

U.S. DEPARTMENT OF THE INTERIOR

OFFICE OF INSPECTOR GENERAL

AUDIT REPORT

REVIEW OF
HAWAIIAN HOMES COMMISSION PROGRAMS



**This report may not be disclosed to anyone other than the auditee
except by the Assistant Inspector General for Administration,
Office of Inspector General, U.S. Department of the Interior,
Washington, D.C. 20240.**

September 1982

DATE



United States Department of the Interior

OFFICE OF INSPECTOR GENERAL
WASHINGTON, D.C. 20240

September 8, 1982

Memorandum

To: Secretary

From: Inspector General

Subject: Audit Report, "Review of Hawaiian Homes Commission Act Programs Operated by Department of Hawaiian Home Lands, State of Hawaii"

This report, in response to the request of February 1982, contains the results of our review of selected aspects of the Hawaiian Homes Commission programs operated by the Department of Hawaiian Home Lands (DHHL), State of Hawaii.

The report discusses problems concerning status of the Hawaiian Home lands, program accomplishment, financial management, applicant eligibility lists and leasing activities.

We are recommending actions to be taken by the DHHL to resolve the immediate problems or other matters discussed in the report where we believe that positive action is both necessary and feasible regardless of basic long-term program decisions. We have not generally addressed basic issues such as (1) solutions to the problems of money or other resources for carrying out Home lands program objectives, (2) whether any changes should be made in the program policies in order to achieve program objectives in an accelerated manner, or (3) the appropriate role, if any, to be played by the Federal establishment, specifically the Department of the Interior, in accomplishing the purposes of the Hawaiian Homes Commission Act, 1920, as amended.

The Governor of the State of Hawaii, in his August 4, 1982 letter commenting on the draft of this report, generally agreed with the problems addressed. However, the Governor commented that the basic and essential issue of whether the Department of the Interior has adequately executed its trust responsibilities was not addressed. The complete text of the Governor's comments are included as an appendix to this report.

We agree with the Governor's assessment and his proposal that the issues relative to the responsibilities of the Federal establishment, including the Department of the Interior, should be addressed by the recently created Federal - State Task Force on the Hawaiian Homes Commission Act. We further believe that the problems identified in the report are matters that should also be addressed by the Task Force.

Based on comments from the Secretary's Office, we understand that the Federal - State Task Force will be in existence for six months and will analyze and address each issue raised in our report.

We would be pleased to provide any additional information you or the Task Force may need. We understand that the Task Force will be using our report as input to their study and may incorporate our results into their overall Task Force report. Consequently, we are not including this special report in our normal follow-up system, but we would appreciate being apprised on the Task Force actions.

Richard Mulberry
Richard Mulberry

ABBREVIATIONS AND ACRONYMS

- Act - Hawaiian Homes Commission Act, 1920, as amended, which was enacted to enable native Hawaiians (descendants of not less than one-half part blood of the races inhabiting the Hawaiian Islands previous to 1778) to recapture possession and control some of the public lands of the Territory of Hawaii as homesteads.
- Commission - Hawaiian Homes Commission, composed of eight members appointed to 4-year terms by the Governor, formulates policy and exercises control over the functions of the Department of Hawaiian Home Lands. In addition to the Chairman, three commissioners are to be residents of the island of Oahu and one commissioner will be from each of the islands of Molokai, Maui, Hawaii, and Kauai. At least four of the commissioners are required to be not less than one-fourth Hawaiian.
- DHHL - Department of Hawaiian Home Lands, the State of Hawaii agency responsible for administration and operation of the Hawaiian Homes Commission Act programs.
- DLNR - Department of Land and Natural Resources, the State of Hawaii agency responsible for administration of State public lands. Prior to 1966 this agency was responsible for the administration of Home lands which were not needed for homesteading purposes.
- GEO's - Governor's Executive Orders.
- Home lands - Hawaiian Home lands set aside by the Act for homesteading.

INTRODUCTION

The Office of Inspector General has reviewed selected aspects of the Hawaiian Homes Commission programs operated by the Department of Hawaiian Home Lands (DHHL), State of Hawaii. The review was requested by the Under Secretary, Department of the Interior, in February 1982 to determine if the Department of the Interior has adequately executed its trust responsibilities for programs and activities of the Hawaiian Homes Commission as provided by the Hawaiian Homes Commission Act, 1920 (Act) and the Hawaii Admission Act of 1959.

The actual role of the Department of the Interior in the affairs of the Hawaiian Homes Commission after Hawaii achieved statehood in 1959 has been very limited. The Assistant Secretary of the Interior, in a 1972 memorandum to the Director, DHHL, considered the Department of the Interior's role as a "ministerial" function. Specifically, this "ministerial" role related to approval of the exchange of title to available lands for publicly or privately-owned lands of an equal value, as allowed under the Act. The Assistant Secretary commenting on the Secretary's approval role under Section 204(4) of the Act stated in the memorandum that...

"Such approval by the Secretary is considered by the Department to be a ministerial, nondiscretionary act which he cannot perform until after the Governor has acted. The lack of suitable personnel representing the Department of the Interior in Hawaii to investigate the proposed land exchanges reflects the ministerial nature of the Secretary's function. Thus, Section 204(4), insofar as it requires the Secretary's approval in cases involving land exchanges, represents something of an anachronism which has carried over from the days of territorial status when Hawaii was under the jurisdiction of the Department of the Interior."

Thus, the Secretary's role since statehood appears to have been of a ministerial nature until March 17, 1980, when attorneys representing native Hawaiian individuals petitioned the Secretary of the Interior and the United States Department of Justice to take action to enforce the provisions of the Act.

Our review conducted in Hawaii from March 9, 1982 through May 13, 1982, was primarily directed to determining how well the intent and provisions of the Act have been carried out, whether all of the land provided by the Act has been properly accounted for, whether the procedures followed in leasing lands were being conducted in the best interests of the program and whether financial accountability over the financial affairs of the DHHL is adequate. Due to time constraints, complexity of the programs, lack of financial statements, and the number of years the Act has been in existence, we did not review certain aspects of DHHL activities in the depth we originally anticipated. For example, we limited our financial audit effort because complete financial statements had not been prepared for all funds since 1972. Also, we limited our review of commercial leasing of land to recent activities.

Further, as pointed out by the Governor of the State of Hawaii in his reply to a draft of this report we did not address issues related to the specific responsibilities of the Department of the Interior, its execution thereof or the policy matters that are interrelated to such responsibilities.

BACKGROUND

The Act was enacted to enable native Hawaiians (descendants of not less than one-half part blood of races inhabiting the Hawaiian Islands previous to 1778) to recapture possession and control of the public lands of the Territory of Hawaii as homesteads. The Act was designed to fulfill four principal objectives:

(1) the Hawaiian must be placed on the land in order to insure his rehabilitation;

(2) the alienation of such land, now and in the future, be made impossible;

(3) accessible water in adequate amounts must be provided for all tracts; and

(4) the Hawaiian must be financially aided until his farming operations are well under way.

The Act set aside approximately 200,000 acres of public lands as available lands for administration by the Hawaiian Homes Commission (Commission) for homestead purposes. The available lands were described in the Act as excluding: "(a) all lands within any forest reservation, (b) all cultivated sugar-cane lands, and (c) all public lands held under a certificate of occupation, homestead lease, right of purchase lease, or special homestead agreement". The descriptions of acreage were vague, such as, "(1) On the island of Hawaii: Kamaoa-Puueo (eleven thousand acres,

more or less), in the district of Kau; Puukapu (twelve thousand acres, more or less), Kawaihae I (ten thousand acres, more or less), *** in the district of South Kohala; ***"

The Act originally was intended for rural homesteading, where native Hawaiians become subsistent or commercial farmers or ranchers. However, in 1923 the United States Congress amended the Act to permit residential lots. Ever since, the demand of native Hawaiians for residential lots has far exceeded the demand for agricultural or pastoral lots.

In 1959, the Hawaii Admission Act provided that ownership of the Hawaiian Home lands (Home lands) be transferred from the United States to the State of Hawaii. The Admission Act also provided that the Home lands, as well as proceeds and income therefrom were to be held by the State in trust for native Hawaiians and administered in accordance with the Act, and that use of the Home lands for any other purpose would constitute a breach of trust for which suit may be brought by the United States. The Act, as amended, was adopted as a provision of the constitution of the State of Hawaii, and the DHHL was established to administer the Home lands under the Commission.

According to the DHHL annual report, approximately 190,000 acres were being managed by DHHL as of June 30, 1981, and were used as follows:

		<u>Acres</u>
Homestead leases:		
Residential	1,330	
Farms	7,619	
Ranches	<u>17,113</u>	26,062
Community pastures		13,706
General leases:		
Administered by DHHL	75,739	
Administered by Dept. of Land and Natural Resources	<u>16,500</u>	92,239
Licenses		1,124
Revocable permits		15,844
Conservation lands		17,690
Governor's Executive Orders		12,245
Unencumbered lands		10,805
Right-of-entries		<u>9</u>
Total		<u>189,724</u>

DHHL activities involved in the management of Home lands include: establishment of farming and ranching programs; road maintenance; operation of a domestic water system on Molokai; commercial leasing; development, design and construction of residential subdivisions; and financing loans for homes, ranches and farms. DHHL also recently began to provide economic development services to native Hawaiians. DHHL employs a staff of approximately 90 people and contracts for certain services such as the planning, design, and construction of residential subdivisions improvements, and agricultural technical expertise.

Funding for DHHL programs is provided by State of Hawaii general obligation bonds and DHHL's revenue receipts. The State of Hawaii provided approximately \$6.2 million during fiscal year 1981 and DHHL's receipts totaled about \$6.4 million. The five primary sources of DHHL receipts are interest income, lease rent, principal repayments, receipts from sugar cane land leases and water licenses now specifically earmarked for the Native

Hawaiian Rehabilitation Fund, and miscellaneous receipts (primarily rock and sand sales and pasture and water fees). Receipts for fiscal year 1981 were as follows:

<u>Source</u>	<u>Amount</u>
Interest-loan funds	\$1,884,181
Interest-investments in time certificates of deposit	740,260
Lease rentals	1,418,803
Native Hawaiian Rehabilitation Fund	1,015,916
Miscellaneous	231,673
Loan principal repayments	<u>1,139,090</u>
 Total receipts	 <u>\$6,429,923</u>

Seven revolving funds and eight special funds have been established to account for revenues and expenditures under the Act. The funds and sources of revenues for each are as follows:

<u>Revolving funds</u>	<u>Funding source</u>
Home Loan Fund (\$5 million ceiling)	30 percent monies $\frac{1}{1}$
Additional Receipts Loan Fund	30 percent monies $\frac{1}{1}$
Replacement Loan Fund	General obligations bonds
General Home Loan Fund	General obligations bonds
Repair Loan Fund	General obligations bonds
Farm Loan Fund	General obligations bonds
Operating Fund	Pasture, water and misc. fees and interest income
 <u>Special funds</u>	
Education Fund	30 percent monies $\frac{1}{1}$
Development Fund	30 percent monies $\frac{1}{1}$
Native Hawaiian Rehabilitation Fund	30 percent monies $\frac{1}{1}$
Loan Interest Fund $\frac{2}{1}$	Interest income
Administration Account	General lease revenues
Borrowed money	Hawaiian Housing Authority and The Model Cities Program
Trust Fund	Gifts for which no purpose is specified
Loan Guarantee Fund	State general revenues

1/ 30 percent of receipts from leasing of sugar cane lands and water licenses (State lands receipts).

2/ Repository fund established in 1979 for interest monies pending transfer to other funds.

In addition, DHHL is responsible for approximately 50 bond fund accounts.

DHHL's administrative and operational activities are funded by commercial leasing revenues subject to budget approval by the State legislature. As previously shown, DHHL has 92,239 acres of land under general leases, for which income of about \$1.4 million was received in 1981. Thus, about 50 percent of the available land is currently used to obtain funds for DHHL administrative needs. The DHHL has a stated goal to substantially reduce the acreage of lands under general lease and make these lands available for direct use by native Hawaiians. In order to maintain sufficient income to administer the program and yet reduce acreage under general lease, the DHHL plans to focus on high revenue commercial and industrial use leases.

