certification would be required prior to consideration for listing.

Road Intersection #24. Is it just the road intersection that is being included or the entire abandoned trace?

Kilauea Overlook Complex. The complex (#25) contains a comfort station and picnic shelter that are not independently counted despite the fact that an individual photograph of the shelter structure was provided with the nomination. The comfort station description is limited.

Hawaiian Volcano Observatory. If the observatory (#30) is actually owned by the USGS, this nomination would require review and certification by that agency's Federal Preservation Officer.

Pullout (#52). Are these worthy of exceptional significance, as they are likely post-1974 resources? The level of

uncertainty of their construction date raises issues of eligibility.

Halemaumau Overlook (#53). Does the site include the trails to the overlook and the overlook itself or just the immediate parking area at the Rim Drive area?

Road Closure Gates (#55). If the gates date to 1959 (within the period of significance) why are they considered non-contributing structures? Altered?

Keanakakoi Overlook Complex (#65). The 1975-76 reconstruction of this resource (#65) further brings up the question of how far the period of significance should be pushed to include park resources. While the 1959-1962 efforts in response to the major eruptions of the period fall into a period generally with the past 50 years, give or take a few years, inclusion of 1975-era efforts or the even later 1980s works fall far outside the historic period. While the post 1959 quake efforts might be considered to fall into the Mission 66 era, for which we have some degree of documented context, later works have little contextual support other than representing the continuing management of the park. Little if any case is made for the exceptional qualities of these resources or the NPS development/management activities in the period. (see Significance discussion).

Turnouts (#59-#63). See above discussion. It could be that this short section of road simply has no contributing historic features, and represents just a loss of integrity of materials.

Drainage Ditches (#68-#69). If dates are unknown why are they considered contributing? Do they match similar historic period features? Were there no known alterations in this area? What basis was there for determining their status?

Former Crater Rim Drive (#77). How far off the current roadway is this resource. Do the boundaries incorporate two narrow linear features in this area or a single widened swath that accommodates both resources?

Thurston Lava Tube Complex (#80). How far does the nominated area extend surrounding this resource? All of the complex's extant features of sufficient scale should be independently counted (comfort station, bridge/trail, parking lot, etc.). The description of the comfort station included in the complex can serve as a good example of the level of detail that should be applied to all such under-described resources elsewhere in the park.

Waldron Ledge (#86). The boundaries in the vicinity of the ledge and the exit road need to be very clear since the intervening area contains substantial development with numerous modern (?) NPS support facilities.

### **Significance**

The appropriate level of significance should be *local*. The SHPO certification marked national, but the current nomination does not provide justification for such a designation. The proper context for understanding the significance of this road is found at the park/local level. National significance is not necessarily established simply by virtue of the roadway being located in a National Park, or developed in line with broad National Park Service design policies. In the case of the Crater Rim Drive, the resource is a fine local manifestation of larger public policies and served an important infrastructure role in local park development. Unless the documentation can show how the efforts here set a significant precedent for later park designs or other transportation/recreation systems, then national significance is not appropriate. [Section 8.1 notes that the "layout of the road... is a typical National Park Service planning method..."]

*Recreation/Entertainment* could be considered as an additional area of significance to reflect the road's importance to the enhancement of the visitor experience in the park. Park trails and roads, as outlined in the historic park master plans, were seen as an important element of the visitor's recreational experience.

Period of Significance. The current period of significance runs from the initial development period in 1907 up to 1983. Little if any direct justification is provided, however, for taking the period up to 1983 other than continued development and maintenance of the established road system. Normally, extension into the less than 50 year period requires an explicit justification of exceptional significance under Criteria Consideration G. No such context or justification is provided. For the most part it appears that the majority of the rim drive infrastructure was in place by the 1930s. Substantial alterations in the early 1960s after the 1959 earthquake might be considered part of the park's

ongoing management initiatives under Mission 66, and occurred within the period close to 50 years ago. The more recent works in 1975 and 1980, however, are much more distant from those earlier changes and affected a much more limited number of resources. It is unclear if sufficient justification is available to reach so far into the recent past to acknowledge so few resources, few of which constitute substantial or truly exceptional works.

#### **Geographical Data**

There was no acreage provided for the nomination.

An original USGS map was not provided. The UTM Coordinates could not be verified at this time.

*Verbal Boundary Description.* The current verbal boundary description does not adequately describe the nominated resources. Inclusion of a properly scaled (1" = 200') sketch map could assist, particularly for the development node areas (Visitor Center, Jaggar Museum, Halema'uma'u Overlook, Thurston Lava Tube, Waldron Ledge), but the narrative needs to be revised to better address the full extent of the historic features associated with this property. Limiting the boundary to a 18'—22' wide right-of-way corridor may encompass the limits of the paved roadway, but may fail to account for the significant contributions of the road's immediate setting to its design and the overall travel experience. In addition, limiting the bounds does not always take into account the various features of the road corridor outlined in the narrative (drainage features, walls) all along the roadway. The current description also fails to address exactly how the boundary will conform to the planned nodes of development. Is it again limited to the outside dimensions of the physical resources or does it encompass broader setting and physical use areas? While the bounds should not include unnecessary buffers or viewsheds, they should acknowledge the surrounding immediate setting and landscape. The description narratives are not always clear on the inclusion of trails or overlook features and the full extent of the built up areas. In addition there are nodes of development specifically left out of the nomination that should be clearly denoted in the boundary discussion and or maps (e.g. housing/maintenance area near visitor center).

## **MAUNA LOA ROAD**

### **Hawaii County, HI**

#### **National Register of Historic Places – Return/Review Comments:**

The current nomination is being returned for technical and substantive revisions. The basic documentation outlines a property potentially eligible for listing in the National Register. Final review will be completed upon correction of the items noted below and resubmission of the required materials to the National Park Service.

#### **Certification**

The FPO certification box was not completed.

#### **Location**

The street address should be amended to add: *Mauna Loa park road from Highway 11 to Observatory Building; Hawaii Volcanoes National Park.*

#### **Classification**

The Resource Count needs to be revised to reflect the corrected status of several properties, see *Description* below. In particular, an additional contributing resource should be noted for the roadway system itself. The current discussion accounts for all of the nodes and various use areas, but neglects to count the roadway as a contributing structure.

#### **Description**

*Day Use Site.* The Day Use Site contains two physical resources that were not included in the resource count. If worthy of discussion as prominent recreational features of this site, they should be separately enumerated. This includes the (non-contributing?) comfort station and the historic(?) rustic shelter. Since the narrative does not

provide a date for the *Day Use Site*, it is unclear how the resource(s) were defined as contributing. What basis is there for determining that the site dates from within the period of significance? Does it appear on maps, or in management plans of the period? Do the buildings or landscape elements reflect common historic forms seen elsewhere in the park? Some form of circa date should be provided in order to assess the contributing status of the resources. (See Verbal Boundary Description discussion below regarding ongoing boundary issues.)

*Bird Park.* Does the site include the one-mile trail loop? Is the trail loop historic? Does it contain any common park features? We can assume that the information kiosk is not of sufficient scale to be regarded as a separate resource, yet the roadway's various kiosks are specifically called out in the significance statement on 8.2. (see Verbal Boundary Description discussion below regarding boundary issues at this site).

*Roadway.* The roadway itself is not given any in-depth description. Other than citing its general width are there any other distinctive historic engineering/construction features of the roadway system? Were there any shoulders or gutters? Were substantial cut and fill segments completed? Does the road engineering itself still reflect historic materials and design specifications, or is it a "modernized roadbed" merely following the trace of the earlier roads? It would be nice to know if the roadway itself was an important physical component reflecting historic NPS design standards or merely a connecting link. (See resource count issue above, and the Verbal Boundary Description and Significance discussions below for more details.)

Where historic plans are provided for certain buildings the narrative should include references to those materials. It might also be useful to include copies of the HABS/HAER digitized drawings where relevant for describing certain roadway and building features.

### **Significance**

The appropriate level of significance should be *local*. The SHPO certification marked national, but the current nomination does not provide justification for such a designation. The proper context for understanding the significance of this road is found at the park/local level. National significance is not necessarily established simply by virtue of the roadway being located in a National Park, or developed in line with broad National Park Service design policies. In the case of the Mauna Loa Road, the resource is a fine local manifestation of larger public policies and served an important infrastructure role in local park development. Unless the documentation can show how the efforts here set a significant precedent for later park designs or other transportation/recreation systems, or how this secondary road represents an exceptional example of its type within a national context, then national significance is not appropriate.

*Recreation/Entertainment* could be considered as an additional area of significance to reflect the road's importance to the enhancement of the visitor experience in the park. Park trails and roads, as outlined in the historic park master plans, were seen as an important element of the visitor's recreational experience. In addition, the ongoing internal conflicts regarding the possible extension of the roadway reflected rather unique aspects of the history of recreational development within this particular park.

*Period of Significance.* The current period of significance runs from the initial development period in 1915 up to 1938. Little if any direct justification is provided, however, for starting the period at 1915. While initial planning and consideration of a route to serve Mauna Loa may have begun as early as 1915, the physical resources, as documented in this nomination, all appear to date from later NPS-initiated efforts. The earliest extant resource appears to date from c. 1920 (Tree Mold Site) and most date from the period 1929-1938. The narrative statement of significance in particular points to the involvement of the CCC as a major factor in the development of the current system. Consideration should be given to amending the period of significance to reflect the narrower period during which the road attained its current configuration and which is actually conveyed by the extant built resources.

It is not clear from the narrative the degree to which the 1949 improvements noted on 8.11 altered the earlier historic resource. The short notation that, "Work occurred on Mauna Loa Road in 1949, when the lower five miles were realigned," begs the question "To what extent does this portion of the 11-mile long road retain integrity from the 1929-1938 period?" Likewise, additional work on the roadway in 1955 to widen the road surface from 8' to 16' is treated as only a minor deviation instead of the major alteration to the historic fabric and experiential nature of travel on the roadway. Loosing small portions of the shoulder of a road is one thing, but the wholesale doubling of the road surface is more than a minor alteration and should be scrutinized much more carefully to assess whether or not

the resource being nominated truly conveys its historic period integrity of design, materials, workmanship, setting and feeling. It is troubling that the nomination makes note of these changes only in a single paragraph hidden within the statement of significance rather than in the narrative description of the property (see Description concerns above). The period of significance may need to acknowledge these physical changes depending on the outcome of the more detailed integrity evaluation.

