

NATIONAL PARK SERVICE



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

**March 19, 2010**



# 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.

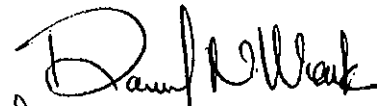
As you know, we detailed National Park Service staff to SHPD in 2008 and 2009 to provide technical assistance. We will now establish a new position in our Pacific West Regional Office in Honolulu to oversee the corrective action plan. This oversight will extend to all Federally-mandated activities, and, 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

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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 archeological 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." b. Surveys must be designed to lead to nominations to the National Register. 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.

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## 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 (Ms. Nancy McMahon'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.
<p>The tracking system shall contain at a minimum the following:</p> <ul style="list-style-type: none"> <li>(1) the name of the undertaking or contain an identifier code which references the project/undertaking or resource name;</li> <li>(2) the date the request was received by the State;</li> <li>(3) the result or outcome of the review; and</li> <li>(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.</li> </ul>	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 maintain 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**

Requirement	Findings
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**

Requirement	Findings
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**

Requirement	Findings
<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> </ul>
<b>CFR 60.6(b) &amp; (c)</b> – Consultation with local authorities and notification of intent to nominate	<ul style="list-style-type: none"> <li>• Notification requirements are met.</li> <li>• Professional staff evaluations of property</li> </ul>

<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>
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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**

<b>Requirement</b>	<b>Findings</b>
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.up.gov/history/hr/publications/bulletins/strevman/](http://www.up.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.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.”

**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
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<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>
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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”)...; and
- 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 McMahan) 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 Marcy 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. McMahon, 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.
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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”).	
6.G.b.4)e) The Plan contains a bibliography.	

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

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

Requirement	Findings
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.

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
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 <i>HPF Grants Manual</i> .

**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/RORIhome.html](http://www.nps.gov/history/hps/pad/plancompan/PublicPartic/RORIhome.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 PP-3 -- Memorandum from Dr. Peter Mills to the Historic Places Review Board on the Statewide Historic Preservation Plan

# 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
-

# **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 – John L. Nau, 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 – John L. Nau, 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 – Victor Kimura e-mail to Hampton Tucker re: Positive Interaction with SHPD on rehabilitating the Sheraton Waikiki and Royal Hawaiian Hotels.

July 23, 2009 – Richard Moe, 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 – Douglas D. Scott, 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 – Hallett Hammatt, 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]