HIGHLIGHTS

1. Although land is the essential element of the Home lands program, effective accountability for the land has not been established.

a. The DHHL does not have a complete or accurate inventory of the 203,500 acres of "available lands" as designated under the Act, nor of the 190,000 acres that DHHL now claims responsibility for. A major obstacle in establishing accountability for the lands is the absence of a definitive description of "available lands" and a complete survey of the lands. DHHL does not have the necessary resources to research and develop a comprehensive land inventory system.

b. The Attorney General (State of Hawaii) has ruled that certain DHHL lands were illegally set aside by Governor's Executive Orders. A State Court confirmed this. Progress on resolving this situation, either by exchange of lands or by receiving compensation, is moving very slowly. Except in two cases, there does not appear to be a concerted effort to resolve this problem. Although the listing of lands set aside under Governor's Executive Orders was not complete, DHHL had identified approximately 13,600 acres set aside under such orders. The lands are being used by Federal, State, and county agencies for purposes such as public airports, defense installations, schools, parks, or forest and game reserves. DHHL has been working on two cases of land withdrawals involving an airport in Hilo and a flood control project. The airport case has resulted in a general lease providing for a one-time payment of

\$401,185 for past use and an annual rental of \$481,185. The other case will apparently be resolved with a land exchange.

c. There have been seven land exchanges under provisions of the Act, all of which were approved by the (then) Secretary of the Interior. Two of the exchanges, involving 194 acres, were on an acre-for-acre basis, but we were unable to find any appraisals to support that the exchanges were on the basis of equal value as required by the Act. A third exchange of 268 acres of Home lands for about 5,078 acres of State lands was based on tax assessment values of differing periods. The Home lands were valued primarily on 1962 assessments while State lands were valued on 1966 assessments. In addition, available records did not show whether retention of mineral rights by the State was considered in establishing "equal" values.

2. The objective of enabling native Hawaiians to recapture possession and control of the land has not progressed rapidly during the 60 years of the Act's existence. Only 20 percent of the lands made available by the Act are now in the possession of or used by native Hawaiians. There are over 7,000 native Hawaiian applicants on the homestead eligibility lists and some of the applicants have been on the lists for as long as 30 years. The State of Hawaii has provided over \$42 million in funds during the past 5 years in addition to the funds generated by the Commission mainly from leases and interest on lease proceeds. Prior to 1973, the amount of funds provided by the State or Territory from outside of the Commission was

insignificant. Despite this stepped-up effort, we estimate it will take over 50 years and over \$600 million to satisfy the applicants on the present eligibility lists.

a. The residential homestead program accomplishments were restricted by availability of funds. The residential program is under a subdivision concept with DHHL providing site improvements, such as roads, utilities and other facilities at no cost to the homesteader. In addition, DHHL provides financing at favorable interest rates for home construction and repairs because homesteaders are not normally able to obtain conventional financing.

b. The farm and ranch homesteading program to encourage native Hawaiians to take up farming as a means to achieve social and economic well-being has not been a success. While there are some successful ranchers and farmers, over 60 percent of the awarded farm tracts are not in full cultivation including 42 percent that are not under any cultivation at all. It is estimated that at least 34 percent of the homestead ranch lots are subleased by the homesteaders to others for grazing. According to some native Hawaiians the sublessees include individuals who are not native Hawaiians. By 1951, 5,800 acres of the 7,619 farm acres awarded to homesteaders were subleased to pineapple companies under contracts negotiated prior to Statehood. The homesteaders, thus, were not farmers but landlords. The pineapple companies involved discontinued operation on these lands in 1975-1978 and much of the land is unused.

3. Complete financial statements for all of DHHL's funds are not being prepared. As a result, the financial data reported to the Commission and included in the annual report does not provide information necessary to assess management's performance of its trustee responsibility. A complete financial audit of all funds which include over \$32 million in loan and accounts receivable and \$10 million in cash as of February 28, 1982, has not been performed for periods subsequent to 1972. Also, cash management has not been effective. DHHL maintained large cash reserves in noninterest bearing accounts during a 9-month period ending February 28, 1982. For example, we estimate that an average cash balance of \$1,250,000 per month for the Hawaiian Development fund was not in interest bearing investments and, based on the average rate of return, we estimate that over \$100,000 in interest was not earned that would have provided additional funds for the purposes of the Act. We noted cash balances at the end of each month for three other funds averaged about \$2 million for the 9-month period, and conclude that substantial amounts of additional interest could have been earned on these and other funds that were excess to needs.

4. The eligibility lists, containing over 7,000 applicant's names, need to be verified and additional procedures to remove applicants from the lists need to be considered. DHHL does not have current addresses for a large number of applicants and attempts to contact individuals have not been successful. Many applicants, when offered a homestead lease, defer their right until sometime later for various reasons. There is no limit on how many times an applicant may defer an award, yet the applicants retain their place (ranking) on the list. For example, DHHL recently (1981-1982) screened 1,000 applicants for awarding 230 lots on Oahu. Of the 1,000

applicants, 87 requested that their award be deferred, the notification letters for 371 applicants were returned undelivered, and 10 applicants were deceased. Names are removed from the list only at the request of the applicant. If a person dies, their ranking on the list is assigned to their designated qualified native Hawaiian heirs.

The DHHL had not notified applicants who filed since June 1981 whether their applications have been approved. And, DHHL has not established an accountability system to assure that all applications are accounted for or that some applications have not been lost.

5. Revocable permits have been continued when general leases would be more appropriate. The permits should be used only for temporary use of land but at least two revocable permits have continued for long periods of time.

We are recommending actions to be taken by the DHHL to resolve the immediate problems or other matters, discussed in the report and highlighted herein, where we believe that positive action is both necessary and feasible regardless of basic long-term program decisions. We have not generally addressed basic issues such as (1) solutions to the problems of money or other resources for carrying out Home lands program objectives, (2) whether any changes should be made in the program policies in order to achieve program objectives in an accelerated manner, or (3) the appropriate role, if any, to be played by the Federal establishment, specifically the Department of the Interior, in accomplishing the purposes of the Act. However, we have suggested that consideration be given to revising the residential program policies in order to reduce the financial requirements of this program.

The Governor, State of Hawaii, provided comments on a draft of this report to the Under Secretary of the Department of the Interior. These comments are included as an appendix to this report. The Governor stated that generally the draft is accurate in its description of the problems facing the Commission and DHHL. However, the Governor stated that the basic and essential issue of whether the Department of the Interior has adequately executed its trust responsibilities was not addressed. And, therefore, the Governor proposed that the "recently created Federal - State Task Force on the HHCA" cover the roles and responsibilities of each involved entity in its final and comprehensive study with detailed recommendations to resolve the problems in a cooperative manner.

We agree that issues relative to the responsibilities of the Department of the Interior were not addressed in the report and that such issues should be included in the scope of the Task Force study. We further believe that the problems identified in this report are matters that should also be addressed by the Task Force.

The Secretary's Office commented that the Federal - State Task force will be in existence for six months and they will perform an indepth analysis of each of the issues and recommendations raised by the Inspector General.

FINDINGS AND RECOMMENDATIONS

1. LAND STATUS

Although land is the essential element of the Home lands program, effective accountability for the land has not been established. The problems leading to the present situation are many, beginning with an absence of a definitive description of "available lands" designated by the Act; continuing with apparently illegal land withdrawals or diversions; and complicated by inadequate maintenance of land inventory records. As a result, DHHL does not have a complete or accurate inventory of the 203,500 acres designated under the Act, nor of the 190,000 acres for which DHHL now claims responsibility. Further, the State of Hawaii has never developed and maintained a current and comprehensive inventory of State and public lands, including Home lands, for which the State of Hawaii is the trustee. These problems, in part, have given rise to allegations of "missing" lands by native Hawaiians and organizations, and by other interested parties.

We conclude that positive and aggressive action is required to establish complete and accurate records of Home lands and to resolve issues related to land withdrawals and exchanges.

Land Inventory

DHHL land inventory records consist of a listing of parcels of land corresponding to the State of Hawaii, Department of Taxation, property tax

maps to which hand-written adjustments have been made by DHHL personnel. This listing, prepared in November 1979 by a commercial data processing firm, shows parcel identification, location, acreage, use, lease data, and annual rental amounts. In addition to this land listing, known as the "blue book", DHHL also has copies of the tax maps for the areas where Home lands are located.

The DHHL blue book does not provide acre totals or summarizations. DHHL personnel manually prepare data to summarize acreage, use of land, homestead acreage, and other data for the annual report. We found errors in the blue book such as the inclusion of easements as additional acreage, omitted parcels of Home lands, and differences between the blue book and the tax maps.

The use of tax maps as a basis for DHHL land records is also questionable because the Legislative Auditor of the State of Hawaii, in a January 1979 report, criticized the Department of Land and Natural Resources (DLNR) for relying on tax maps for determining the status of State land ownership. The Legislative Auditor stated that the property tax records do not constitute an inventory of public lands nor all lands owned by the State. The Legislative Auditor reported that the records are intended for real property tax purposes and are concerned with who is to be billed for the taxes and not necessarily the true, ultimate, or reversionary owners of the land. Instead, the records may show the name of a lessee or other persons having some interest in the land.

An inventory of Home lands titled "A Land Inventory and Land Use Study for the Department of Hawaiian Home Lands" was performed in 1972. The study (hereafter referred to as the Akinaka Study) was performed by Arthur Y. Akinaka, Ltd., Consulting Engineers, and James M. Dunn, former State Surveyor. The Akinaka Study included an overview of Home lands as well as identifying the obstacles to establishing accountability over the lands designated by the Act. There are some errors in the identification of acreage in the Akinaka Study, but, in our opinion, it represents the best available starting point in identifying the lands for which the Commission is responsible as a trustee. We note, however, that DHHL has not attempted to explain the differences between the land acreage as reported in the Akinaka Study and the acreage included in the blue book.

The original Act set aside approximately 203,500 acres and the United States Congress added 564 acres and withdrew 272 acres during the years 1934 through 1952. In addition, there have been seven exchanges of lands approved by the Secretary of the Interior. The exchanges resulted in a net increase of 3,903 acres and an adjusted total of 207,695 acres as shown below:

Island	Acreage					Adjusted Act Total
	Original Act	Congressional Withdrawals	Congressional Additions	Given in Exchange	Received in Exchange	
Hawaii	107,300	53	17	1,244	6,488	112,508
Kauai	22,500		402	26	20	22,896
Maui	31,000		12		61	31,073
Molokai	33,700	219		1,061		32,420
Oahu	9,000		133	690	355	8,798
Total	<u>203,500</u>	<u>272</u>	<u>564</u>	<u>3,021</u>	<u>6,924</u>	<u>207,695</u>

A comparison of the Home lands acreage, as adjusted above, and as summarized in the Akinaka Study and in DHHL's fiscal year 1981 annual report is shown below:

<u>Island</u>	<u>Acreage</u>		
	<u>Act as Amended by Congress</u> ^{1/}	<u>1972 Akinaka Study</u>	<u>1981 Annual Report</u>
Hawaii	112,508	110,971	110,575
Kauai	22,494	17,967	18,689
Maui	31,073	29,076	29,005
Molokai	32,822	26,795	26,210
Oahu	<u>8,798</u>	<u>5,069</u>	<u>5,245</u>
Total	<u>207,695</u>	<u>189,878</u>	<u>189,724</u>

^{1/} Includes seven land exchanges approved by the Secretary of the Interior.

The above table shows that there are differences in totals and in acreage by island. While there is only a 154-acre difference between total acreages of the Akinaka Study and the 1981 Annual Report there are more significant differences in the island acreages, i.e., Hawaii 396 acres, Kauai 722 acres, Molokai 585 acres, and Oahu 176 acres. Although there have been no approved exchanges or disposals of Home lands since 1967, there are inconsistencies in the acreages reported in the DHHL annual reports as shown below.

<u>Annual Report</u>	<u>HHL Acreage</u>
1981	189,724
1980	190,000
1977	190,414
1976	189,875
1971	190,920

An understanding of the events which led to the passage of the Act is necessary to understand some of the problems associated with the land inventory. The proposals for the lands to be included were contradictory. The major resolution to amend land laws proposed that the highly developed sugar cane lands under Territory leases, which were to expire between 1917 and 1921, were not to be included as homestead lands but were to be continued for lease to the highest bidder. This would have retained the best agricultural lands in the hands of the sugar interests. The original Hawaiian rehabilitation proposal, however, would have made these lands available for homesteading. A compromise was worked out between sponsors of the rehabilitation measure and the sugar interests whereby all acreage cultivated for sugar or held under special leases were to be excluded from Home lands, but 30 percent of the revenue derived from the leasing of sugar cane lands was earmarked as income for the rehabilitation program.