#### **Geographical Data**

There was no acreage provided for the nomination.

An original USGS map was not provided. The UTM Coordinates could not be verified at this time.

*Verbal Boundary Description.* The current verbal boundary description does not adequately describe the nominated resources. Inclusion of a properly scaled (1" = 200') sketch map could assist, particularly for the development node areas, but the narrative also needs to be revised to better address the full extent of the historic features associated with this property. Limiting the boundary to a 12' wide right-of-way corridor may encompass the limits of the paved roadway, but may fail to account for the significant contributions of the road's immediate setting to its design and the overall travel experience. (How does this match the issue of widening to 16' noted in 8.11?) In addition, limiting the bounds may not always take into account the various features of the road corridor (drainage features, etc.) along the roadway.

The current description fails to address exactly how the boundary will conform to the planned nodes of development. Is it limited to the outside dimensions of the physical resources or does it encompass broader setting and physical use areas? While the bounds should not include unnecessary buffers or viewsheds, they should acknowledge the surrounding immediate setting and landscape. The description narratives are not always clear on the inclusion of trails or overlook features and the full extent of the built up areas.

## **HILINA PALI ROAD**

### **Hawaii County, HI**

## **National Register of Historic Places – Return/Review Comments:**

The current nomination is being returned for technical and substantive revisions. The basic documentation outlines a property clearly worthy of listing in the National Register. Approval will be completed upon correction of the items noted below and resubmission of the required materials to the National Park Service.

#### **Certification**

The FPO certification box was not completed

#### **Classification**

The Resource Count needs to be revised reflect the corrected status of several properties, see *Description* below. The number of contributing buildings should read: three (3) contributing buildings (fire cache, Nene campground shelter, Pali cliff shelter).

#### **Description**

It is not clear why the Kulana'okuaiki Campground facility is included within the nominated boundaries. If the property is located off of the immediate historic roadway ("accessed via a spur road") and contains no historic contributing resources, it could be easily excluded from the nomination with the inclusion of a clearer delineation of the boundaries in this area. (*In the vicinity of the modern Kulana'okuaiki campground the nominated boundary continues along the direct line of the roadway excluding the non-historic features.*) If excluded, the narrative can keep the description of the resource to provide as sense of the development of the roadway, but it would be excluded from the resource count. If for consistency purposes the nomination wishes to account for any and all features found along the roadway, then inclusion of the campground can remain part of the nomination, but the non-historic

comfort station must be noted as an additional non-contributing building, as was the comfort station located at the terminus of the roadway.

*Fire Cache.* If it was built and put into place during the 1940s, the fire cache should be considered a contributing building rather than a noncontributing resource. While utilitarian in nature, the resource clearly reflects the ongoing use and operation of the roadway as an important access point for administrative management of the park. If its categorization as non-contributing was due to a loss of physical integrity that point should be clearly noted.

*Kipuka Nene Campground.* The shelter building in the Kipuka Nene campground should be noted as a separate contributing building to be consistent with the categorization of the Pali shelter.

### **Significance**

The appropriate level of significance should be *local*. The SHPO certification marked national, but the current nomination does not provide justification for such as designation. The proper context for understanding the significance of this secondary road is found at the park/local level. National significance is not necessarily established simply by virtue of the roadway being located in a National Park, or developed in line with broad National Park Service design policies. In the case of the Hilina Pali Road, the resource is a fine local manifestation of larger public policies and served an important infrastructure role in local park development.

*Recreation/Entertainment* could be considered as an additional area of significance to reflect the road's importance to the enhancement of the visitor experience in the park. Park trails and roads, as outlined in the historic park master plans, were seen as an important element of the visitor's recreational experience.

### **Geographical Data**

There was no acreage provided for the nomination.

An original USGS map was not provided.

*Verbal Boundary Description.* The current verbal boundary description does not adequately describe the nominated resources. Inclusion of a properly scaled (1" = 200') sketch map could assist, but the narrative needs to be revised to better address the full extent of the historic features associated with this property. Limiting the boundary to a 12' wide corridor may encompass the limits of the paved roadway, but fails to account for the significant contribution of the road's immediate setting to its design and the overall travel experience. In addition, limiting the bounds does not take into account the various features of the road corridor outlined in the narrative (drainage features, walls, CCC features) all along the road. The current description also fails to address exactly how the boundary will conform to the planned nodes of development (campground, shelter). Is it again limited to the outside dimensions of the physical resources or does it encompass broader setting and physical use areas? While the bounds should not include unnecessary buffers or viewsheds, they should acknowledge the surrounding immediate setting.

The sketch map shows an extended area of CCC-related features at the southern end of the roadway, perhaps at a point of abandoned alignment, but the map is not of sufficient scale to determine the exact extent of the boundaries in this area.

## APPENDIX NR-4

### HAWAII AND NATIONAL REGISTER PRIORITIES

*Statewide Historic Preservation Plan  
for the State of Hawaii, Appendix A  
November 2001*

**Approved by the National Park Service  
December 14, 2001**

Nominations of historic properties to the Hawaii and National Registers of Historic Places will be prioritized and prepared by the State Historic Preservation Division staff. The following priorities will be taken into consideration:

- State and County-owned property will be given high consideration;
- Properties whose integrities are threatened will be given high consideration;
- Properties for which information is readily available and have been identified by either the regional syntheses or through subgrant inventory projects as worthy of preservation will be given high priority;
- Thematic and district nominations will be given high consideration;
- Properties whose formal recognition as historic places will enhance the potential for preservation by the property owner will be given high consideration.

In addition, the State Historic Preservation staff will assist in the registration of privately owned properties whenever the owners or interested parties request such assistance, and either:

- The integrity of the property is threatened; or
  - Information is readily available and the property has been identified by the regional syntheses as worthy of preservation; or
  - The property is a significant private residence which the owner is interested in registering; or
  - The property is identified within an historic context as a significant example of a site type; or
  - The formal recognition of the property as an historic place will enhance the potential for preservation by the property owner.
-

## APPENDIX RC-1

### SECTION 106 REGULATORY REQUIREMENTS FOR SHPOs

#### 36 CFR 800 Requirements for SHPOs

The Council's regulations apply primarily to Federal agencies, and where these responsibilities involve SHPOs, they deal with the Federal agency's responsibility to consult with the SHPO at a number of steps in the process, but the SHPO is not required to respond. There are a few requirements that specifically obligate the SHPO to action – primarily to advise and assist the Federal agency, 30-day review period, and sign MOAs and PAs. In addition, the Council's regulations specifically mention Native Hawaiian organizations. The following are relevant sections;

#### **§ 800.2 Participants in the Section 106 process.**

§800.2(c)(1) *State historic preservation officer.*

- (i) The State historic preservation officer (SHPO)... advises and assists Federal agencies in carrying out their section 106 responsibilities and cooperates with such agencies, local governments and organizations and individuals to ensure that historic properties are taking [sic] into consideration at all levels of planning and development.

**§ 800.3 Initiation of the section 106 process.** This section identifies Federal agency responsibilities, but SHPO references are relevant to this report:

§ 800.3(c)(3) *Conducting consultation.* The agency official should consult with the SHPO... in a manner appropriate to the agency planning process for the undertaking and to the nature of the undertaking and its effects on historic properties.

§ 800.3(c)(4) *Failure of the SHPO... to respond.* If the SHPO... fails to respond within 30 days of receipt of a request for review of a finding or determination, the agency official may either proceed to the next step in the process based on the finding or determination or consult with the Council in lieu of the SHPO...

§800.3(e) *Plan to involve the public.* In consultation with the SHPO..., the agency official shall plan for involving the public in the section 106 process.

§ 800.3(f) *Identify other consulting parties.* In consultation with the SHPO..., the agency official shall identify any other parties entitled to be consulting parties and invite them to participate as such in the section 106 process.

- (2) *Involving... Native Hawaiian organizations.* The agency official shall make a reasonable and good faith effort to identify any... Native Hawaiian organizations that might attach religious and cultural significance to properties in the area of potential effects [of the undertaking] and invite them to be consulting parties. Such... Native Hawaiian organization that requests in writing to be a consulting party will be one.

- (3) *Requests to be consulting parties.* The agency official shall consider all written requests of individuals and organizations to participate as consulting parties and, in consultation with the SHPO..., determine which should be consulting parties.

**§ 800.4 Identification of historic properties.**

- (a) *Determine scope of identification efforts.* In consultation with the SHPO..., the agency official shall:
- (1) Determine and document the area of potential effects...;
  - (2) Review existing information on historic properties...;
  - (3) Seek information, as appropriate, from consulting parties...;
  - (4) Gather information from any...Native Hawaiian organization...
- (b) *Identify historic properties.* Based on the information gathered under paragraph (a)..., and in consultation with the SHPO..., the agency official shall...identify historic properties.
- (c) *Evaluate historic significance.*
- (1) *Apply National Register criteria.* In consultation with the SHPO... and any...Native Hawaiian organization...and guided by the Secretary's Standards and Guidelines for Evaluation, the agency official shall apply the National Register criteria...
  - (2) *Determine whether a property is eligible.* If the agency official determines any of the National Register criteria are met and the SHPO... agrees... If the agency official determines the criteria are not met and the SHPO... agrees... If the agency official and the SHPO... do not agree...
- (d) *Results of identification and evaluation.*
- (1) *No historic properties affected.* If the agency official finds that there are no historic properties present or there are historic properties present but the undertaking will have no effect on them, the agency official shall provide documentation of this finding...to the SHPO...
    - (i) If the SHPO...does not object within 30 days of receipt of an agency's documented finding, the agency official's responsibilities under section 106 are fulfilled.
    - (ii) If the SHPO... objects within 30 days...the agency official shall either consult with the offending party, or forward the finding...to the Council...
    - (iii) During the SHPO 30 day review period, the Council may object...and provide its finding to the agency official...

**§ 800.5 Assessment of effects.**

- (a) *Apply criteria of adverse effect.* In consultation with the SHPO...and any...Native Hawaiian organization..., the agency official shall apply the criteria of adverse effect to historic properties within the area of potential effects....
- (b) *Finding of no adverse effect.* The agency official, in consultation with the SHPO..., may propose a finding of no adverse effect...
- (c) *Consulting party review.* ...The SHPO...shall have 30 days from receipt to review the finding [of no adverse effect]...

**§ 800.6 Resolution of adverse effects.**

- (a) *Continue consultation.* The agency official shall consult with the SHPO...and other consulting parties, including...Native Hawaiian organizations to develop and evaluate alternatives or modifications to the undertaking that could avoid, minimize or mitigate adverse effects on historic properties.
- (1) *Notify the Council and determine Council participation.* ...

- (i) The SHPO...or Native Hawaiian organization...may at any time independently request the Council to participate in the consultation.
  - (2) *Involve consulting parties.* ...the agency official, the SHPO..., and the Council..., may agree to invite other individuals or organizations to be consulting parties. ...
- (b) *Resolve adverse effects.*
  - (1) *Resolution without the Council.*
    - (i) The agency official shall consult with the SHPO...and other consulting parties...
    - (iv) If the agency official and the SHPO...agree on how the adverse effects will be resolved, they shall execute a memorandum of agreement....
    - (v) If the agency official and the SHPO... fail to agree on the terms of a memorandum of agreement, the agency official shall request the Council join the consultation...
  - (2) *Resolution with Council participation.* If the Council decides to participate..., the agency official shall consult with the SHPO..., the Council, and other consulting parties, including...Native Hawaiian organizations.
- (c) *Memorandum of agreement.*
  - (1) *Signatories.*
    - (i) The agency official and the SHPO...are the signatories...

**Appendix A to Part 800 – Criteria for Council Involvement in Reviewing Individual section 106 Cases**

- (c) *Specific criteria.* The Council is likely to enter the section 106 process at the steps specified in the regulations in this part when an undertaking:...
    - (4) *Presents issues of concern to Indian tribes or Native Hawaiian organizations.* This may include cases where there have been concerns raised about the identification of, evaluation of or assessment of effects on historic properties to which an Indian tribe or Native Hawaiian organization attaches religious and cultural significance; where an Indian tribe or Native Hawaiian organization has requested Council involvement to assist in the resolution of adverse effects; or where there are questions relating to policy, interpretation or precedent under section 106 or its relation to other authorities, such as the Native American Graves Protection and Repatriation Act.
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**APPENDIX RC-2: SELECTED MATERIALS ON  
HAWAII SECTION 106 COMPLIANCE  
Abstracted Highlights**

| RC #     | Topic or Project  | Agency             | Comment   | Author  | Date(s)                                   | Documentation   |
|----------|---|--------------------|---|---|---|---|
| <b>1</b> | Draft Archaeological Inventory Survey Report on Manoa Valley<br>---Qualified Staff??      | Not 106 – State 6E | Letter provides comments on draft report; <b>apparently unqualified reviewer – SHPD contact identified as, and letter written by [REDACTED], NOT a qualified archaeologist. [REDACTED], qualified archaeologist, signed the letter. Unclear if [REDACTED] did the review &amp; wrote the letter, or if [REDACTED] did the review &amp; instructed [REDACTED] what to write; or if [REDACTED] is contact due to a review-coordinating role he may have.</b>  | SHPD([REDACTED])<br>Log:2009.4388<br>Doc:0910[REDACTED]26<br>[“Archaeology” is not noted on letter, as usual] | 10/26/09                                  | Copy of letter  |
| <b>2</b> | Ke’amuku Maneuver Area, Island of Hawaii  | Army               | Letter identifies sites & structures located within or near maneuver area APEs, but <b>National Register eligibility is not mentioned.</b> Letter contains SHPD in-house editorial comments and mistakes. In addition, letter seems unfinished – there are no SHPD determinations, conclusions, or recommendations that are usually found in these letters.<br><br>**NOTE: Corrected & revised letter seems to have been sent – “No effect with monitoring” – this is inappropriate Section 106 conclusion. | SHPD([REDACTED]*)<br>Log:2009.3353<br>Doc:0909[REDACTED]28<br>Archaeology                                     | 9/17/09                                   | Copy of letter  |
| <b>3</b> | Quality of SHPD Review Replies  | Federal agency     | Our primary concern is the content of the letters – adherence to regulations, understanding of the process, insightful comments on treatment, & deep understanding of subject matter are lacking.   | Unknown; assume same as above   | 9/29/09                                   | Print-out of “Determinations & Reviews Report for the Week ending October 2, 2009” – from SHPD website 10/28/09 |
| <b>4</b> | Helemano Trail  | Army               | Inquiry about delay in SHPD reply to April 17, 2009 submission. NM reply only says “[REDACTED]”.  | Federal agency staff  | 9/4/09                                    | Comment with copies of letters  |
| <b>5</b> | Roof Replacement & Installation of Photovoltaic Panels, Kilauea Military Camp Building 59 | NPS Army           | SHPD review reply – “no adverse effects on historic resources.” Apparently unqualified reviewer -- refers questions to [REDACTED] – and unqualified signatory – [REDACTED], an archaeologist. Unclear if appropriately qualified staff reviewed this project. Review apparently did not assess visual effect of photovoltaic panels on properties within the National Register Historic District.   | Federal agency staff<br>SHPD ([REDACTED])<br>L:2009.2650<br>D:14144<br>[architecture]                         | 6/16/09<br><br>6/15/09 but signed 6/18/09 | Copy of e-mail<br><br>Copy of letter  |

|    |   |                                   |  |   |         |                   |
|----|---|-----------------------------------|--|---|---------|-------------------|
| 6  | Onsite Water Distribution System for Pi'ilani Mai Ke Kai                          | Federal agency not noted          | <p>Two separate letter replies w/ different dates, but same Log# &amp; Doc# --</p> <p>(1) State 6E response form. Project will occur on "former cane lands." Concludes "no historic properties effected [sic]...because: Intensive cultivation has altered the land." Ignores historic cane industry landscape.</p> <p>(2) State 6E response form. Project will occur on "former cane lands." Concludes "no historic properties effected [sic]...because: Intensive cultivation has altered the land." Ignores historic cane industry landscape.</p> | <p>(1)<br/>SHPD(████*)<br/>L:2009.1777<br/>D:0904████101<br/>Archaeology</p> <p>(2)<br/>SHPD(████*)<br/>L:2009.1777<br/>D:0904████101<br/>Archaeology</p> | 4/21/09 | Copies of letters |
| 7  | MobiPCS Luahalei Cell Site, 87-1650 Pa'akea Road                                  | FCC?<br>(not noted)               | <p>State 6E response form. Concludes "no historic properties will be effected [sic]...because: The antenna will be mounted on the pre-existing water tower." Why is this reviewed by archaeology? Should be reviewed by architecture &amp; cultural landscape expertise. Also, why are collocations not covered by a PA?</p>   | <p>SHPD(████*)<br/>L:2009.1823<br/>D:0904████79<br/>Archaeology</p>   | 4/18/09 | Copy of letter    |
| 8  | NPDES NOI Storm Water Discharge, Ford Island-Nob Hill Housing Utility Replacement | Navy                              | <p>State 6E response form. Apology for the delay in replying to incoming dated April 15, 2008 (one year ago). Concludes that "no historic properties will be affected...because... Residential development/urbanization has altered the land... &amp; There are no archaeological sites located within the APE." Text is missing from the statement "Historic architecture will not be....." Information on historic landscape of Ford Island is not addressed.</p>  | <p>SHPD(████*)<br/>L:2008.1548<br/>D:0904████95<br/>Archaeology</p>   | 4/17/09 | Copy of letter    |
| 9  | Repair Electrical Distribution System, Ph. 6, Hickam AFB                          | Air Force                         | <p>Inappropriate Section 106 conclusion. "Project will occur in archaeologically sensitive areas. But we concur with...'no adverse affect to historic properties' as long as this undertaking is archaeologically monitored."</p>  | <p>SHPD(████*)<br/>L:2009.1825<br/>D:0904████88<br/>Archaeology</p>   | 4/17/09 | Copy of letter    |
| 10 | Electrical Upgrades at T-Mobile Location, 515 Main Street, Hickam AFB             | Air Force?<br>FCC?<br>(not noted) | <p>State 6E response form. Project area is pre-existing above-ground facility. Conclude "no historic properties will be affected...because: Residential development/urbanization has altered the land." No information on possible effects to above-ground historic landscape.</p>   | <p>SHPD(████*)<br/>L:2009.1262<br/>D:0904████112<br/>Archaeology</p>  | 4/17/09 | Copy of letter    |
| 11 | MMRP CSE Phase I & II Investigations, Bellows AFS                                 | Air Force                         | <p>Inappropriate Section 106 conclusion. Project will occur in archaeologically sensitive areas. Requests archaeological monitoring as mitigation and concludes "with this protocol in place we concur with...determination of 'no adverse effect to historic properties.'" See other MMRP CSE project below,</p>  | <p>SHPD(████*)<br/>L:2009.1735<br/>D:0904████59<br/>Archaeology</p>   | 4/17/09 | Copy of letter    |