This compromise then resulted in the first obstacle to establishing accountability of all Home lands, designated as "available lands" under the Act. Section 203 of the Act set aside as "available lands" certain public lands, which according to the Act totaled 203,500 acres, excluding "... (a) all lands within any forest reservation, (b) all cultivated sugar-cane lands, and (c) all public lands held under a certificate of occupation, homestead lease, right of purchase lease, or special homestead agreement...". DHHL and DLNR officials informed us that they are not aware of any maps showing lands available and designated as Home lands at the time the Act was passed or at the time the State of Hawaii assumed responsibility for the lands upon Statehood.

According to DHHL this lack of accurate descriptions of available lands is demonstrated as follows:

<u>Island</u>	<u>Area</u>	<u>Acreage Per Act</u>	<u>Akinaka Study Acreage</u>	<u>Acreage Difference</u>
Molokai	Kalaupapa	5,000	1,247	3,753
Maui	Kahikinui	25,000	22,891	2,109
Hawaii	Nienie	7,350	7,169	181
Hawaii	Kamoku-Kapulena	5,000	3,509 ^{1/}	1,491
Hawaii	Pauahi	750	555	195

^{1/} Excludes 1,216 acres which were obtained through an exchange.

The exclusions of the Act are also factors that make it difficult to define the Home lands acreage because of the imprecise information concerning the lands under the exclusions at the time of the Act. According to DHHL, there were approximately 9,704 acres in forest reserve at the time of the Act. According to the cognizant Deputy Attorney General there may be approximately 14,197 acres of additional forest reserve land that were designated as such after the Act. And, approximately 44 of the 14,197 acres were not included in the Akinaka Study or the DHHL land inventory records, and another 446 acres were included in the Akinaka Study but not the DHHL land inventory.

The exclusion of public lands under sugar cane cultivation, according to DHHL, accounts for a "loss" of approximately 4,000 acres in the areas of Waimanalo and Lualualei on the island of Oahu, and Anahola-Kamalomalo on the island of Kauai. The identification of lands under sugar cane cultivation at the time of the Act was not documented. The process of identifying these lands involves a detailed review of sugar cane leases that were in effect when the Act was passed. DHHL has identified 809 acres

that may have been improperly excluded from Home lands in the Anahola-Kamalomalo area, partly because of their questionable identification as sugar cane lands.

Other examples of discrepancies or problems relating to the land inventory are as follows:

1. The blue book maintained by DHHL included many adjustments of acreages made by DHHL personnel and the adjustments did not contain explanations of adjustments or make reference to supporting documents.

2. The Akinaka Study did not include an area known as South Point in Kamaoa-Puueo on the island of Hawaii. According to DHHL the excluded area consists of 699 acres.

3. The Humuula area on the island of Hawaii, according to the Akinaka Study, consists of 52,764 acres of Home lands while the DHHL blue book shows 52,781 acres. Further, a question has been raised as to whether this Home lands area should only be 49,100 acres. According to a Deputy Attorney General, State of Hawaii, the Commission only selected 49,100 acres in the required time period, 1921 through 1929.

4. Lands used for roads in some cases have been included in the DHHL blue book and in other cases the road acreages were excluded. We were unable to satisfy ourselves as to the rationale of the exclusions or inclusions and we were unable to determine the amount of excluded road acreage.

5. Our limited comparison of tax maps with the DHHL blue book identified two parcels of land totaling 456 acres as Home lands that were not included in the blue book.

6. There are Home lands which have been withdrawn from use by DHHL under various Governor's Executive Orders. As discussed in detail elsewhere in this report, the Attorney General and the courts have ruled that the Governor's Executive Order powers do not apply to Home lands; therefore, the withdrawals were not legal. The Akinaka Study and the DHHL blue book have excluded some of the acreage covered by Executive Orders. For example, 1,356 acres set aside by Executive Orders 382 on January 21, 1930 and 599 on December 22, 1933, are not included in either the Akinaka Study or the DHHL blue book. These lands in Lualualei, on the island of Oahu, are used by the United States Navy as part of a radio transmitting station and an ammunition depot.

7. The Akinaka Study included 40 acres in Kealakehe and 48 acres in Milolii which represented acreage to be obtained in an exchange that was never consummated.

8. The tax maps show three parcels of land totaling approximately 148 acres as State of Hawaii lands. According to a Deputy Attorney General it appears that the parcels should be Home lands. The parcels were returned to the control of the Commissioner of Public Lands of the Territory of Hawaii to be used for the Molokai Airport under Hawaiian Homes Commission Resolution 61, October 12, 1938, and Resolution 77, May 13, 1942. The parcels were not included in the DHHL blue book inventory of public lands.

9. One parcel of Home lands is now under private ownership and no lands were received by the Commission in exchange. The land consisting of 8 acres was withdrawn under Governor's Executive Order 545 for a tree nursery and forest ranger station. Then in 1947, the Territory Board of Public Lands included the land in a larger parcel of land exchanged for private-owned land to be included in the Kohala Forest Reserve. The DHHL land records do not include the exchanged lands in the Home lands inventory.

10. The Act's use of the term "more or less" has created problems. For Home lands in an area where the acreage received by DHHL was less than the acreage provided by the Act no adjustment was made. To illustrate, in the area of Kalaupapa on the island of Molokai, DHHL received only 1,247 of the 5,000 acres "more or less" mentioned in the Act because the area contained only this amount of acreage. On the other hand when the available acreage was more than the acreage mentioned in the Act, such as was the case in the Kawaihae I area on the island of Hawaii, DHHL did not receive the benefit of all of the acreage in excess of the Act amount. For the Kawaihae I area, DHHL was informed by the Attorney General in a July 19, 1966 memorandum that because the area of Kawaihae I consisted of more than 10,000 acres and the Commission did not make a selection from the acreage available, the grants of public lands in the area were valid. The Act, however, provided that the Commission must make selections of land in only three areas and Kawaihae I was not one of these. Thus, public grants were made of lands in the Kawaihae I area for which DHHL may have a claim because they did not acquire the total acreage mentioned in the Act.

The present Deputy Attorney General stated that the 1966 opinion would be reviewed.

There are two major reasons for DHHL not establishing a current and accurate inventory of Home lands for which it is the trustee. First, DLNR never established a current and comprehensive inventory of the State, public, and Home lands. Until 1966, DLNR administered the Home lands that were not yet homesteaded. DHHL began assuming full responsibility for all Home lands in 1965 but did not receive an accurate, current, and comprehensive inventory of the lands from DLNR. Second, due to limited financial resources and other priorities, DHHL has not expended the resources necessary to establish a complete, accurate, and comprehensive land inventory.

According to the Akinaka Study, there remain Home lands for which boundaries and areas are based on very early surveys and determinations and until such lands are accurately resurveyed, doubts will necessarily linger as to the true boundaries and acreages of the available lands. A rough estimate by DHHL is that 40 percent of these lands have not been accurately surveyed.

Land Withdrawals

There needs to be an aggressive and accelerated approach to resolve the issue of Home lands which have been withdrawn for public use. According to

DHHL there are approximately 17,270 acres of Home lands that are being used by Federal, State, and county governments for public purposes. Approximately 13,600 acres of these lands have been withdrawn under Governor's Executive Orders (GEO's) issued by the Territorial and State Governors.

The State of Hawaii Attorney General has determined that the GEO powers did not extend to Home lands; therefore, the withdrawals were not in accordance with the Act. This opinion was confirmed in a court case involving Home lands withdrawn for the General Lyman Airport on the island of Hawaii. According to DHHL records, the Home lands under GEO's and their use are as follows:

<u>Public Service</u>	<u>Acres</u>
Airports	176
Schools	17
Parks	30
Forest/Conservation	767
Game Reserve	11,123
Public Service	128
Right of Way	4
Military	<u>1,356</u>
	<u>13,601</u>

Although the Attorney General in 1975 issued the opinion that GEO powers were not applicable to Home lands, DHHL, because of limited resources, has not made the effort necessary to identify all lands that have been withdrawn for public use, determine the issues related to the withdrawals, and develop recommendations for the Commission to consider in determining the course of action to take. Therefore, the above listing does not necessarily cover all of the acreage under GEO's.

DHHL has been pursuing action to resolve two cases of withdrawn lands because of related lawsuits. One of the cases involves a lawsuit filed by the Keaukaha-Panaewa Community Association, a group of native Hawaiians, against the Commission and other defendants. The case involves approximately 25 acres of Home lands withdrawn for a flood control project. The second lawsuit involved approximately 92 acres of Home lands withdrawn for the General Lyman Airport and was filed by the Commission.

The flood control project case resulted in a September 1, 1976 declaration and conclusion of law by the U.S. District Court for the District of Hawaii which stated that the Commission had breached their trust or fiduciary duties by: (1) allowing the use of more than 25 acres of Home lands under the land exchange provisions without first satisfying the prerequisites for an exchange, (2) issuing a license for an unlawful purpose, (3) permitting the uncompensated use of these lands, and (4) allowing the needs of the general public, as opposed to the needs of native Hawaiians, to control decisions made concerning the project.

The Court also ruled that the transfer of these lands was unlawful, in part, because the Commission had failed to obtain the approval of the Secretary of the Interior prior to allowing use and alteration of the lands, thereby depriving native Hawaiian beneficiaries of the protection afforded by his independent review. And, it ruled that Home lands cannot be used for the benefit of persons who are not beneficiaries under the Act without first obtaining reasonable compensation for such use, when otherwise permissible, based upon sound economic and accounting principles.

The Ninth Circuit Court of Appeals reversed the District Court, not on the merits of the case, but on jurisdictional grounds, holding that only the United States has the right to enforce the State's obligation by a breach of trust suit.

The Deputy Attorney General, State of Hawaii, informed us that DHHL and DLNR are now in the process of identifying lands to be exchanged for the lands used in the flood control project and that the DLNR Board will be acting on the proposal soon. The target date to submit an exchange to the Secretary of the Interior for approval is December 1982.

The Third Circuit Court of the State of Hawaii issued on September 24, 1980, an order granting a partial summary judgment for DHHL, the plaintiff in the case involving the General Lyman Airport in Hilo, Hawaii. The Court in this case ruled that the executive order powers of the Governor in respect to the lands of the Territory or State did not, and do not now, extend to Home lands.

As a result of the court's judgment in the General Lyman Airport case, the State of Hawaii Department of Transportation and DHHL have negotiated a 30-year lease for the 91.6 acres of Home lands withdrawn under GEO's. The lease provides for a one-time payment of \$401,185 for all past use of the land, and annual lease rental of \$481,422 retroactive to April 1, 1975, with the rentals to be redetermined at 10-year intervals. This lease will result in a substantial increase in revenues for DHHL operations and development of Home lands.

In regard to other withdrawn land, the Commission initiated negotiations with DLNR in 1977 to exchange approximately 30,000 acres of lands which DHHL purported to be Home lands, for State lands of equivalent value. Approximately 11,927 acres of the Home lands were lands withdrawn under GEO's. According to testimony of the (then) Chairman of the Commission, action by DLNR in responding to the exchange proposals was taking time because of other priority workload considerations. And, according to the current Chairman, this exchange proposal has been withdrawn by DHHL because it does not have a complete and comprehensive land inventory and the Commission did not want to give up land that they knew nothing about.

Home lands in the Puukapu area on the island of Hawaii were withdrawn under GEO's in 1955 and 1958 for development of reservoirs as part of the Lalamilo Irrigation System operated by the State. Although the reservoirs are on Home lands, native Hawaiian homesteaders received no benefits, until 1982, and DHHL received no compensation for use of these lands for the irrigation project even though the State receives revenue from delivery of the irrigation water.

The irrigation system was designed to serve the Lalamilo farm lots area consisting of 670 acres. According to the DHHL Homestead Project Manager, the Lalamilo farm area is a State of Hawaii project on State lands and the farms are leased to individuals who are not necessarily native Hawaiians. The irrigation system includes the two reservoirs situated on Home lands; the 60-million-gallon Waimea Reservoir situated on 22.7 acres under GEO

1707 issued December 1, 1955 and a 135-million-gallon lake (Puu Pulehu Reservoir) originally under GEO 1869, November 28, 1958, which was canceled on July 11, 1980. We were told that the lake receives the overflow water from the Waimea Reservoir and, at the time of our review, there was no water delivery system from the lake to any farms. A transmission pipe delivers water to the Lalamilo farms from the Waimea Reservoir and runs through Home lands under an easement covered by GEO 1707.

Until recently, homestead farms in the Puukapu area were served only by domestic water which costs more than irrigation water. According to a March 1982 study prepared by the United States Department of Agriculture, the monthly water bill for an average size truck farm using domestic water would be about \$230, compared to \$60 if agricultural water was used. We were told that the homesteaders were given an opportunity to be connected to the irrigation system at the time the system was put into operation. We were unable, however, to satisfy ourselves as to the reasons why the homesteaders were not connected to the system at that time.

We conclude that, unless the Commission and the State of Hawaii assign a high priority and provide the staff and resources necessary for resolving the withdrawn lands issue, it will take many years before DHHL receives compensation or lands in exchange for Home lands that have been withdrawn for public use.

Land Exchanges

There have been seven exchanges of land under the provisions of section 204 of the Act which have been submitted to and approved by the (then) Secretary of the Interior or an authorized agent. The Act allows exchanges of land for other publicly or privately-owned lands of equal value in order to consolidate Home land holdings or to better serve the purposes of the Act. The seven approved exchanges involved 3,021 acres of Home lands for 6,924 acres of other public or private lands. The last such exchange was approved by the Secretary of the Interior on March 16, 1967. About 19.5 percent of the land (1,348 acres) received by DHHL in these exchanges is used for homesteading purposes, and about 75 percent (5,193 acres) is under general leases and revocable permits that generate approximately \$30,000 in annual revenues. One general lease covering 5,078 acres was being renegotiated and could result in a substantial increase in revenues.

The propriety of three of the seven exchanges is questionable as the provisions of the Act apparently were not complied with. Two exchanges involving 194 acres of Home lands, one exchange for 192 acres and the other involving 2 acres, were exchanged for 194 acres of public lands in 1962. The exchanges were on an acre-for-acre basis and involve lands in the vicinity of the General Lyman Airport in Hilo, Hawaii. DHHL and DLNR officials could not, at the time of our review, locate any appraisals to support that the exchanges were on an equal value basis as required by the Act. In addition, we noted that the 194 acres received by DHHL in the exchanges were located near a county dump and landfill and were not being used for homesteading purposes.

The third exchange involved a total of 268 acres of Home lands on the islands of Hawaii, Kauai, Molokai, and Oahu that had been made available to the State for various purposes. DHHL received 5,078 acres of public lands in the Piihonua area on the island of Hawaii. According to a letter dated May 17, 1966, from the Chairman of the Board of Land and Natural Resources, which outlined the basis of the exchange, the values of lands to be conveyed by DHHL were based on the tax-assessed values in the year each area was available for State use (1962 through 1966), and the value of lands to be conveyed by the State were based on the 1966 tax-assessed values. We question the equality of value when Home lands are based on assessed values before 1966 and exchanged lands are based on 1966 assessed values. In addition, the State retained the mineral rights to the State lands exchanged. There was no evidence available that DHHL had obtained independent appraisals of the lands exchanged, nor was any documentation provided to show that retention of the mineral rights was considered in the tax assessment values.

Recommendation

We recommend that the Hawaiian Home Lands Commission take the steps necessary to establish accountability for the lands that it is charged with administering. Although the resolution of land status problems will require a commitment of resources, including money, we believe that such a commitment is necessary for the Commission to meet its trust responsibilities under the Act. We further recommend that the Commission take the steps necessary to regain control of Home lands which are now used, without compensation, for purposes not compatible with the intent of the Act.

2. PROGRAM ACCOMPLISHMENT

The Act's objective of enabling native Hawaiians to recapture possession and control of the land has not progressed rapidly during the 60 years of the Act's existence. According to DHHL's annual report as of June 30, 1981, a total of 3,034 native Hawaiians have been given possession of approximately 26,062 acres. An additional 13,706 acres of community pasture have also been provided to native Hawaiians. Thus, less than 40,000 acres or about 20 percent of the lands made available by the Act are now controlled by native Hawaiians. Further, there are over 7,000 native Hawaiian applicants on the homestead eligibility lists and some of these applicants have been on the lists for as long as 30 years.

Among the factors that have reportedly impeded implementation of the Act objectives are the lack of money, the nature and location of the land, and the interests and desires of native Hawaiians.

Nevertheless, progress has improved in recent years. During the past 10 years the number of homesteaders increased by 1,015. Thus, approximately 33 percent of the present homesteaders have been placed on the land during the last 10 years of the 60-year history of the Act. Further, during the past 6 years the State has provided over \$42 million of State funds for planning, design, construction and financing of development improvements and during these same 6 years 669 homesteads have been placed on the land and 373 replacement homes have been built and financed. The records indicate that prior to 1973 there was very little funding outside of DHHL generated revenues from leases, royalties and interest.

The original intent of the Act was for native Hawaiians to become subsistent or commercial farmers and ranchers. However, less than 2 years after the passage of the Act, Congress amended the Act to permit residential lots. Since then, the demand of native Hawaiians for residential lots has far exceeded the demand for agricultural or pastoral lots. For example, 87 percent of the applicants on the June 30, 1981 eligibility lists desire residential lots. However, 64 percent of the applicants for residential lots have applied for lots on the island of Oahu, but only about one percent of the available land suitable for residences is on Oahu.

DHHL developed a 10-year general plan in 1975, that established four major goals and objectives for the 10-year period ending in 1985. A comparison of the results achieved during the first 6 years with the objectives indicates that three of the goals are not being achieved, as follows:

<u>Description</u>	<u>10 Years Objective</u>	<u>6 Years Accomplishments</u>
Housing for new homesteaders (houses)	2,600	669
Allocate agricultural lands to native Hawaiians (acres)	40,000	793
Reduce the acreage of lands used for income purposes (acres)	20,000 Decrease	5,843 Increase
Maximize income through more effective land management	No set Amount	51.6% Increase

During the 6-year period, over 1,000 homes were built, including the 669 homes above and 373 replacement homes. Also, the 793 acres of increased agricultural land do not include 5,800 acres of pineapple land taken out of production during the 1975-1978 period.

A measure of program accomplishment is the number of homesteaders served and the amount of the land in the possession of native Hawaiians. According to the DHHL 1981 annual report, the number of homesteaders and the amount of acreage utilized is as follows:

<u>Type of Homestead</u>	<u>Number of Homesteaders</u>	<u>Number of Acres</u>
Residential	2,618	1,330
Farms	347	7,619
Ranches	69	17,113
Community pasture	*	<u>13,706</u>
Total	<u>3,034</u>	<u>39,768</u>

*Community pastures are available for use by all the homesteaders living in the area of a community pasture.

The Chairman, DHHL, stated that in evaluating their accomplishments it should be noted that Hawaiian families tend to be large, averaging five or six members per family and, therefore, each homestead could be benefiting several Hawaiians.

Another measure of program accomplishment is obtained by a review of the eligibility lists for homesteads. There were 7,225 eligible applicants for homesteads as of March 15, 1981, summarized as follows:

<u>Island</u>	<u>Residential</u>	<u>Agricultural</u>	<u>Ranch</u>	<u>Total</u>
Hawaii	1,104	375	247	1,726
Kauai	391	77	41	509
Mau	470	21	14	505
Molokai	277	114	20	411
Oahu	<u>4,066</u>	<u>8</u>	<u>0</u>	<u>4,074</u>
Total	<u>6,308</u>	<u>595</u>	<u>322</u>	<u>7,225</u>

Our analysis of the lists showed that over 18 percent of the applicants had been on the eligibility lists for more than 15 years. This analysis is summarized as follows:

<u>Years on Eligibility Lists</u>	<u>Type of Application</u>			
	<u>Residential</u>	<u>Farm</u>	<u>Agricultural</u>	<u>Total</u>
30 or more	54	0	2	56
25 to 29	134	1	0	135
20 to 24	197	2	3	202
15 to 19	843	77	34	954
10 to 14	713	57	19	789
5 to 9	1,506	55	79	1,640
0 to 4	<u>2,861</u>	<u>130</u>	<u>458</u>	<u>3,449</u>
Total	<u>6,308</u>	<u>322</u>	<u>595</u>	<u>7,225</u>

Although, as discussed elsewhere in the report, the complete validity of the eligibility lists is questionable, it is the only available means of determining the number of native Hawaiians who wish to be but have not been placed on the lands. Using an average family size of five to six members per family would mean that as many as 43,000 people are waiting to be placed on the land, recognizing, however, that not all family members meet the criteria necessary for classification as a native Hawaiian. There is apparently no accurate data on the number of native Hawaiians that could be beneficiaries under the Act. There was an attempt in 1980 to identify the number of native Hawaiians by using data available in the State of Hawaii, Department of Health, Research and Statistics Office. However, because of the methods used, the result which totaled 45,827 native Hawaiians is considered to be low.

Housing Program

The housing homestead program accomplishments under the Act are, in part, restricted by the availability of funds. The major emphasis under the program is the subdivision concept under which single family residences are built on all islands, with lots ranging from about 7,500 square feet on the island of Oahu to one acre on the island of Molokai. Under this concept and the Act, DHHL contracts and pays, at an estimated cost of \$30,000 per lot, for design and development of the subdivision which includes streets, curbs, sidewalks, drainage, street lights, utility access, sewer or cesspool systems and other facilities. In addition, DHHL provides or arranges the financing, currently estimated at \$40,000 per home, at favorable interest rates, for the construction of the homes because the applicants are normally unable to obtain conventional financing. For example, the financing for the 230 homes to be constructed on the island of Oahu during 1982 will be from two sources with interest rates ranging from 8 3/4 percent to 13 percent. The United States Farmers Home Loan Administration will provide \$1.6 million for 40 loans and the State of Hawaii will provide \$7.7 million for 190 loans.

Also, as part of the housing program, DHHL uses its available funds to maintain a home repair loan fund, again because of the homesteader's inability to obtain conventional financing.

It is for note that at the time of our audit DHHL was in the process of screening and selecting 230 applicants for awards of new residential lots

and homes on the island of Oahu. In this instance, DHHL is initiating a new approach by building seven model homes so that the applicants can select the model best meeting their needs. DHHL has tentatively scheduled the development of 710 additional residential lots by 1987.

Farm and Ranch Homesteading Program

The farm and ranch homesteading program, which under the Act was intended to encourage native Hawaiians to take up farming and ranching as a means to achieve social and economic well-being, has not yet been very successful. While there are some successful farmers, over 60 percent of the farm tracts are not in full cultivation, including 42 percent that are not under any cultivation. Also, it is estimated that at least 34 percent of the homestead ranch acres are subleased by the homesteaders to others, not necessarily native Hawaiians, in the form of grazing agreements. We estimate that only 16 percent of total available acreage is now under cultivation or being used as ranch land by homesteaders.

There are many reasons why the native Hawaiian farming and ranching program has not progressed rapidly. The reasons cited include: (1) the inadequate financial resources of homesteaders; (2) the lack of farming expertise; (3) the lack of a serious commitment to farming on the part of the homesteaders; (4) the failure of the Commission to enforce its own rules and regulations concerning the use and cultivation of the land, and the provision of the Act concerning subleases; (5) the priority of DHHL during

the past 6 years to concentrate on the residential program; (6) the character of land provided by the Act; (7) water availability problems; and (8) the reluctance of native Hawaiians to undertake the inherent risks associated with agricultural enterprises.

DHHL has, admittedly, not concentrated its limited staff and financial resources on the development and implementation of its farming and ranching programs.

Molokai Farming Problems

The most striking example of the difficulties of implementing a successful farming program occurred on the island of Molokai. The original Act had a 5-year limitation period and allowed only lands on Molokai, and the Waimanu, Keaukaha, and Panaewa lands on the island of Hawaii to be used for the purposes of the Act. The first homesteader moved to Molokai in July 1922 and in 1924 the first residential homestead awards were made on the island of Hawaii. According to a 1975 study known as the Kanahale report, during the first 4 years diversified farming on Molokai achieved unexpected results. Alfalfa, tomatoes, corn, watermelons, sweet potatoes, and cucumbers were planted with success in the Kalamaula area. In addition to the crops, the homesteaders raised livestock of which pigs turned out to be the most profitable. By the end of the first 4 years the program became the "Molokai miracle." In the meantime, homesteaders in the Hoolehua area of Molokai began diversified dryland farming with some success. The Territorial Legislature, in 1927, found that the homestead programs on the

islands of Molokai and Hawaii were a success and requested the Secretary of the Interior and the United States Congress to extend the homestead program to all of the other islands. The Act was amended on March 7, 1928 to remove the 5-year limitation.

The "Molokai miracle" turned into a failure by 1930 because, according to the Kanahale report, the high saline content of the irrigation water combined with evaporation had ruined the fields and there was no other adequate water source. Also, fruit flies had destroyed the watermelon crop, and cucumbers were not successfully marketed. Diversified dryland farming in the Hoolehua area continued without much success due to drought and low yield. The Commission, in 1945, concluded that diversified farming in Hoolehua would not be successful because the cost of developing water for irrigation was too high and too many homesteaders were unable to farm because of age. The Commission recommended to the Territorial Legislature that the policy of diversified farming in Hoolehua be abandoned.