|           |  |                      |  |  |   |         |  |                |
|-----------|--|----------------------|--|--|---|---------|--|----------------|
|           |  |                      |  | RC#24; has different TMK number.   |   |         |  |                |
| <b>12</b> | NPDES NOI Storm Water Discharge, Waiakalua St. Improvements          | HIDOT                |  | State 6E response form. Conclude that "no historic properties will be affected...because: Residential development/urbanization has altered the land, & Previous grubbing/grading has altered the land." Concur with APE as the existing road footprint, but stormwater discharge could extend beyond that into adjacent agricultural areas – doesn't address this.   | SHPD( )<br>L:2009.1852<br>D:0904 96<br>Archaeology  | 4/17/09 |  | Copy of letter |
| <b>13</b> | Supplement Draft EIS, Hawai'i Range Complex                          | Navy                 |  | State 6E response form. Apology for delay in replying to incoming dated Feb. 25, 2009. Concludes "no historic properties will be affected...because: This project lies completely at sea." Ignores potential for underwater cultural heritage.   | SHPD( )<br>L:2009.1753<br>D:0904 107<br>Archaeology | 4/17/09 |  | Copy of letter |
| <b>14</b> | Repair Electrical Distribution System, Ph. 5, Hickam AFB             | Air Force            |  | Inappropriate Section 106 conclusion. APE within Hickam and Fort Kamehameha Historic Districts; includes Site 5325 approximately .3m below surface; trenching to be .85 deep, which will intrude into the site – but this is not mentioned. Conclusion – no adverse affect [sic] to historic properties with mitigation.   | SHPD( )<br>L:2009.1752<br>D:0904 94<br>Archaeology  | 4/16/09 |  | Copy of letter |
| <b>15</b> | High Capacity Rapid Transit Archaeological Resource Technical Report | HIDOT                |  | Does not seem consistent with Section 106 & 36 CFR 800; seems to comply with State 6E instead. Refers to earlier review comments (L:2008.3917, D:0810 35) and acceptance of an Archaeological Inventory Plan (L:2009.1325, D:0903 115). Conclusions unclear – seems to agree with report's findings. TMK # incorrect, per hand-written margin note; & Doc.# 0903 seems to be inconsistent with the letter's date (should be 0904?) . | SHPD( )<br>L:2009.0607<br>D:0903 177<br>Archaeology | 4/16/09 |  | Copy of letter |
| <b>16</b> | Kaumualii Hwy Intersection Improvements                              | HIDOT                |  | State 6E response form. Conclude "no historic properties will be affected...because: Residential development/urbanization has altered the land & Previous grubbing/grading has altered the land." Should this kind of work be covered by a PA?   | SHPD( )<br>L:2009.1696<br>D:0904 38<br>Archaeology  | 4/16/09 |  | Copy of letter |
| <b>17</b> | Collocated Antennas, 68-201 Farrington Hwy, Waiakalua                | FCC?<br>(not noted)  |  | State 6E response form. Apology for delay in replying to incoming of Feb. 18, 2009. Concludes "no historic properties will be affected...because: The antenna will be mounted on the pre-existing tower." Why is this reviewed by archaeology? Should be reviewed by architecture & cultural landscape expertise. Also, why are collocations not covered by a PA?  | SHPD( )<br>L:2009.0959<br>D:0904 55<br>Archaeology  | 4/13/09 |  | Copy of letter |
| <b>18</b> | Collocated Antennas, Waiakalua Beach Road, Haleiwa                   | FCC?<br>(not noted)  |  | Ditto comments above.  | SHPD( )<br>L:2009.0958<br>D:0904 56<br>Archaeology  | 4/13/09 |  | Copy of letter |
| <b>19</b> | Repair of Pier 21, Honolulu Harbor, Permit                           | HIDOT<br>Army<br>COE |  | State 6E response form. Conclude "no historic properties will be affected...because: Residential development/urbanization has altered the land & There are no known archaeological resources   | SHPD( )<br>L:2009.1782<br>D:0904 70                 | 4/13/09 |  | Copy of letter |

|    |  |                            |   |   |         |   |
|----|--|----------------------------|---|---|---------|---|
|    | Sea Wall Replacement (650 linear ft), Pilia'au Army Recreation Center  | Army                       | within the APE; project will take place in fill lands..."   | Archaeology   | 4/13/09 | Copy of letter  |
| 20 | Collocated Antennas, 56-1180 Kamehameha Hwy                            | FCC?<br><i>(not noted)</i> | Reply notes the Army has developed "mitigation measures to reduce the affects [sic] on historic properties" and concludes, "with these mitigation protocols in place, we concur with the agency's determination of 'no affect [sic] to historic properties.'" This is an inappropriate 106 conclusion. Also includes the "work will cease if historic properties, including burials... are identified" state 6E boilerplate.  | SHPD(█*)<br>L:2009.1733<br>D:0904█60<br>Archaeology | 4/13/09 | Copy of letter  |
| 21 | Collocated Antennas, Puu Phakuloa-Hilo                                 | FCC?<br><i>(not noted)</i> | State 6E response form. Apology for delay in replying to incoming of Feb. 18, 2009. Concludes "no historic properties will be affected...because: The antenna will be mounted on the pre-existing tower." Why is this reviewed by archaeology? Should be reviewed by architecture & cultural landscape expertise. Also, why are collocations not covered by a PA?   | SHPD(█*)<br>L:2009.0972<br>D:0904█57<br>Archaeology | 4/13/09 | Copy of letter  |
| 22 | Collocated Antennas, 87-108 Farrington Hwy                             | FCC?<br><i>(not noted)</i> | Ditto comments above.   | SHPD(█*)<br>L:2009.0957<br>D:0904█58<br>Archaeology | 4/13/09 | Copy of letter  |
| 23 | MMRP CSE Phase II Investigations, Hickam AFB                           | Air Force                  | Ditto comments above.   | SHPD(█*)<br>L:2009.0971<br>D:0904█49<br>Archaeology | 4/13/09 | Copy of letter  |
| 24 | Remediation Activities at LF23, Bellows AFB                            | Air Force                  | Project not in archaeologically sensitive area; concur with agency's determination of "no historic properties affected." See other MMRP CSE project, RC#11 above; different TMK number.   | SHPD(█*)<br>L:2009.1734<br>D:2009█61<br>Archaeology | 4/13/09 | Copy of letter  |
| 25 | Doris Duke's Shangri-La EA (example of incomplete & inaccurate review) | Air Force                  | Inappropriate Section 106 conclusion. Removal of contaminated land in an area known as Site 4853. "Mitigation of effect by archaeological monitoring...therefore, we concur... 'no effect to historic properties.'" SHPD comment that "no historic properties will be affected...due to prior alteration of the land by residential development and urbanization" is a form reply - does not address historic structure or historic landscape & ignores historic significance of the "residential development" and the Native Hawaiian petroglyphs identified in the archaeology report in the EA's appendix. | SHPD(█*)<br>L:2009.1731<br>D:0904█62<br>Archaeology | 4/13/09 | Copy of letter  |
| 26 | Proposed MobiPCS Luahalei Cell Site                                    | Not 106-- State 6E; FCC    | State 6E response form. Concludes "no historic properties affected...because: Residential development/urbanization has altered the land...& The antenna will be mounted on the pre-existing water tower." Why is this reviewed by archaeology?  | SHPD(█*)<br>L:2009.1701<br>D:0904█26<br>Archaeology | 4/6/09  | Copy of EA dated July 2009; SHPD Letter in Appendix E of EA |
| 27 |  |                            |   | SHPD(█*)<br>L:2009.1743<br>D:0904█30<br>Archaeology | 4/6/09  | Copy of letter  |

|    |  |                      |  |   |              |  |
|----|--|----------------------|--|---|--------------|--|
| 28 | Maalo Road Resurfacing   | HIDOT                | Should be reviewed by architecture & cultural landscape expertise.<br>This type of project should not need to be reviewed by SHPD – is this really Section 106, and if so it should be covered by a PA.  | SHPD (██████*)<br>L:2009.1655<br>D:0904██████04<br>Archaeology          | 4/1/09       | Copy of letter   |
| 29 | Halaeiwa Small Boat Harbor Maintenance                               | Army Corps of Engrs. | Repair and replacement of concrete piers – SHPD concurs “no historic properties affected.” State boilerplate about stopping work immediately if historic resources found.  | SHPD(██████*)<br>L:2009.1740<br>D:0904██████07<br>Archaeology           | 4/1/09       | Copy of letter   |
| 30 | Honolulu Harbor Maint. Dredging, Piers 52 & 53                       | Army Corps of Engrs. | State 6E form – “concur that no historic properties will be affected because... *There are no known archaeological resources located within the APE.” Two letters w/ same date, log #, & doc #, one with 2 paragraphs before the “we concur” checklist, the other with one paragraph – were both sent???   | SHPD(██████*)<br>L:2009.1679<br>D:0904██████09<br>Archaeology           | 4/1/09       | Copy of 2 letters  |
| 31 | Honolulu High Capacity Rapid Transit Draft EIS/4(f) Eval.            | HIDOT?<br>USFTA?     | Hawaii’s Thousand Friends requests to be “interested party” under state law and Section 106, and receive project documents, especially SHPD comments, and for their comments to be accepted by SHPD. Claims SHPD is not complying with state law in making documents received for its review available to “interested parties.” Alleges probable violation of Section 4(f). May be missing last page(s) of letter. | Hawaii’s<br>Thousand Friends  | 2/2/09       | Copy of letter   |
| 32 | Consultations on PPV Housing, Hickam AFB                             | Air Force            | Request to better coordinate with Hickam and Actus Lend Lease on rehab & restoration of historic housing in the Hickam Historic Housing District. Note: NPS team’s interviews included discussion of this project; documentation shows how very complex and complicated this project is. Letter cc: ACHP, NPS (██████), National Trust (██████), & Historic Hawaii Foundation (██████)                             | SHPD(██████)<br>D:0901██████47<br>Architecture<br>[no log #?]           | 1/30/09      | Copy of letter, PA, Design Package, Schedule, Historic Housing Unit Inventory, maps, ICRMP Planning Guidelines |
| 33 | 45-day Section 106 review period                                     | Federal agency       | Inquiry about the legal source for SHPD claim that they “are working under the NHPA architectural review period for 106’s which is 45 days.”   | Federal agency staff & former SHPD staff                                | January 2009 | Copy of e-mail   |
| 34 | Who speaks for SHPD  | Federal agency       | Agencies need SHPD to speak with one voice & to know who speaks on behalf of SHPD. Follow-up on meeting/conference call.   | Federal agency staff to SHPD mgmt.                                      | January 2009 | Copy of e-mail   |
| 35 | Final archaeological monitoring report, Lot B Kekaha Housing Project | Unclear              | Identified as NHPA Sec.106, but SHPD treats as if a State 6E project – letter “accepts” report as meeting the requirements of State regulations HARI13-13-279. Report provides results of monitoring – “inadvertently discovered human remains;” does not  | Consultant report<br>SHPD(██████)<br>Log:2008.5712<br>Doc:0812██████105 | 12/28/08     | NPS team notes on review of report   |

|    |  |              |  |   |               |                                    |
|----|--|--------------|--|---|---------------|------------------------------------|
| 36 | Report – Archaeological survey of Kipahulu Unit of Haleakala National Park | NPS          | address identification, analysis, curation, or disposition of reported archaeological material associated with sugar cane industry.<br>Identified as NHPA Sec.110, but SHPD letter requests clarification whether 110 or 106. SHPD letter seems to require compliance with HAR 13-13. Report requests SHPD concurrence on National Register eligibility for 17 sites plus concurrence on ineligibility of one site – SHPD letter does not respond to this request. | Consultant report SHPD( ) Log:2008-5717 Doc:0812-71 | 12/23/08      | NPS team notes on review of report |
| 37 | Mokapu Collection Reburial Final Environmental Assessment                  | Marine Corps | Handwritten note: Not Valid – Do not send to OIBC [Oahu Island Burial Council]. Draft EA proposed to create temporary footpaths to avoid adverse effects and will monitor ground-disturbing activities of path installation. SHPD concurred with this mitigation. Final EA states the “site for the temporary trail has been recorded and is no longer considered significant.” SHPD “concurrs that project will have ‘no adverse effect.’”                        | SHPD( ) L:2007.2841 D:0812-47 Archaeology           | 12/15/08      | Copy of letter                     |
| 38 | Upgrade Fiber Optics Cable for Family Housing                              | Marine Corps | Inappropriate Section 106 conclusion. Apology for delay in replying to incoming dated June 6, 2007 (18 months delay). SHPD concurs with agency determination that “no historic properties will be effected [sic] because archaeological monitoring will be conducted during ground disturbing activities.” Letter cc:NPS ( ), National Trust ( ), Historic Hawaii Foundation ( ), ACHP.  | SHPD( ) L:2008.1996 D: 0812-45 Archaeology          | 12/15/08      | Copy of letter                     |
| 39 | Section 106 Professional Qualification requirements                        | n/a          | Inquiry and explanation about staff removal from 106 reviews because “NPS complained” (“-we are in trouble with NPS”) and the nature of the PQ requirements and their application. <i>Much of the explanation is inaccurate.</i> Handwritten note – “Seriously, this lady is signing off all the letters.”   | Former SHPD staff; current SHPD mgmt.               | December 2008 | Copies of e-mails                  |
| 40 | Proposed Combat Vehicle Operator Course, Bellows                           | Marine Corps | SHPD respectfully differs with the Marine Corps in the National Register eligibility of the associated runway in its associated with the December 7 attack, and clearly explains why. Also notes SHPD understanding of the temporary and removable nature of the vehicle course features, and concurs with the agency that the project will have no adverse effect. Letter cc: NPS ( ), National Trust ( ), ACHP, Office of Hawaiian Affairs.                      | SHPD( ) L:2008.5210 D:0812-25 Architecture          | 12/10/08      | Copy of letter                     |
| 41 | Expansion of Outside Cable Rehabilitation (OSCAR)                          | Marine Corps | Concurs with agency determination of “no adverse effect” to historic properties, but calls for archaeological monitoring if work encounters sand or sandy fill, where burials have been discovered in  | SHPD( ) L:2008.5419 D:0812-05                       | 12/2/08       | Copy of letter                     |

|    |   |              |   |             |   |   |
|----|---|--------------|---|-------------|---|---|
| 42 | Makakilo Drive Extension                    | HIDOT        | <p>earlier cable expansion. Letter cc: NPS ( ), National Trust ( ), Historic Hawaii Foundation ( ), ACHP.</p> <p>Two SHPD letters – 1 for Section 106; 1 for State 6E; 9 days apart, with errors &amp; contradicting conclusions; do not address Native Hawaiian concerns, as indicated in stakeholder e-mails.</p> <p>(1) <u>Oct.29 letter</u> – identified as a Section 106 review; addressee different from salutation ( ); project in subject line has nothing to do with the report reviewed; concludes “no historic properties affected...because: residential development/ urbanization has altered the land &amp; there are no known archaeological resources located within the project area. Handwritten notes identifying problems, including “No development/ no urbanization for the scope of work” &amp; “There are identified sites per CIA” [Cultural Impact Assessment] &amp; Native Hawaiian expert.</p> <p>(2) <u>Nov.7 letter</u> – identified as a state 6E review; apologizes for delay in replying to report received July 1, 2008 (4 months late); comments provided on Archaeological Inventory Survey report, which found several historic resources. No reference to Section 106 or to Native Hawaiian concerns.</p> <p>Inappropriately identified as a state 6E review?<br/> Same project, two different conclusions –<br/> (1) <u>Aug.31</u> – historic properties in the area; recommends archaeological survey; letter addressed to project consultant. Handwritten notation – “No background check – see 2<sup>nd</sup> letter ( found historic properties – did not).”</p> <p>(2) <u>Feb.24</u> – “no historic properties will be affected...because: intensive cultivation has altered the land; residential development/ urbanization has altered the land; previous grubbing/grading has altered the land; &amp; No subsurface excavation in previously undisturbed sediments is included in this project.” Letter addressed to HIDOT &amp; copy contains HIDOT internal “received” stamps.</p> | Archaeology | <p>10/29/08</p> <p>11/7/08</p>  | <p>Copy of letter w/ comments</p> <p>Copy of letter</p> |
| 43 | Kuhio Highway Slope Stabilization           | HIDOT        | <p>(1)-SHPD( )<br/> L:2008.4558<br/> D:0810 76<br/> Archaeology</p> <p>(2)-SHPD (not signed)<br/> L:2008.2057<br/> D:0811LM11<br/> Archaeology</p> <p>(1)<br/> SHPD( )<br/> L:2008.3730<br/> D:0808 46<br/> Archaeology</p> <p>(2)<br/> SHPD( )<br/> L:2008.0404<br/> D:0802 28<br/> Archaeology</p>  | Archaeology | <p>8/31/08</p> <p>2/24/08;<br/> Received by DOT 3/4,<br/> by Highways 3/6</p> | <p>Copy of letter</p> <p>Copy of letter</p>             |
| 44 | Ewa Marine Corps Air Station & Fort Barette | Marine Corps | <p>SHPD( )<br/> L:2008.1941<br/> D:0820 13<br/> DLNR:62397</p> <p>Response to Senator Daniel Akaka’s request for information on Ewa &amp; Fort Barette.</p>   | Archaeology | <p>8/20/08</p>  | <p>Copy of letter</p>                                   |

|           |  |                     |   |  |                        |                   |
|-----------|--|---------------------|---|--|------------------------|-------------------|
| <b>45</b> | Makua Site Visit   | Federal agency      | <b>Difficulties in scheduling site visit with SHPD.</b>   | Federal agency staff & SHPD mgmt.                          | August 2008            | Copy of e-mail    |
| <b>46</b> | Tripler Army Medical Center Privatization of Army Housing (TAMC PAL) project | Army                | <b>Difficulties in scheduling meeting with SHPD to discuss draft PA.</b>  | Federal agency staff & former & current SHPD staff & mgmt. | May, June, & July 2008 | Copies of e-mails |
| <b>47</b> | Kipahulu Kupuna Group Meeting re: county road project                        | FEMA<br>FHWA<br>NPS | “FEMA Highway Project” – change in HPD contact; “pursuant to Section 106, this...is obviously ‘effect with proposed mitigation;’ staff letter changed w/out discussion to “no historic properties affected;” confusing 106 w/ 6E process, & HPD form letters for 6E are “worded incorrectly;” inappropriate 106 language. Also, e-mails re: inconsistent SHPD conclusions (including reference to 3/7 Thielen letter), how Section 106 & 36 CFR 800 are being complied with, & need for MOA/PA. | Former SHPD staff; current SHPD mgmt; Federal agency staff | March 2008             | Copies of e-mails |
| <b>48</b> | Punakea Loop/Makila-Launiupoko   | DOT                 | Review status & discussion w/ consultant; <b>Seems to include 6E compliance</b> (part of the project or staff confusion?). Also, internal SHPD e-mails discussing the location of a letter from a Native Hawaiian stakeholder that refers “below standard work” of a consultant on the Makila-Launiupoko project; stakeholder was concerned that SHPD had not responded to the letter.  | Former & current SHPD staff; project consultant;           | March & April 2008     | Copies of e-mails |
| <b>49</b> | Not identified   | DOT                 | <b>Inquiry about delay in HPD review reply;</b> letter forwarded for signature early January & signed Feb.27  | Former SHPD staff; current SHPD mgmt.                      | March 2008             | Copies of e-mails |
| <b>50</b> | Traffic Counting Stations  | DOT,<br>FHWA        | <b>Project update,</b> inquiry about additional relevant reports; explanation about archaeological “on-call” monitoring; <b>apologies for delay in replying;</b> provides comments/clarifications on 4 stations   | Consultant & Former SHPD staff                             | March 2008             | Copy of e-mail    |
| <b>51</b> | ATST Project on Haleakala (solar telescope)                                  | NPS<br>NSF          | NSF letter to ACHP expressing concern about the consultation process with NPS & SHPD for identifying mitigation options; proposes a meeting to develop a memorandum of agreement to address adverse effects; includes cc: list of all consulting parties.   | CBianco<br>NSF Asst.<br>Gen. Counsel                       | 5/12/08                | Copy of letter    |

\*SHPD letter signatures –  actual signature  
 simulated signature, either autopen or image; clearly does not resemble actual signature;

\*\*All State 6E response forms contain the following boilerplate, which may not be relevant for Section 106 responses:

“In the event that historic resources, including human skeletal remains, are identified during the construction activities, all work needs to cease in the immediate vicinity of the find, the find needs to be protected from additional disturbance and please contact SHPD at (808) 692-8015.”