According to the Kanahale report there was one crop, pineapple, that was achieving success in the Hoolehua area because it required less water than other crops. Contracts with a pineapple company were signed in 1926 whereby homesteaders were to supply the company with fruit at a minimum guaranteed price. The company was to also provide financing and the necessary technical assistance for cultivating and harvesting the fruit.

The Kanahale report states that the Commission and the homesteaders had, by 1945, turned to pineapple as the only viable hope for the homestead

economy. Many homesteaders were employed by the pineapple companies. Pineapple was growing on 4,000 acres by 1943 and by 1951 on more than 5,800 acres or almost all of the available homestead agricultural lots in Hoolehua. The companies which had the marketing expertise provided an income source that no other crop had provided. Net income to homesteaders in 1938 was \$430,000, and some homesteaders received as much as \$10,000 in a single season during the depression. Pineapple did so well that before long the homesteaders were, in effect, leasing the land and the pineapple companies were farming the homestead acres.

On October 10, 1972, one of the pineapple companies announced that because of economic considerations it was going to close its pineapple operations on Molokai at the end of 1975, and several months later the other company announced that it would substantially reduce its pineapple operations in 1977. Thus, as a result of relying on a one crop and two company supported economy, 3,100 acres went out of production in 1975 and another 2,700 acres in 1978. Thus, 168 homesteaders no longer had income from planters agreements, and 75 homesteaders, who also worked for the pineapple companies, had lost their jobs. Currently, most of the 5,800 acres are unused. The "Molokai miracle," which showed that the agriculture program could be successful and justified expansion of the Home lands program, dissolved into an economic disaster 50 years later.

According to representatives of the Soil and Conservation Service, U.S. Department of Agriculture, farming can be a success on Molokai, but there

are many problems pertaining to homestead lands that will have to be overcome before homesteaders can achieve success. Among these are: planting of windbreaks to protect crops from Hoolehua's high winds; breaking up of the soil compacted by the roads developed by the pineapple companies; determining the effects of the pesticides used by the pineapple companies on the soil; upgrading the soil quality; obtaining assurances that there is a commitment on the part of the homesteaders to develop farms; and a redesigning of the 35-acre farm lots which are not conducive to family type farming because they are long and narrow. Other problems identified with farming on Molokai include the lack of marketing facilities and expertise and a dependable transportation system to get the products to market. DHHL hired an agricultural expert in 1981 and is now in the process of studying the problems.

In addition, DHHL has been one of the principal supporters of Maui Community College's development of a 60-acre farm project started with \$2.5 million in Federal funds. The project was initially established to work with teenagers, many of whom were from homesteading families, in order to introduce them to farming. DHHL anticipates that the project will be established as an institute to provide "hands on" technical knowledge to the native Hawaiians on the island of Molokai.

DHHL is also working on a development program for farms which are not under cultivation located in the Puukapu and Panaewa areas on the island of Hawaii.

In summary, while attempts are being made to improve the farming homestead potential, it is our conclusion that time, and a substantial increase in resources, is needed in order to develop and implement a viable farming program.

Subleasing of Ranch Land

The subleasing of ranch lots by homesteaders to other individuals, some of whom, reportedly, are not native Hawaiian, is being accomplished through the use of grazing agreements that provide for the payment of a fee for the grazing of cattle.

There are at least 20 homestead ranch lots with 5,893 total acres in the Waimea area on the island of Hawaii that are subleased to other individuals.

DHHL personnel in Waimea have submitted the grazing agreements they have been able to obtain for such lots to DHHL headquarters for approval. However, we were told by the Chairman of the Commission that the agreements have not been approved because to do so would acquiesce to the use of homestead lands by nonnative Hawaiians which is not compatible with the intent of the Act. DHHL or the Commission have not taken action to stop this practice. According to section 208 of the Act, as amended, the homestead lessee "...shall not sublet his interest in the tract or improvements thereon."

Conclusion

Progress toward the Act's objective of placing native Hawaiians on the land has been slow during the 60 years since enactment. And, although progress has improved during recent years, the ultimate objective does not appear to be near.

Under current concepts the need for financial resources appears to be one of the primary obstacles to rapid progress toward the end objective. For example, we estimate that over \$190 million will be needed to provide fully improved lots for each of the applicants for residential lots on the current eligibility lists and another \$254 million of funds will be needed to provide residential construction loans to these people. Add to this the cost of improvements and loans for farm and ranch applicants and the cost of administering the program and the total costs could easily exceed \$600 million. Considering that the State is currently contributing between \$6 and \$7 million annually and lease income is averaging about \$1.4 million per year, it will require over 50 years to meet the Act's objectives for the native Hawaiians on the current eligibility lists.

Recommendation

1. In our opinion, the circumstances indicate that there is a need to consider conceptual alternatives. We, therefore, recommend, together with the other recommendations in this report, that the following alternatives be considered:

a. Determine whether it is necessary to provide fully improved residential lots at no cost to the applicant. Alternatives to consider are reductions in the extent of improvements provided and/or a requirement that applicants pay for certain improvements.

b. Determine if an alternative to direct loans is feasible such as some type of guaranteed subsidized loan program using commercial funding sources.

2. In addition, we recommend that the issue of whether native Hawaiian ranchers can award grazing permits to nonnative Hawaiians be resolved.

3. FINANCIAL MANAGEMENT AND REPORTING

Improvements are needed in the financial management and reporting systems to provide for the maximization of revenues as well as providing DHHL with the means of making sound management decisions and for providing accurate and timely reporting on the discharge of its trust responsibilities. Our review disclosed that cash management has been ineffective, complete financial statements were not prepared, the accounting system was unauditable, and the required annual report was not based entirely on accurate and supported data.

Cash Management

DHHL has not maximized income by analyzing current cash needs and investing all cash excess to current needs into revenue-producing investments. We estimate that DHHL lost in excess of \$100,000 of interest revenue for the 9 months ending February 28, 1982, from uninvested cash of just one DHHL fund and another \$180,000 from three other funds.

The Hawaii Department of Budget and Finance invests "excess" cash in time certificates of deposit when so requested by the DHHL fiscal officer. These investments are authorized by Section 225 of the Act. Section 225 also specifies the DHHL fund accounts to which the interest revenues are to be credited. The certificates of deposit can be purchased for periods as short as 30 days in the amount of \$100,000 or more. During the 9 months ending February 28, 1982, the rate of return has varied on such certificates from about 10.5 percent to 16.2 percent.

We reviewed the cash balances of the Hawaiian Home Development Fund for the 9 months ending February 28, 1982. During this period, the development fund had an average uninvested cash balance of about \$1.2 million. Investments were made in only 2 out of these 9 months. In our opinion, the uninvested cash balance was greatly in excess of current operating needs, especially considering that revenues exceeded expenditures during the 9-month period. We estimate that DHHL could have generated additional revenues of over \$100,000 by investing the development fund cash that was excess to immediate needs.

We also reviewed the cash balances for the Hawaiian Home Administration Account, the Hawaiian Home General Loan Fund, and the Native Hawaiian Rehabilitation Fund. The average uninvested cash balances in these three funds totalled about \$2 million for the 9 months ending February 28, 1982. If this money was fully invested, we estimate that DHHL could have generated additional revenues of about \$180,000.

We did not attempt to determine the total amount of interest lost for all DHHL fund accounts, nor did we determine how long this situation existed. But we believe that inadequate cash management is a major problem, since DHHL must rely largely on internally-generated monies to fund its programs.

We believe this problem exists because aggressive cash management has not been stressed as a high priority by the Commission. We also believe that the lack of adequate financial statements as discussed below may have caused the Commission to be unaware of the situation.

Financial Statements

Complete financial statements are not prepared; therefore, the overall financial condition of DHHL is not readily apparent. Partial statements are prepared for the DHHL annual report and for the monthly Commission meetings. But these statements only contain selected financial data for certain fund accounts. The last complete financial statements that we could locate were for the fiscal year ended June 30, 1972.

Because the overall financial condition is not apparent, inappropriate management decisions may have been made. An example is the previously discussed management of DHHL's cash resources.

Complete financial statements provide a degree of visibility pertaining to the management of DHHL resources, from the perspective of both management and outside parties. And, review of financial statements by management can serve as the basis for questions concerning certain account balances or other sensitive financial matters.

One such account balance that should have raised a question was an accounts receivable balance of \$365,781 in the Hawaiian Home Loan Fund, that is due from the Borrowed Money Fund. This type of interfund transaction is questionable because it is conceivable that the Borrowed Money Fund was used so the funds could be loaned at a higher rate of interest, since the Act sets the rate of interest on loans from the Hawaiian Home Loan Fund at 2.5 percent. DHHL fiscal office personnel could not provide us with information as to when or why the transaction(s) was made.

Another problem related to the financial reports and records is that they do not separately identify the expenses of the Molokai water system. Thus, there is no assurance that water rates are adequate to recover the operating expenses of the water system.

We were informed by DHHL officials that there have not been any requests for DHHL financial statements, and that DHHL has higher priorities for its limited staff resources. However, we believe that annual financial statements, and quarterly or monthly statements, if practical, should be available, especially for a governmental organization with cash balances of about \$10 million and loans/accounts receivable in excess of \$32 million.

Accounting System Is Not Auditable

There has not been any financial audit of DHHL's funds and accounts conducted since the Hawaii Legislative Auditor attempted to audit the DHHL loan funds for the fiscal year ended June 30, 1978. The last audit of all DHHL funds and accounts was performed by the Hawaii Comptroller, for the 10-year period ended June 30, 1972.

The Legislative Auditor's report on the attempted audit of the fiscal year 1978 loan funds concluded that "the department's financial records are inaccurate and unverifiable", and that the records "were not in an auditable condition". Accordingly, the auditors were unable to express an opinion on the financial statements.

In our opinion, the accounting system is still in an unauditible condition. In addition, there are no financial statements (combined balance sheet, statement of revenues and expenses, and statement of changes in fund balances) prepared by DHHL upon which an opinion could be expressed.

The main deficiency in the accounting system is that key reconciliations are not performed. As noted in the Legislative audit report, there were discrepancies between the accounting records maintained by the Hawaii Department of Accounting and General Services and the records of DHHL. In addition, there were discrepancies between DHHL's general ledger and subsidiary ledgers.

The task of performing reconciliations has been assigned to temporary DHHL personnel, and there has been a loss of continuity when positions are vacated and refilled. At the time of our audit, no reconciliations had been attempted for about 8 months.

The audit function is an important part of good financial management. It helps to provide assurance to management and interested outsiders concerning the safeguarding of assets and the reliability of financial data. Accordingly, we believe that it is important that (1) the recommendations of the Legislative Auditor be implemented, (2) the accounting system be maintained on a current basis, and (3) regular audits be performed.

Accuracy of Annual Report Data

DHHL needs to improve the management information system so that data included in DHHL's annual report is accurate and supported. The Act requires that DHHL submit an annual report to the State Legislature. This report is also widely distributed to the Hawaiian community and provides information by which the Hawaiian community can evaluate the DHHL, and so it is imperative that the data is accurate.

Most of the quantitative data in the report is extracted from various records and monthly reports, but the data has not been reconciled with the source records for some time and there are differences between the records and the annual report. Also, we noted that some of the records were not accurate or complete.

For example, the DHHL listing of homesteaders showed that there were 165 more homesteaders on June 30, 1981, than the 3,034 reported in the fiscal year 1981 annual report, and there were significant differences by island and type of homesteader as follows:

<u>Number of Homesteaders</u>			
<u>Island</u>	<u>1981 Annual Report</u>	<u>Listing As of 6/30/81</u>	<u>Difference</u>
Hawaii	726	762	36
Molokai	380	601	221
Maui	89	90	1
Oahu	1,649	1,610	(39)
Kauai	<u>190</u>	<u>136</u>	<u>(54)</u>
Total	<u>3,034</u>	<u>3,199</u>	<u>165</u>

The differences by type of homesteader are as follows:

<u>Number of Homesteaders</u>			
<u>Type</u>	<u>1981 Annual Report</u>	<u>Listing As of 6/30/81</u>	<u>Difference</u>
Residential	2,618	2,703	85
Farm	347	421	74
Ranch	<u>69</u>	<u>75</u>	<u>6</u>
Total	<u>3,034</u>	<u>3,199</u>	<u>165</u>

We also noted that two individuals with pastoral or agricultural lots were not included as such in the homesteader list. Due to the amount of effort it would entail, we did not attempt to reconcile the list to the annual report, or verify the list. However, we noted one major cause of the differences was that homesteaders that had 35-acre farms and 5-acre

residential lots on Molokai were counted twice. Also the problems with the varying unreconciled sources of acreage data previously discussed under "land inventory" contribute to the problems of the validity of the data in the annual report.