### ADDITIONAL MATERIALS

- Agenda for “SHPO/ACHP Conversation,” e-mail dated 8/20/08 from [REDACTED], ACHP, to [REDACTED], SHPD, with handwritten notes included & attached (maybe [REDACTED]?). Agenda includes list of 10 “ACHP specific concerns, as follows:
  1. Complying with the first step in the process
  2. Determining whether there is an undertaking
  3. Making a reasonable and good faith effort in identification
  4. Involving consulting parties, including Native Hawaiian organizations
  5. Respect for traditional knowledge
  6. Consultation for complex, high profile cases
  7. Notification of ACHP for adverse effects
  8. Role of the ACHP in consultation
  9. Resolving disputes among consulting parties
  10. Agency follow through and post-agreement reviews
  
- ACHP Policy Statement on the ACHP’s Interaction with Native Hawaiian Organizations, 5/13/08
- List of 161 “Missing Reports from SHPD”
- Historic Hawaii Foundation’s recommendations on the Honolulu Rapid Transit project, as consulting or interested party; no date.
- Programmatic Agreement regarding Navy undertakings in Hawaii, effective August 5, 2003.

**APPENDIX PP-1**  
**Historic Preservation Planning Program Requirements**  
***HPF Grants Manual Chapter 6, Section G.2.***

- a. Each SHPO shall develop a Comprehensive Statewide Historic Preservation Planning Process that:
    - (1) Meets the circumstances of each State;
    - (2) Achieves broad-based public and professional involvement throughout the State;
    - (3) Takes into consideration issues affecting the broad spectrum of historic and cultural resources within the State;
    - (4) Is based on the analysis of resource data and user needs;
    - (5) Encourages the consideration of historic preservation concerns within broader planning environments at the Federal, State, and local levels; and
    - (6) Is implemented by SHPO operations.
  
  - b. Each SHPO shall develop and update (as necessary) a written Comprehensive Statewide Historic Preservation Plan (hereafter State Plan) [that] describes a vision for historic preservation in the State as a whole and outlines future direction for the SHPO.
    - The State Plan is used by the SHPO and other throughout the State for guiding effective decision-making on a general level, for coordinating Statewide preservation activities, and for communicating Statewide preservation policy, goals, and values to the preservation constituency, decision-makers, and interested and affected parties across the State.
    - As such, the State Plan is not an office management plan for the SHPO office. The State Plan provides direction and guidance for general-level decision-making, rather than serving as a detailed blueprint for making place-specific or resource-specific decisions.
- 1) The State Plan shall be a single, concise, printed document. The State Plan may be a component of a larger plan. The length or format of the State Plan is not prescribed...
    - 1) The State Plan shall be developed in such a way as to encourage Statewide public and professional involvement, and be distributed to a wide range of public, private, and professional organizations and groups throughout the State, as well as to other potential users.
      - To be effective and achievable, the State Plan must be developed, implemented, and revised with the active involvement of a wide range of public, private, and professional organizations. It is not sufficient to consult only with preservation professionals and organizations. The State must consult as widely and broadly as necessary to meet this requirement and to encourage broad-based acceptance or familiarity of the State Plan throughout the State, particularly by those groups, constituents, and organizations that have the greatest potential to affect historic and cultural resources.
      - A specific list of public and professional groups is not prescribed...
    - 2) The State Plan shall address, at a general level, the full range of historic resources within the State, including buildings, structures, sites, objects, districts, and sites, including prehistoric and historical archaeology.
      - Data on historic resources that are used to develop and revise the State Plan are derived from a variety of sources. Specific data sources are not prescribed. At a minimum, however, the SHPO must use historic resource data and information that have been identified and assessed in accordance with the Secretary's Standards for Preservation Planning in developing and revising the State Plan.

- The SHPO must continue developing and/or updating historic resource data and information to provide up-to-date information for use during plan development, implementation, and revision.

3) The State Plan shall contain, at a minimum, the following elements or sections:

- a) A summary of how the State Plan was developed, including a brief description of how the public participated;
- b) A summary assessment of the full range of historic and cultural resources throughout the State, including current important issues facing historic preservation, threats and opportunities, and the current state of knowledge about historic and cultural resources or classes of historic resources throughout the State;
- c) Guidance for the management of historic and cultural resources throughout the State, such as is typically expressed in policies, strategies, goals, and objectives, that provide a vision for the State, and a direction for the SHPO office;
- d) The time frame of the State Plan (or “planning cycle”), including when the State Plan is next scheduled for revision or review; and
- e) A bibliography of special studies and other support documents used in preparing the State Plan.

c. NPS approval of the State Plan.

- 1) A completed final draft State Plan must be submitted to NPS for approval....

d. NPS approval of the revision of an approved State Plan.

- 1) When the State Plan approved under these requirements is revised at the conclusion of its planning cycle, NPS views this revised State Plan as a new document that must meet the requirements of this section and approved by NPS.
- 2) An approved revised State Plan must be in place at the expiration of the original Plan’s planning cycle, or at a minimum, prior to the SHPO’s submission of the HPF Annual Grant Application for the next fiscal year following the expiration of the planning cycle.
- 3) If a State Plan’s planning cycle ends without an approved revised State Plan, the consequences will be the same as if the revised Plan was denied approval – additional grant application materials are required (*HPF Grants Manual* Chapter 7, Section C.1.j and C.i.k.) and the NPS may take additional administrative action (see *HPF Grants Manual* Chapter 25, Section E, Overdue or Unacceptable Reports).

f. Implementing the approved State Plan.

- Each SHPO shall ensure that, in general, HPF expenditures and matching share are used to implement the State Plan. One of the major purposes of the State Plan is to guide decision-making about HPF expenditures. In general, there must be a significant and demonstrable correlation between State Plan goals, objectives, and tasks and SHPO expenditures of HPF funds, as reflected in the documents of the SHPO’s Annual Grant cycle...
-

## APPENDIX PP-2

### SPECIFICATIONS FOR UPDATING TIME-LINE for REVISING HAWAII'S STATEWIDE HISTORIC PRESERVATION PLAN May 6, 2009

#### Background

It is very important that the Plan revision effort stay on track for completion by September 30, 2009, the end of the current Plan's planning cycle, as well as the end of the current fiscal year. A detailed time-line that identifies critical milestones is a fundamental tool to guide the Plan revision effort and to help both the Hawaii SHPO and the National Park Service to monitor progress toward meeting the September 30 deadline. This is the reasoning behind the request made by the Associate Director, Cultural Resources in her March 4, 2009 letter to the Hawaii State Historic Preservation Officer, to

*... submit a detailed State Historic Preservation Plan revision timeline in accordance with NPS specifications (to be provided separately), carry out the Plan revision process, and submit to NPS a final draft revised State Plan that meets the requirements contained in Chapter 6, Section D [sic; should be G], HPF Grants Manual. If this timeline schedules the submission of the final draft revised State Plan after September 30, 2009, Hawaii's FY 2010 HPF Annual Grant Application must meet the grant submission requirements for States without an approved State Plan as outlined in the Historic Preservation fund Grants Manual, Chapter 7, Section C [March 4 letter, second page, action #7 ].*

The time-line for Hawaii's State Plan dated 3/03/09 does not contain enough detail either to guide, or to monitor, the Plan revision effort. Therefore, it must be revised to provide greater detail and clarity on what is expected to happen when (start & completion dates) and to show how tasks are interconnected.

The Plan revision time-line must be updated in accord with the Specifications listed in Section A and submitted to Sue Renaud, NPS-WASO, and Paula Creech by May 29, 2009. If she wants, Paula may designate someone else to receive this information, or she may choose not to receive it. The updated time-line must also be distributed to the State Plan Committee, so its members can better understand the Plan revision process and provide meaningful guidance.

NPS expects the Hawaii SHPO to follow this updated time-line and submit milestone documentation identified in the table in section B, below.

#### A. Specifications for Updating the Time-Line

1. **Start the updated time-line in January 2009.** List activities that are underway or that have been completed and dates of completion. This information provides context for future tasks.
2. **Include key milestones and deadlines.** The updated time-line must show the following key milestones and deadlines. Dates in **bold** are recommended if the September 30, 2009 deadline is to be met.
  - a. Dates of all meetings of the Statewide Plan Committee – identify the major topic of discussion at each meeting (such as “review and evaluate results of public meetings” and “review final draft revised Plan”).

- b. Dates of Targeted Meetings (April and May?) with “Resource Groups” (partners? stakeholders?) to discuss issues of concern to them – identify with whom meetings will be held, when, where, major topics to be discussed, also use questionnaire.
  - c. Dates of public meetings and/or workshops (April and May?) to obtain public viewpoints – identify invitees, co-sponsor(s), what (e.g., workshop, open house), when, where, also use questionnaire.
  - d. Date the questionnaires are sent out or announced, and deadline for responses (4 weeks later is reasonable; a shorter period may exclude some respondents, any longer and it may be hard to meet the September 30 deadline).
  - e. Date range(s) (April and May?) for compiling and analyzing information on historic/cultural resources and other relevant factors.
  - f. **May 29, 2009** = all information has been received from public and stakeholder meetings and questionnaire; analysis and synthesis of resource information and analysis of other relevant factors have been completed.
  - g. **June 1-30** = analyze all information that has been compiled; identify issues, threats, and opportunities; and develop goals and objectives; review by SHPO staff & Plan Committee of draft issues, threats, and opportunities, and goals and objectives.
  - h. **July 1-31** = writing draft revised Plan, consultations among, and internal reviews by, Plan Committee members and HPD staff and selected major stakeholders.
  - i. **August 3, 2009** = Circulate draft revised Plan for public and stakeholder review.
  - j. **August 31, 2009** = Deadline for receiving public and stakeholder comments on draft revised Plan.
  - k. **September 1-29** = addressing comments from the public, stakeholders, and NPS and revising draft Plan accordingly.
  - l. **September 30, 2009** = Submit final draft revised Plan to NPS for approval.
  - m. Approximately 6-8 months after NPS approves the revised State Plan, HISHPO will print it, widely distribute it, and submit two copies to NPS WASO Preservation Planning Program.
3. **Retain existing time-line information.** Existing time-line information should not be deleted in making the updates required here. For example, the identification of specific historic properties for analysis, appendix topics, and tasks associated with preparing the plan document itself are all important tasks that should be included in a Plan revision time-line.
4. **Identify connections among tasks.** Certain tasks must be completed before other can begin. For example, information about public and stakeholder concerns, other factors affecting historic resources, and status of historic and cultural resources needs to be compiled and analyzed in order to identify issues, threats, and opportunities, which, in turn, must be identified before developing goals and objectives to address them. The time-line should clearly show these connections.