Recommendations

We recommend that the DHHL improve its financial management and reporting system to correct the deficiencies we noted in cash management, financial statements, the accounting system, and the annual report. Specifically, this includes:

1. The timely investment of all available monies not immediately needed for current operations.
2. The proper and timely maintenance and reconciliation of accounting records.
3. The preparation of financial statements and the independent audit thereof.
4. Verification, to the extent possible, of the accuracy of homesteader and acreage data to be included in the annual report.

4. ELIGIBILITY LISTS

Our review has disclosed that certain improvements are needed in the procedures used to maintain the existing lists of eligible applicants for Home lands. But more important changes are needed to assure the currency and applicability of the lists and to remove uninterested applicants from the lists.

In order to qualify for inclusion on the lists a person must be 21 years of age and have at least a 50 percent native Hawaiian blood quantum. In addition, in order to actually receive a homestead lease, the person must be qualified to perform the conditions of the lease and be in need of financial assistance and not be delinquent in payment of any obligation to the State or its political subdivisions. One of the conditions of the lease is that the applicant is financially able to assume the indebtedness outstanding against the premises to be leased or to assume the indebtedness that must be incurred to enable the applicant to occupy the premises within one year after award of the lease.

The methods used to select applicants for awards from the eligibility lists have gone through various changes. According to the DHHL Annual Report for 1976-1977 there were no established or consistent procedures followed prior to 1963. Some awards were made by lottery, and other various procedures and criteria were used.

A priority system was established in 1963 where certain land areas were defined and all eligible applicants were placed on an area list in priority

ranking by the Hawaiian blood quantum of the applicant successor and the date of application. Three blood quantum priorities were established: Priority I successor to be 100 percent Hawaiian, Priority II successor to be from 50 up to 100 percent Hawaiian, and Priority III no qualified successor. The applications were ranked within the three priorities by date of application. In this system, applicants in Priorities II and III were not being awarded any land when there was an applicant in Priority I, regardless of the date of application.

A new system was established in 1972 whereby future applicants would no longer be ranked by blood quantum. Applicants on the existing lists would retain their ranking, but as of August 1972 all new applicants were ranked by date and time of application.

A problem with this method developed when new homestead areas were made available. The rules required that any applicant requesting transfer to another area list had to forego the original application date and be placed at the bottom of the list.

The present system was established in 1977 with the initiation of island-wide eligibility lists for all types of awards. The existing priorities and area lists were retained, and all of the previous applicants were also placed on the island-wide list in chronological order. New applicants are placed only on the island-wide list in chronological order. Any awards in an existing area must be selected from the old area list first. If new areas are opened, the awards are to be made from the island-wide list and the earliest applicants are considered first. Another

change was that a qualified spouse or child could assume the application rank of a deceased applicant.

We noted that DHHL had not notified applicants who had filed since June 1981 whether their applications had been approved. DHHL rules and regulations provide that DHHL determine if an applicant is qualified within 30 days after all required application documents have been supplied. Thus, recent applicants did not know if their applications have been accepted and approved. Near the end of our review, DHHL began notifying applicants who have filed since June 1981.

Throughout the various ranking systems, there has not been a system of application accountability numbers whereby a single series of numbers is used and a number is assigned once to an application. As a result, there is no system to assure that all applications have been accounted for or that some applications have not been lost. A numerical log of applications showing status of application and award would provide DHHL with a method of accounting for all applications.

Applicants are removed from the eligibility lists only by specific request of the applicant or by death of the applicant without qualified successors. DHHL does not have current addresses for a large number of applicants and attempts to contact the individuals have not been successful. DHHL rules and regulations require applicants to notify DHHL of any address changes and require that applicants be placed in a deferred status when there has

not been a response after two attempts to contact an applicant. This means that applicants will not be considered for future awards but are not removed from the lists and their ranking is maintained.

The magnitude of the problem is illustrated by the attempt in 1978 to contact 1,318 applicants whose last known address was considered questionable. The 1,318 applicants were listed in a major newspaper on May 31, 1978, and were requested to contact DHHL and update their applications. Responses concerning 554 applicants were received and their files were updated. However, according to DHHL personnel no action was taken to remove the remaining 764 names from the eligibility lists.

Another example is the screening of 1,000 applicants for the 230 lots to be awarded on the island of Oahu in 1982. The screening process, which began in October 1981, resulted in 371 undelivered letters apparently because the addresses were not current.

In August 1981, DHHL for the first time began classifying applicants as inactive after two unsuccessful attempts to contact the applicant. DHHL's attempt to identify all applicants without current addresses is continuing and it hopes to complete the process during 1982.

There are also a significant number of applicants who for various reasons defer their application for an award of a lot until some future date. When this happens, the applicants remain on the list and retain their positions on the list. There is no limit as to the number of times they may defer their application for lot awards, nor is there any requirement that the

reasons for deferment be disclosed. Some of the reasons relate to economic matters such as location of their present jobs while others defer with the hope that they will receive a more attractive award in the future. Of 1,000 applicants screened for the 1982 award of lots on Oahu, 87 requested deferments of their awards until some future date.

Another problem affecting the viability of the eligibility lists is demonstrated by the fact there are 194 applicants for Papakolea and 1,755 applicants for Waimanalo both on Oahu. There is, however, little available land in Papakolea, and not enough land to satisfy the applicants on the Waimanalo lists. According to the Chairman, DHHL, many of these applicants will not accept lots in other areas.

DHHL also has a potentially sensitive issue to resolve before future awards are made in the Waimea area on the island of Hawaii. The issue relates to the cancellation of the 1952 list for the awarding of leases in the vicinity of Waimea. The Commission, in 1952, selected 187 applicants for the award of 48 pastoral lots and 27 applicants for the award of 8 farm lots. The names selected were then drawn by lottery in order to establish the priority from which the final selection was made. The list created by the 1952 lottery was cancelled on May 14, 1956 and, at the same time, the staff of the Commission was instructed to accept new applications for Waimea homesteads.

Some of the 1952 applicants reapplied at that time (1956), and others reapplied later. Some of these latter applicants contend that they should be allowed preference over applicants who were not on the 1952 list. The

basis of their contention is that they never received notification that the 1952 list had been cancelled. We noted that there were three awards to individuals in 1962 that were not on the 1952 list. DHHL personnel were reviewing the problem at the time of our review, and had not yet determined if all applicants had been properly notified.

The Legislative Auditor of the State of Hawaii, in a September 1979 audit report, also reported that the eligibility lists contained many applicants whom the DHHL had not been able to contact. The Legislative Auditor recommended that DHHL amend its rules and regulations to provide for removal from the lists those applicants who continually fail to respond. DHHL has been reluctant to make such a change, and at the present time the applicants are being placed in an inactive status rather than dropped from the lists.

Since the eligibility lists are the basis for planning of future projects and awards, we believe there should be a more concerted effort to establish a listing that represents real demand.

Recommendations

1. We recommend that the Hawaiian Homes Commission establish policies and procedures wherein applicants are:

a. Dropped from the eligibility lists when reasonable efforts to verify their whereabouts and interest are unsuccessful.

b. Assigned a lower preference priority when offers are rejected and that they be dropped from the listings after a reasonable number of rejections.

2. We further recommend that DHHL:

a. Notify applicants as to the approval or rejection of their application within 30 days of the receipt of the application.

b. Establish a numerical accountability system aimed at providing assurance that all applications are properly accounted for.

5. LEASING ACTIVITIES

Section 204 of the Act authorizes DHHL to lease to the public any lands that are not required for homesteading purposes. The revenues from these activities, which include general leases, revocable permits, licenses, easements, and rights of entry permits, were about \$1.5 million during the year ended June 30, 1981. As a result of the tentative settlement of the Lyman Airport case, the revenues will increase to over \$2 million a year. The monies from the leases are currently used for DHHL administrative and operating costs.

DHHL follows state law and regulations in its leasing activities, with one exception, requiring that the lands be leased at a public auction to the highest bidder with a minimum rental (upset rental) determined by independent appraisers. Leases are generally limited to a term of not more than 65 years.

The one exception involves a 1978 amendment to the Act which gives preference to native Hawaiians in a general lease at the upset rental and without public auction. DHHL has not, with the exception of the Lyman airport lease, awarded any general leases since 1978 pending the establishment of rules and procedures for native Hawaiian preference leases. The rules and procedures have been completed and approved and DHHL was, at the time of our review, obtaining appraisals for future awards under these procedures.

Hawaii land statutes also provide for licenses and permits in certain cases and under certain conditions. Land licenses grant a privilege to enter Home lands for special purposes such as the removal of stone or gravel and may be granted for a period of not more than 20 years. Permits are issued for temporary occupancy of Home lands on a month-to-month basis which may continue for a period not to exceed 1 year from the date of issuance with a provision that allows for the continuance of the permit on a month-to-month basis for additional 1-year periods.

Prior to 1966, the general leases for Home lands were issued by DLNR. In 1965, the State legislature empowered DHHL to lease Home lands. With the exception of 18 leases covering 16,500 acres still administered by DLNR, DHHL now administers all leases of Home lands. As of June 30, 1981, a total of 93,363 acres of Home lands, including the 16,500 acres noted above, were under leases, revocable permits, or licenses.

The Legislative Auditor of the State of Hawaii, in a January 1979 report, was critical of DLNR's leasing practices for lands. The Legislative Auditor reported that appraisals for establishment of upset rentals were inadequate and not properly documented; there was insufficient use of percentage leases for lands let for business purposes; there were unreasonable delays in reopening of leases and redetermining lease rentals; lands were being leased under permits for long periods of time in violation of the intent of statute; and revenues derived from public lands were not being deposited into the proper fund accounts.

Based on our limited review we found that DHHL was obtaining independent appraisals for general leases and lease rental redeterminations. DHHL lease redeterminations were scheduled at varying intervals of 5 to 20 years and generally were being initiated in a timely manner. Also, DHHL recently began obtaining independent appraisals for significant permits and using tax assessed values for other less significant permits.

We did note two instances where it appears that revocable permits have been continued when general leases would be more appropriate. Revocable permits are to be used for temporary use of land, but DHHL had at least two revocable permits that had been continued for long periods of time. For example, one permit covered the use of lands for a store and improvements on approximately 2 acres of land. This revocable permit, effective June 1977, has been renewed through May 1982, and we believe that under such circumstances a general lease with lease payments based on operating revenues would be more appropriate. The other example involves a revocable permit for lands under sugar cane cultivation. The revocable permit covers 266 acres of land and contains a clause which is not compatible with the 1-year period allowed under the State's statutes applicable to revocable permits. The clause allows the lessee up to 25 months before surrendering the lands, so that the lessee would be assured of having a crop mature and be harvested. Thus, a general lease also appears more appropriate in this case.

DHHL personnel stated that these revocable permits were inherited from DLNR in about 1977. They stated that some of the land may be withdrawn for homesteading; therefore, DHHL will probably continue to use revocable

permits. However, we did note that DHHL was in the process of obtaining an independent appraisal for the revocable permit involving the store.

Recommendation

In view of the corrective action taken by DHHL, our only recommendation involving leasing is that the two noted revocable permits be converted to general leases because of the stability they offer to the lessee, which in turn can result in increased revenue.



**EXECUTIVE CHAMBERS
HONOLULU**

**GEORGE R. ARIYOSHI
GOVERNOR**

August 4, 1982

**The Honorable Donald Paul Hodel
Under Secretary
Office of the Secretary
U. S. Department of the Interior
Washington, D. C. 20240**

Dear Mr. Hodel:

Thank you for your letter of July 7, 1982, and the copy of "Review of the Hawaiian Homes Commission Programs," prepared by the Office of the Inspector General, U. S. Department of the Interior.

Generally, the draft is accurate in its description of the problems facing the Hawaiian Homes Commission (HHC) and the Department of Hawaiian Home Lands (DHHL). Detailed comments are enclosed for your review. A copy will also be submitted to the Office of the Inspector General, and to the Federal-State Task Force on the Hawaiian Homes Commission Act, which is charged with conducting a comprehensive review of all aspects of the act.

In the letter I received March 5, 1982, you stated that the purpose of the independent study was "to determine if the Department of the Interior has adequately executed its trust responsibilities" with respect to the Hawaiian Homes Commission Act (HHCA), the DHHL, and Section 5(f) of the Admission Act of 1959.

This basic and essential issue was not addressed and actually excluded from the draft report. Needless to say, I was disappointed that the very purpose for the independent study is totally omitted.

Hawaii has cooperated with your staff, based on the premise that the state and federal governments share trust responsibilities. The exclusion of the federal role is a serious concern.

The federal government has been involved in the HHCA from its inception. The HHCA was created by Congress. The focus of the program, the emphasis on rural homesteading, and the setting aside of public lands for the HHCA were determined by the federal government.

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The Territory of Hawaii, including the HHCA, was under the direct jurisdiction of the United States until statehood. The Congress and Departments of Justice and the Interior retained trust responsibilities over the HHCA through provisions in the Admission Act of 1959. These trust responsibilities remain in effect today. The federal government must not ignore its role in this matter.

The draft report includes a list of well-known problems. Hawaii continues to address these problems without diverting limited funds from direct services to native Hawaiians. Ignoring the federal government's role and the level of resources required to resolve these problems is a major deficiency of the draft report.

In essence, the draft report as it exists will have a serious negative impact on the native Hawaiian beneficiary group, the program, and the general community. It will result in greater misunderstanding and a deterioration of community and legislative support which has taken 60 years to build.

The federal and state government must pursue the identification, analysis, and resolution of these problems in a cooperative manner, with full recognition of the role and responsibility of each entity throughout the 60-year history of the HHCA. The recently-created Federal-State Task Force on the HHCA provides a timely and appropriate opportunity to achieve this. The task force has a broad mandate and is composed of federal, state, and community representatives.

I propose that the responsibility for developing a final independent study on the HHCA be transferred to this task force. In other words, the task force would continue the work of the Office of the Inspector General in developing a complete final report, comprehensive in scope, and with detailed recommendations for action.

Areas which may be examined by the task force which are not addressed in the existing draft report include recommended revisions to the HHCA, a clear definition of the purpose of the HHCA with a proper blend of powers and functions, clarification of the federal government's role and responsibilities, alternative methods of funding, and detailed recommendations to address problems.

The draft report can serve as a starting point for the task force. The Office of the Inspector General would retain its functions in terms of assisting the task force in developing a final report and in monitoring its implementation to provide periodic reports to Congress. Hawaii stands committed and prepared to provide resource persons and assistance for such an endeavor.

My Administration has made significant commitments to the DHHL in terms of financial resources and overall assistance. More than \$40 million in state funds have been funneled into the DHHL in the past six years. Over 1,300 homes have been constructed during this period, which nearly equals the total number of homes constructed in the previous 54 years.

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The DHHL agricultural program has been improved through water development, increased loan limits and expanded loan purposes, and technical assistance. Progress is being made by homestead farmers and this trend is expected to continue. The DHHL is making negotiated general leases available to native Hawaiians to increase opportunities for business development and job creation, as well as making its land base and resources more accessible to native Hawaiians. The new DHHL economic development program will provide business assistance and small business loans to support this effort.

I believe in the Department of Interior's sincerity about making a contribution to the advancement of the native Hawaiian beneficiary group. I look forward to our joint commitment to this effort. Your comments on my proposal would be appreciated.

With warm personal regards, I remain,

Yours very truly,


George R. Ariyoshi

Enclosure

REVIEW OF THE HAWAIIAN HOMES COMMISSION PROGRAM
DRAFT REPORT
PREPARED BY THE OFFICE OF THE INSPECTOR GENERAL
U. S. DEPARTMENT OF THE INTERIOR

OVERALL COMMENTS

A. PURPOSE OF THE HAWAIIAN HOMES COMMISSION ACT

The draft report does not discuss the Hawaiian Homes Commission Act (HHCA) itself. It does not identify areas of the Act for revision and improvement. Created by the U. S. Congress in 1921, implemented by the Territory of Hawaii under U. S. government jurisdiction for 38 years, implemented by the State of Hawaii for 22 years under a compact with the U. S. government, the HHCA has remained essentially unchanged during this entire period.

The intent and purpose of the HHCA is not clear. The concept of native Hawaiian "rehabilitation" is vague. A contemporary mix of statutory powers and functions is lacking. As a consequence, it is difficult to evaluate the performance and results of the Department of Hawaiian Home Lands (DHHL). The HHCA focuses on the land base rather than the changing needs of native Hawaiians and methods to address these needs.

B. STATUTORY PROVISIONS

A Congressional Committee Report at the time of the HHCA's passage lists these principle objectives:

- The Hawaiian must be placed on the land to insure his rehabilitation;
- Alienation of the land must be made impossible;
- Accessible water in adequate amounts must be provided for all tracts; and

- The Hawaiian must be financially aided until his farming operations are well under way.

Experience has demonstrated that land is not the panacea for native Hawaiian advancement. Comprehensive and balanced programs are required to assure success. The HHCA does not address the social, economic, and educational needs of the beneficiary group. Adequate and sustained funding is not provided.

The non-alienation clause makes it impossible for native Hawaiian homestead lessees to secure financing without DHHL's continuous support in the form of direct loans and loan guarantees. DHHL financing is, and will continue to be, limited unless new sources and methods are identified and made available. A significant share of the equity created by the lessee cannot be released until the lessee surrenders the lease or passes away. Further, the non-alienation clause and the inability to leverage other funds create a general disincentive for land improvement. Native Hawaiian homesteaders are unable to pass on leases and improvements to non-native Hawaiian direct heirs.

The HHCA exclusion of sugarcane lands, forest reserves, and the remote location of lands results in a land base isolated from population centers, often in dry areas with poor soil conditions. Cost of developing water sources and distribution systems is prohibitive. Funds for water planning, design, and construction are not readily available.

The provision of land, water, and financing for farmers is not adequate to ensure success. Technical assistance in farm production and business management is required. Remote DHHL farming areas face transportation and marketing problems and lack a full complement of agricultural support services.

C. DHHL LAND BASE SERVES TWO PURPOSES

The DHHL land base is used to develop native Hawaiian homesteads and to generate revenues for administration and other costs. These conflicting purposes for the land have been a continuous source of confusion and controversy. Expanded homestead programs experienced since 1975 create additional demands for staff to provide services and maintain quality standards. Planning, design, and construction of homestead improvements are largely dependent on State funds. It has been suggested that DHHL allocate raw land without services or improvements. However, experience has shown that a balanced program of services and improvements is required. DHHL is caught in a continual bind -- it cannot develop homestead improvements fast enough to use large tracts of land and it needs to use the same land base to generate revenues for expanded services.

D. FEDERAL ROLE OMITTED

The draft report introduction states that the purpose of the investigation was:

"...to determine if the Department of the Interior has adequately executed its trust responsibilities for programs and activities of the Hawaiian Homes Commission as provided by the Hawaiian Homes Commission Act, 1920, and the Hawaii Admission Act of 1959." (page 1)

The draft report does not attempt to define federal responsibilities, nor does it include an evaluation of the performance of the federal government in its trustee capacity. This is a serious deficiency of the draft report.

The federal government has played an active role throughout the history of the HHCA. The U. S. Congress created the HHCA. The federal government had jurisdiction over its implementation when Hawaii was a Territory and retained trust responsibilities outlined in the HHCA and Admission Act that are still in effect.

The basis for interpreting the U. S. Department of the Interior (USDI) role as "ministerial" in a 1972 memorandum of DHHL is not clarified. The draft report does not discuss whether this passive role is still considered adequate or whether the federal government's trustee responsibilities are more extensive in scope and active in nature.

The draft report describes specific actions by the federal government that are questionable without recommending corrective actions. This refers to the USDI approval of HHCA land exchanges and the illegal use of 1,356 acres at Lualualei, Oahu, by the U. S. Navy.

E. ALTERNATIVE FUNDING SOURCES NOT EXPLORED

The draft report contains no substantive and detailed recommendations on alternative funding sources, including federal funds, that may be channeled to DHHL. It is clear that many of the problems faced by the DHHL and documented in the draft report are related to the lack of funds for site improvements, construction, financing, programs, and operations.

DHHL has made significant strides under the present State Administration because of a substantial infusion of State funds. DHHL's ability to continue in this positive direction has been reduced by the 1978 State Constitution limit on State spending, impact of current economic conditions on State and DHHL revenues, and inflation. The omission of the federal government's role in providing funds to DHHL is a serious concern. As far as can be determined, federal funds have never been allocated to the DHHL in the 60 year history of the HHCA.

F. DRAFT REPORT FINDINGS MISLEADING

Draft report findings leave the impression that the problems can be resolved simply. Recommendations in the draft report are so general as to be meaningless and not useful in terms of taking corrective action. The exact scope of work required and costs are not outlined. Many of the detailed comments that follow are intended to clarify the complex and difficult nature of these problems and needs.

The draft report in its present form is deficient and incomplete, does not fulfill its stated purpose, and will not result in the fundamental and far-reaching improvements needed. The federal government must acknowledge its proper role with respect to the HHCA and DHHL.

DETAILED COMMENTS

A. LAND STATUS

1. Land Inventory

a. Finding: The draft report cites the lack of descriptions of "available lands" as a problem including the lack of a complete and accurate land inventory. (page 13)

Comment: The land inventory problem is complex, due in part to Congressional withdrawals, land exchanges, Executive Orders, and vague descriptions in the HHCA. All of these problems were noted in the report (pp. 15-29).

Original maps used by USDI in designating "available lands" in the 1920's would be a useful reference point for development of a complete and accurate inventory. The draft report does not contain specific recommendations for USDI to pursue in this effort.

Without adequate original reference maps, background research required prior to actual surveying is exhaustive and costly. Presently, this research involves examining each parcel in terms of HHCA provisions, the ahupuaa (land division extending from mountains to the sea) within which it exists, deducting sugar and forest lands, etc...in accordance with Section 203 of the HHCA. Reliance on the validity of existing documents has been necessary. This process is lengthy and can lead to inaccuracies.

Differences in acreages among various DHHL sources are, in part, accounted for in that these sources each reflect the most recent information available. There are differences due to poor descriptions in the HHCA. As lands are developed, more accurate descriptions are produced, generally on a case by case basis. As parcels are brought into use, surveyed, and developed, reports are improved and updated. Given existing staff and resources, DHHL has used this method of addressing the 60-year old problem concerning lack of an adequate land inventory.

Approximately 40% of the DHHL lands have not been surveyed. These lands generally have not been those best suited for homestead or leasing purposes. It is difficult to justify the high survey expense when specific uses for these lands are not yet identified.

2. Land Withdrawals

a. Finding: There needs to be an aggressive and accelerated approach to resolve the issue of home lands which have been withdrawn for public use. (page 22)

Comment: A total review will be required to determine policy and procedures. The matter of airports on DHHL lands is in the process of being resolved. It is clear that airport use is not in keeping with the purposes of the HHCA.

The question of schools and parks is not so easily answered in that these uses are part of an overall community in which homesteaders reside. Another policy or approach may be required. One possible impact is that other agencies will refuse to maintain parks or school properties without clear

authority to occupy the land. This raises several questions which must be given serious consideration including the soundness of a policy to move into the area of maintenance of facilities which may or may not directly benefit homesteaders. With limited resources and manpower, focusing on direct services to beneficiaries is more prudent. DHHL does not have the resources or manpower to maintain these facilities.

Other land uses such as game reserves, forests, and conservation areas may require yet another policy or approach. The extent and type of uses of these areas by native Hawaiians are not documented. It is clear that the issue of maintenance and management of these lands by other agencies may result in additional costs to DHHL. DHHL lacks sufficient resources and manpower to adequately carry out these responsibilities or functions.

It should be noted that of the 13,601 acres in Governor's Executive Orders, one of these game reserve lands encompasses 81.8 percent of the total.

Prior to proceeding with any land exchange, a clear understanding of DHHL land values must be determined in terms of resources present on the land and potentials for future land development. Land exchanges are based on a value for value exchange. It is imperative that DHHL have thorough knowledge of its own lands as well as lands which are being sought from other parties. Technical studies will be undertaken within the next two years to provide such information.

Resolution of Governor's Executive Orders is not unilateral on the part of the DHHL. If funds are involved for compensation, legislative appropriations may be required. If land exchanges are considered as a method of compensation, the Department of Land and Natural Resources and sometimes a third party are necessary to consummate an exchange.

This negotiation process requires agreement on appraisal methods, land values, and money. Resolution may involve arbitration or litigation.

Of course, USDI approval of the land exchanges will be required.