**B. Milestone Documentation to be Submitted**

1. Hawaii SHPO will add Sue Renaud ([sue\\_renaud@nps.gov](mailto:sue_renaud@nps.gov)) and Paula Creech ([paula\\_creech@nps.gov](mailto:paula_creech@nps.gov)) to e-mail address lists used by the HISHPO to communicate with others about revising the Plan. Here, too, if Paula wants, she may designate someone else to receive this information, or choose not to receive it.
2. Documentation of milestone completion must be submitted to NPS-WASO Preservation Planning Program (Sue Renaud) and to Paula Creech according to the information provided in the table below. Again, if she wants, Paula may designate someone else to receive this information, or choose not to receive it.
3. Submission of milestone documentation provides information to NPS on accomplishment of time-line tasks; this documentation does not require approval or concurrence from NPS in order for the SHPO to continue carrying out Plan revision tasks. The only approval required is for the final draft revised State Plan.
4. NPS-WASO Preservation Planning Program will provide informal comments only on the draft revised Plan that is circulated for public comment, and will provide this comment by the public comment deadline. If Hawaii SHPO would like to receive feedback on any of the other milestone documents, such a request should accompany the documents when they are submitted. Otherwise, Hawaii SHPO should not delay action waiting for a response from NPS.
5. Milestone documents should be submitted via e-mail (preferable). Contact Sue and Paula (or designee) for a street mailing address if documents cannot be easily submitted electronically.

| <b>Task</b>                   | <b>Completion Date</b>   | <b>Milestone Document(s)</b>  | <b>Submission Date</b>                        |
|-------------------------------|--|---|---|
| State Plan Committee Meetings | Monthly – to be identified by HISHPO   | List of members & their affiliations<br><br>Meeting announcement, agenda, hand-outs, & meeting notes  | June 1, 2009<br><br>1 week after each meeting |
| Targeted Meetings             | Meeting dates in March, April, & May (see 3/3/09 time-line) – to be identified by HISHPO | For each meeting – meeting announcement, press release, and/or invitations; mailing list; agenda; hand-outs; attendance list; meeting notes/minutes   | 1 week after each meeting                     |
| Public Meetings               | Meeting dates – to be identified by HISHPO   | For each meeting – meeting announcement; press releases; and/or invitation; mailing list; agenda; hand-outs; name(s) of co-sponsor organization(s) (if any); attendance list; meeting notes/minutes | 1 week after each meeting                     |

| <b>Task</b>   | <b>Completion Date</b>   | <b>Milestone Document(s)</b>   | <b>Submission Date</b>  |
|---|--|--|---|
| Questionnaire   | Date sent out – to be identified   | Questionnaire mailing, including e-mail, snail-mail, or other announcement; copy of questionnaire; mailing list(s)                         | 1 week after date sent out  |
| Analysis of historic & cultural resources   | Date to be identified; concurrent with public meetings, etc., and before issue identification begins   | Preliminary draft text outlining methods & sources used, issues identified, types of resources analyzed, resource synthesis, and data gaps | 1 week after completion of task   |
| Identify issues, threats, and opportunities, and develop goals and objectives that address them | Date to be identified – approximately 1 month after analysis and compilation of public & targeted meeting information; resource synthesis; and information about other factors | Preliminary draft text discussing issues, threats, & opportunities, and goals and objectives   | 1 week after completion of task   |
| Draft revised State Plan distributed for public review and comment                              | Approximately 1 month after issues, threats, opportunities, goals, and objectives have been identified   | Complete draft revised State Plan with request for comments and comment deadline; web address for on-line version                          | Date distributed to the public; NPS Planning Program will provide informal comments |
| <b>Final draft revised State Plan</b>   | <b>September 30, 2009</b>  | <b>Final draft revised State Plan</b>  | <b>No later than September 30, 2009</b>   |
| Print and widely distribute the approved revised State Plan                                     | Approximately 6-8 months after revised Plan is approved  | Printed Plan, mailing list used to distribute the printed Plan   | Date distributed – approximately 6-8 months after the Plan is approved              |

## APPENDIX PP-3

### Memorandum from [REDACTED] to the Historic Places Review Board on the Statewide Preservation Plan

From: [REDACTED]  
10/21/2008 04:57 PM HST  
To: [REDACTED]@hawaii.edu  
cc:  
Subject:

Aloha [REDACTED]  
In April, I sent a letter to the SHPD to forward to you, and now I'm beginning to wonder if you ever received it. I'm hoping that it can be circulated to the rest of the board as an agenda item for discussion related to the Statewide Preservation Plan. I spoke with [REDACTED] this weekend, and [REDACTED] apparently has still not seen the letter. Best wishes to you and the rest of the Board!

[REDACTED]  
[REDACTED]  
University of Hawaii at Hilo  
200 W. Kawili Street  
Hilo, HI 96720  
(phone) 808 974-[REDACTED]  
(fax) 808 974-[REDACTED]  
[REDACTED]

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## Memorandum

**Date:** 8 April 2008

**To:** Hawaii Historic Places Review Board

**cc:** [REDACTED]

**From:** [REDACTED]  
Hawaii Historic Places Review Board Member

[REDACTED]

**Subject:** Comments at the end of my term on the Board, particularly relating to the Statewide Preservation Plan

It has been a pleasure and honor to serve on the Hawaii Historic Places Review Board over the last four years, and I especially wish to commend all of the board members and chairperson for their even-handed and thoughtful consideration of matters that have come before the Board during the time that I have served. My primary reason for not renewing my appointment is that I would like to spend more weekends with my family. I know that is a cliché, [REDACTED] and instead of taking another four years of quarterly weekend trips to Honolulu for Board meetings, I would prefer to plan my life so that [REDACTED]. I also know that two highly qualified archaeologists-- [REDACTED] --are considering appointments to the Board, and I fully support their nominations.

Although some other members of the Board have served multiple terms, and Dr. Ikeda has a tremendous amount of experience with the operation of the Board, I hope that I can make a few constructive comments regarding how the Board may take a broader role in the preservation of Hawaii's Historic places. I find this opportunity to write out my comments timely, because a major task of the Board in the coming year will be participating in the redrafting of Hawaii's Comprehensive Statewide Historic Preservation Plan, per the memo from Laura H. Thielen dated February 15, 2008.

The last statewide preservation plan was drafted in 2001, [REDACTED] before I began serving on the Board. It was a five-year plan that was to be re-evaluated by 2006, but that did not happen. My comments below consider where the State finds itself in 2008, and how the Hawaii Historic Places Review Board may help meet goals that remain compelling, and identify new goals and actions, and roles for the Board in those goals.

### **Status of the Goals listed in the November 2001 Plan**

In November 2001, when the last plan was drafted, there were 25 staff members in the State Historic Preservation Division. By my count, only two of them have remained (Nancy McMahon, Kauai Island archaeologist, and Jeffrey Chandler, Kauai Historic Sites Specialist). The beginning of the dismantling of the SHPD occurred shortly after a state audit by Marion Higa in December of 2002 that was highly critical of the division. Newspapers picked up the story of the audit with headlines such as "Cultural Watchdog Toothless" (Hawaii Tribune Herald December 20, 2002), and Don Hibbard left as administrator on December 30. In the interim, Dr. Holly McEldowney took over as acting administrator, but by 2004, virtually all the Ph.D. staff was forced out of the office or chose to leave in a political environment that had become decidedly hostile to the expense and administrative style of the division, including Holly McEldowney who was transferred to State Parks on October 15, 2004. The newly appointed administrator in October 2004, was one of Marion Higa's staff members on the audit, Melanie Chinen, and she came in with a stated mission of streamlining the efficiency of the Division. This, however, was unfortunately not the result of her tenure as administrator. Even with new hires, by the middle of 2007, the entire staff had been reduced to 8 members, and whole outer-island offices were closed. As vacancies were created with staff turnover, many positions remained vacant for years. While I do not seek to place blame for this situation on one individual, I do think it is important, in the State's attempt to rebuild the office, to design ways from keeping the same situation from happening again.

As the SHPD devolved into a dysfunctional organization, it became incapable of implementing many aspects of the preservation plan, and we will most likely be recovering from

the neglect of the plan for years to come. For example, 'Action A' under Objective A of goal 1 in the 2001 Statewide Preservation Plan was to 'Maintain sufficient staff at the State and County Levels to investigate and review development proposals in a timely manner.' Instead, backlogs for permits and report reviews mounted into the hundreds on each island. Although steps were being taken in 2001 to computerize the statewide inventory of historic places, by 2005 the SHPD had become reluctant to issue new inventory numbers because the inventory system had become so disjointed. In early 2008, a new inventory submission form was circulated, and a system is now back in place, but the statewide inventory has suffered through several recent years of extreme neglect. In the last several months, there has been a much more successful attempt to re-staff the office, but systemic administrative problems (particularly small budgets for DLNR as a whole) leave Hawaii's historic resources in a condition of heightened risk.

Many of the actions under Objective A called for 'enhancement' and 'expansion' of the 2001 system ('Enhance the SHPD website...'; 'Expand the archaeology branch operations by placing staff in Kona, as well as Hilo'). It is a sad conclusion that none of these actions have been implemented in the intervening seven years. For example, the newly formed Hilo office of SHPD just received its first phone line in over a year, and there is now no office in Kona. Through most of 2007, the SHPD website had not been enhanced, but instead had been neglected, with the removal of many reports and inventories. Although the SHPD Web page is again being updated, many sections have not been updated since 2005. Out of 11 actions under Goal 1 in the 2001 plan, it is my opinion that only two have been met--the adoption of new administrative rules for SHPD and developing standards for ethnographic work.

As of the summer of 2007, the disintegration of the SHPD led to several specific failures of the SHPD to properly meet its obligations for timely review of burial issues, especially human burials 'inadvertently' discovered during development projects. Staff turnover in the burials program exacerbated what had become a larger systemic problem with the operation of SHPD. Several community organizations mobilized to address these issues including the Association of Hawaiian Civic Clubs, the Friends of the Burial Sites Program, Hui Malama i na Kupuna o Hawaii Nei, and the Society for Hawaiian Archaeology, but the HPRB was not directly involved in any of these very public discussions of historic preservation concerns in the State.

One of the largest problems came to light on the Ward Villages project relating to the SHPD's review of "archaeological inventory surveys" (HAR Title 13, Chapter 276). General Growth Properties Inc. hired a private archaeological consultant to survey their development project at Ward Villages Shopping Center. In a 3% subsurface sampling of the site, 11 burials were identified in addition to a well preserved Native Hawaiian habitation site. Instead of SHPD requiring more subsurface sampling to identify the locations of any additional burials on the property, the inventory survey was accepted as complete, and construction continued as the initial 11 burials were relocated (with approval of the O'ahu Island Burial Council). As additional burials were encountered (including some that were found as the original 11 burials were being removed), they were classified as 'inadvertent discoveries' by SHPD. According to HAR Chapter 300, 'inadvertent discoveries' do not fall under the review of the Island Burial Councils. Instead, their disposition could be determined by SHPD. In my opinion, this is a clear abuse of the intended principle of 'inadvertent discovery' in HAR Chapter 300. A 3% subsurface sampling of a project area that reveals 11 burials suggests that hundreds of burials could be in the project area, and their discovery during construction is anything but inadvertent. It is instead a conscious attempt to ignore the presence of burials until their desecration during development is assured.

While the disintegration of the SHPD was under way, and was being reported on almost daily in the press, the Hawaii Historic Places Review Board had no direct oversight of the situation. Instead the Board continued to engage in a reactive mode—evaluating nominations to the State and National Registers of Historic Places, largely submitted by private landowners. I have as much blame to carry for this situation as any board member, but given the structure of the board, and the method through which agendas are established, it seems that the HPRB was excluded from providing any meaningful oversight of the operation of SHPD. This *must* change.

The Statewide Historic Preservation Plan seems like the best mechanism through which to establish more oversight of the SHPD by the HPRB. This could be facilitated by establishing more specific actions in the plan. Many of the proposed actions listed under objectives in the 2001 plan have time-frames that are listed as "ongoing." These actions without timeframes serve some purpose, but they are more capable of being ignored when the division is running poorly. For example, Objective C includes ongoing actions of supporting workshops and conferences, and improving coordination and communication between various historic preservation constituents. Given the vagueness of the actions, a claim could be made that all these actions have been met over the last seven years, but considering how poorly the SHPD has met the overall intent of objective C, part of the problem may be with the vagueness of the actions. Several more proactive and specific recommendations follow.

**Recommendations:**

1) As I stated above, I feel that it is important for the Hawaii Historic Places Review Board to be more actively engaged in the operation of the SHPD, especially in regard to its implementation of the Statewide Preservation Plan. Among the responsibilities of the HPRB as stated in the Department of the Interior's *Manual for State Historic Preservation Review Boards*, is the charge to "provide general advice and professional recommendations to the SHPO in conducting the comprehensive statewide survey, preparing the Comprehensive Statewide Historic Preservation Plan, and carrying out other duties and responsibilities of the State Historic Preservation Office..."

I suggest that the best way to achieve this is to have the SHPD administrator report to the Board at a minimum of once every two years on its progress towards meeting the goals specified in the Statewide Preservation Plan. Deficiencies noted in progress on the plan could then be considered in a public forum, and appropriate recommendations for removing roadblocks to the implementation of the plan can be discussed by the Board. Members of the public should be encouraged to bring issues before the Board that relate to the Statewide Preservation Plan at any point in time, and an official 2-year review of the plan could be accompanied by a public outreach campaign to get constituent groups to provide testimony to the Board. I see this as an extremely important safeguard against any future dismantling of the SHPD.

If the SHPD administrator were to report to the Board at a minimum of once every two years, some deficiencies noted in progress on the plan, such as fulfilling the spirit and intent of HAR Chapter 300, might be averted. While primary evaluation of burial issues should remain with the Burial Sites Program and Island Burial Councils, the HPRB could be an important and influential forum that could help resolve contentious issues such as the case cited above. It is important to note that in the case of development on State Land, the HPRB has authority to overturn on appeal decisions made by SHPD. In the case of private developments such as Ward Villages, although the Board has no power as an appeals board, it can still provide strong recommendations to SHPD on its actions in relation to the Statewide Preservation Plan.

2) The State would be much better served if SHPD could develop thematic nominations of various classes of historic properties to bring before the Board, where the best examples of each type are identified and nominated to the registers in one nomination. My overarching concern with both SHPD and the HPRB is that both need to enter a proactive mode of historic preservation in Hawaii. For example, the Board has reviewed several homes made by the architect Charles W. Dickey in recent years, but the structures that have come before the Board for consideration only arrived there because the landowners took the initiative to make the nominations. Without regional surveys prepared by SHPD, and accompanying nominations, the Board is making decisions on the eligibility of any particular structure in a vacuum, and in piecemeal form.

3) To achieve recommendation #2, it may be worthwhile to restructure positions at the SHPD to engage more explicitly in Survey and Planning activities, such as—a) the preparation of thematic nominations; b) the preparation of more district nominations in partnership with Certified Local

Governments; and c) the regular preparation of regional syntheses for districts within each county to identify local preservation concerns. Branches of other State Historic Preservation Offices are devoted fully to 'Survey and Planning' and undertake the actions described above separately from staff devoted to 'Review and Compliance' on development projects. In Hawaii, the survey and planning role has at best been met by the same individuals who are daily engaged in reviewing development projects for compliance with State, Federal, and County historic preservation laws. The two tasks are quite different, and review and compliance activities are practically all that have been accomplished in recent years in SHPD due to the critical staff shortages and review backlogs. Without up-to-date regional surveys of historic properties (architectural, archaeological, traditional cultural places, cultural landscapes), the isolated properties identified in development projects lack regional context, and it becomes impossible for SHPD or the HPRB to make sound judgments about the significance of any particular property. It seems the 12-page Statewide Historic Preservation Plan drafted in November 2001 served to fulfill a federal mandate, and its lack of implementation is in part due to the structural deficiency of the SHPD to maintain its survey and planning responsibilities.

4) It is also important that SHPD re-engage with other Federal, State, and County agencies to develop nominations for historic properties on government lands. For federal agencies this is a mandate specified in Section 110 of the National Historic Preservation Act. For State and County agencies, Chapter 6E H.R.S. clearly calls on the State to take a leading role in preserving Hawaii's historic properties. As I noted above, however, I have primarily seen members of the public taking the initiative to list properties in the Registers. Memoranda of Agreement between SHPD and other agencies could be created to develop inventories of historic properties on government-controlled land, and nominations for those properties should be developed as part of a statewide plan. Time-frames should be set in the MOA that replace 'ongoing' actions in the 2001 plan.

5) The SHPD's standards for the acceptance of archaeological inventory surveys need to be elevated from the current conventions. A 3% subsurface sample that reveals 11 burials in a project area must lead to more intensive attempts to identify burial locations early in the planning phase of a project so that more iwi kupuna can be left in place.

One can understand the priority placed on above ground features in leeward communities such as Kailua-Kona during the 1970s and 1980s construction booms, but more recent development trends are affecting areas with buried sites and no surface features. Nevertheless, many inventory surveys accepted as adequate by SHPD have conducted little to no subsurface testing in areas without surface features. A recent example of this is the Sea Mountain Five project at Punalu'u on Hawaii Island, where the planned development of 430 acres abutting the coast involved surface survey and limited subsurface testing only in areas with surface features. The majority of the 430 acres received no subsurface testing despite the strong likelihood that buried features would be present. Many areas affected by former cane cultivation are presently not considered for inventory surveys on the assumption that no significant archaeological sites would have survived a century or more of plowing. This assumption has been proven incorrect repeatedly across the Americas, and in Hawai'i. The failure to locate burials and significant historic features in former agricultural lands has, in my opinion, become an extremely pressing issue because agricultural lands are rapidly being converted to residential subdivisions and other uses that involve more extensive ground disturbance.

6) Funding for the Division needs to be increased to adequately achieve many of these actions in concert with other constituents. To simply ask the same SHPD staff to do more, and to offer no additional support, is untenable. Financial support, however, can come from several sources beyond the State budget. For example, the NPS National Conservation and Technology Training Grant offers up to \$50,000 per year to meet many goals specified in the plan, and in fact, the computerization of the statewide inventory was supported by this very grant, but no attempt to obtain similar grants have been made by SHPD in recent years. Many other SHPOs actually have a 'grants' division to help obtain and

manage grant funds from a variety of sources. With an appropriate hire, such a position could more than pay back the state for the salary expended.

7) Public outreach for the division could be improved by setting more specific actions in the plan and minimizing goals with nothing more than 'ongoing' actions. Examples could include expecting and funding SHPD administrators and staff to regularly participate in and help organize annual meetings such as the Society for Hawaiian Archaeology meetings as well as the Historic Hawaii Foundation's conference, and committing SHPD staff and funds to the organization of an annual "Archaeology Week" in collaboration with the Society for Hawaiian Archaeology. In most other states in the U.S., brochures, posters, public presentations, and community historic preservation workshops are funded, organized, and advertised primarily through the SHPO office. Templates for organizing 'Archaeology Weeks' are readily available through other SHPO offices.

8) Design a SHPD internship program to engage students from campuses around the state to work with SHPD and have interns prepare presentations for appropriate conferences.

9) Listing of Traditional Cultural Properties to the State or National Registers has been extremely poor. I suggest making a prioritized list of historic properties that should be listed as Traditional Cultural Properties on the State and National Register, and committing SHPD staff to make certain that the nominations are completed. The summit region of Mauna Kea is a prime example of one such site that is managed by the State, and is obviously eligible, but has yet to be listed.

I thank the entire Board for its volunteerism and deep sense of commitment to Hawaii's heritage. I want to make it clear that the intent of my critical comments above are not to defame individuals, but to attempt to restructure both the SHPD and the HPRB to better meet the goals that each institution is charged with. I intend to stay actively engaged in historic preservation service in Hawaii, and I hope to be working with you all in the future.

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