3. Past Land Exchanges

a. Finding: The propriety of three of the seven exchanges is questionable as the provisions of the Act (HHCA) apparently are not complied with. (page 28)

Comment: Note that USDI approved each land exchange. USDI and DHHL share responsibility in this area and must work together to resolve this matter. The draft report raises questions, but does not recommend corrective action.

4. Corrections to Draft Report Information

In the table on page 15, in the fourth column under "Congressional additions" the 402 acres listed on Molokai should be on Kauai; -0- would be the correct figure for Molokai. These changes affect the last column, "Adjusted Act Total." Kauai's total should be 22,948; Molokai's total should read 34,980. *

* Report corrected.

In the table on page 18, the correct Akinaka Study Acreage for Hawaii; Kamoku-Kapulena should be 3,509 rather than 4,725 which would adjust the acreage difference from 275 to 1,491. The 4,725 acres as it reads in the draft report included 1,216 acres for a land exchange that should not have been included here. *

In addition, a last example should be included in the following manner on this table:

<u>Island</u>	<u>Area</u>	<u>Acre Per Act</u>	<u>Akinaka Study Acreage</u>	<u>Difference</u>
Kauai	Moloaa	2,000	316	1,684

On page 19, number 2., "The Akinaka Study did not include...", the figure should read 699 acres, not 670 as stated. *

B. PROGRAM ACCOMPLISHMENTS

1. Background

a. Finding: 1975 DHHL General Plan goals are not being achieved. (page 31)

Comment: The DHHL General Plan is a policy document that indicates general directions to be pursued. The General Plan is further refined by Development Plans, detailed design and engineering plans, and Program Plans. Implementation is tied to several factors, including the availability of funds. The General Plan reflects the favorable economic conditions of the early 1970's. It does not reflect the 1978 State spending limit and its impact on State allocations of General Obligation Bond funds to DHHL, the impact of inflation or the reduction in the rate of revenue increases to the State and DHHL due to sluggish economic conditions.

* Report corrected.

DHHL recognizes the need to re-examine the General Plan based on new information, projections, and recent amendments to the HHCA. Work on technical studies to support this effort is scheduled within the next two years.

At the time this audit was being conducted, five Development Plans were in progress for the areas of Kawaihae and Puukapu (Hawaii), Kalamaula (Molokai), Kula (Maui), and Nanakuli (Oahu). Development Plans identify the highest and best uses for DHHL lands, total costs and phases of development. These documents are used to justify requests for capital improvement project funds from the State legislature, as well as for internal planning and management purposes.

The draft report estimates that \$600 million will be required to satisfy the present waiting list of 7,500. This total cost is probably underestimated. It does not include the cost for planning, design, and detailed engineering. It does not include the cost for major infrastructural improvements, such as water source development, required to open up new areas for homesteading purposes. The draft report does not mention any federal role in assisting the DHHL to finance these costs. Obviously, a reliance on State funds and DHHL's ability to generate revenues from its land base are not sufficient.

2. Housing Program

a. Finding: Determine whether it is necessary to provide fully improved residential lots to the applicant. Alternatives to consider are reductions in the extent of improvements provided and/or a requirement that applicants pay

for certain improvements. (page 42)

Comment: With a waiting list of 7,500 native Hawaiians, it would be a simple task to subdivide DHHL's lands and allocate these raw lands to all. This approach to "solving" native Hawaiian problems would be irresponsible and detrimental to the beneficiary group.

DHHL follows a deliberate practice of assuring that residential and agricultural lots and improvements meet County standards, fully cognizant of the tradeoffs involved in terms of higher costs and constraints on DHHL's ability to satisfy the waiting lists. This course of action is followed for several reasons which the draft report did not cover:

- It allows DHHL to dedicate certain improvements to the County for repair and maintenance;
- This allows homesteaders to obtain homeowner's and other forms of insurance, health and safety services such as fire protection;
- Depending on the source of financing, certain minimum standards must be met. Loan guarantees through the Farmers Home Administration, for example, are available if DHHL meets building standards that are more restrictive than County standards.

- If DHHL had an independent source of financing, residential and agricultural leases could be awarded without meeting County standards. However, DHHL would be responsible for infrastructure maintenance and repair, for providing insurance and health and safety services. Native Hawaiians would have difficulty securing loans and services. In most cases, the native Hawaiian beneficiary would suffer.

The draft report failed to examine these issues in relation to the tradeoffs involved and the full impacts of their recommendations. It is likely that draft report recommendations will provide marginal benefits. The key concern is the need for additional funding from federal sources.

DHHL has discussed the need for a comprehensive study of the native Hawaiian housing market, types of housing units desired and affordable to this market, alternative methods of financing, alternative methods of reducing costs, passing certain improvement costs to the applicant (possibly on ability to pay basis), and an assessment of the impact on current methods of appraising homes at the time of surrender or death with no qualified/interested heirs. DHHL does not have sufficient funds to cover this cost at present.

b. Finding: Determine if alternatives to direct loans are feasible such as some type of guaranteed subsidized loan program using commercial funding sources. (page 42)

Comment: DHHL recognizes the need to identify and pursue alternative methods of financing. DHHL currently provides direct loans and loan guarantees. Public program funds are very limited. The situation is not likely to improve. Informal discussions with commercial funding sources over the past year have not been successful. Major concerns raised are the non-alienation lease provisions and closed native Hawaiian market. It is agreed that this area must be examined further. Other alternatives may exist and need to be explored and developed. Certain options may be available to select segments of the native Hawaiian market. A complete study of sufficient scope and depth is necessary and costly.

3. Farm and Ranch Homesteading Program

a. Finding: There are many reasons why the native Hawaiian farming and ranching program has not progressed rapidly. (page 35)

Comment: The discussion of farming and ranching homesteading program in the draft report demonstrates a general lack of understanding of the dynamics of agriculture in Hawaii. Simple and incomplete indicators of success are used. Agriculture in Hawaii, primarily in the form of family-run operations, is constantly in a state of flux and is highly sensitive to market and general economic conditions. Corporate agribusiness on the mainland is highly mechanized, located on large tracts of land, enjoy the benefits of economies-of-scale, and are supported by a wide range of governmental support services including price supports.

Native Hawaiian homestead farmers and ranchers and DHHL's program are affected by many factors which are beyond direct control. There are risks involved in any business venture. The native Hawaiian lessee, of course, assumes responsibility for decisions made in the normal course of business operations.

The list of eight reasons cited on pp. 35-36 are not complete. Other factors include:

- Weather conditions such as severe flooding and drought experience over the past three years by native Hawaiian lessees in Hilo and Puukapu.
- A small local market and competition from other Hawaii farmers and ranchers, mainland and foreign operators. Panaewa farmers are experiencing a difficult marketing problem for guavas.
- The absence of economies-of-scale, high labor costs, and high per unit production costs.
- The lack of agricultural support services in certain locations such as research and experimental facilities, private credit, monitoring of disease and pest problems.
- Distribution and marketing problems such as poor air and barge service, distance to market.

The draft report is based on a rather narrow perspective. Over the 60 year history of the HHCA, farming and ranching has been a priority concern. The draft report focuses on recent events which in many ways do not reflect a long-term trend. Current economic conditions, for example, have affected native Hawaiian lessees (as well as other farmers and ranchers). Certain crops are seasonal in nature, therefore, site visitations may have been misleading. Big Island lessees are adjusting to the impact of severe weather problems.

DHHL views the farming and ranching homestead program as an investment in native Hawaiians who make significant contributions to the economy of Hawaii. DHHL plays a supportive and advisory role; DHHL will not dictate what to grow, when and how. Each native Hawaiian farmer and rancher makes the final decision.

DHHL has actively pursued measures which are consistent with its proper role, which will support native Hawaiian farmers and ranchers in their endeavors. Farm agents and technical assistance are provided, rules have been promulgated to clearly define applicant qualifications and farm/ranch plan requirements. Recently, DHHL sought and received authority to increase loan limits and expand purposes for loans, to allow a residence on an agricultural lot, and to provide aquaculture homestead leases. DHHL has connected Waimea farmers to the State Lalamilo Irrigation System, has encouraged lessees to transfer lots to more suitable locations, expanded the definition of agriculture to include poultry and

livestock (pigs), and is investigating potentials for DHHL agricultural loan guarantees with other Federal and State sources.

These efforts have demonstrated DHHL's commitment to agriculture. Many native Hawaiian agricultural lessees have responded positively by increasing acreage under cultivation, increasing levels of production, examining new products and markets. Many young native Hawaiians are expressing a strong commitment to agriculture. These trends are expected to continue and add to the momentum. DHHL must be prepared to respond.

b. Finding: Over 60% of the farm tracts are not in full cultivation, including 42% that are not under any cultivation. (page 35)

Comment: These figures reflect the number of farm leases, not the number of acres. Most leases are not under full cultivation, however, most are under some cultivation. The following information, compiled for the 1981 District Manager Reports, is a more accurate description of the farming activity.

DHHL Farmlands Cultivated/Cleared

<u>Area</u>	<u>Total Acres</u>	<u>Acres Cultivated/Cleared</u>	
		<u>#</u>	<u>%</u>
Panaewa	641	407	63.5
Waimea	285	187	65.6
Hoolehua	6,355	900	14.2
Total	7,281	1,494	20.5

DHHL is focusing more attention on the problems and needs at Hoolehua, Molokai, that impede farm production. This is discussed in another section.

4. Molokai Farm Problems

a. Finding: Farming can be a success on Molokai, but there are many problems pertaining to homestead lands that will have to be overcome before homesteaders can achieve success. (pp. 38-40)

Comment: Other problems should be added to the eight listed, including, lack of research and experiment facilities on the island, inadequate water to supply the entire homestead farm area and high cost to link system to new source(s) of water, lack of farming expertise, and inability of some homesteaders to farm due to age and health conditions. Major DHHL farm initiatives were outlined in a previous section. In addition, certain positive actions are taking place on Molokai:

- DHHL will initiate a farm development planning effort to compile and analyze data on land characteristics, lessee demographic profiles, infrastructure, water, and marketing and distribution problems and needs. This will form the basis for future action.
- The Molokai Electric Company will pay for cuttings of homestead biomass (e.g. trees, shrubs, grass). Early reports indicate that biomass may realize higher returns

than previous pineapple agreements. Concerns that need to be examined are the long-term impact of repeated cuttings on the soil, productive use of fertile agricultural lands, and dependence on one product and one outlet.

- The DHHL technical assistance project has made significant impact on farming activity on Molokai. The project provides on-the-farm consultation, workshops, disease and tissue analysis, and variety trials. The project was recently extended for two more years.
- The new Maui Community College Molokai Farm Project which will offer college coursework, workshops, fieldtrips, and hands-on field experiences will complement the DHHL technical assistance project.

5. Subleasing of Ranch Land

- a. Finding: The issue of whether native Hawaiian ranchers can award grazing permits to non-native Hawaiians needs to be resolved. (page 42)

Comment: The subleasing of ranch land raises basic issues that relate to homestead uses whether residential, farming, ranching, or aquaculture. Is the use of DHHL lands by native Hawaiians to be considered a right or a privilege? If it is a native Hawaiian right, it is questionable whether the DHHL should place unreasonable restrictions on use of the land. The DHHL should not prevent native Hawaiians from using the land to assure his advancement, for example, by seeking third party investors. This may require that the non-alienation clause be re-examined. HHCA provisions should not hamper efforts by native Hawaiians to secure non-governmental assistance, provide workers' quarters on the land, and taking the initiative to operate in the free enterprise system. Unfortunately, there are cases where HHCA provisions have been a deterrent, rather than a positive factor, to providing native Hawaiians with individual control and responsibility over their future.

In the case of sublease ranching agreements, several factors need to be considered. Some lessees have been ranchers for many years. Due to age, these lessees are not fully productive on their own; their children are not interested in continuing the ranch. It is unreasonable to evict these lessees after many years of developing and operating full-scale ranches.

Other lessees have invested heavily into ranching and have failed because of a lack of experience or the inability to leverage needed capital. It is questionable whether eviction from the land will lead to a positive gain for any

party involved. Other solutions can be explored to support the native Hawaiians' commitment to, and interest in, ranching.

Various extenuating circumstances need to be understood before lease provisions are enforced. This may be appropriate in some cases, not in others. A flexible approach is required that offers opportunities for success and recognition of lessee commitment and initiative.

C. FINANCIAL MANAGEMENT AND REPORTING

1. Cash Management

a. Finding: DHHL has not maximized income by analyzing current cash needs and investing all cash excess to current needs into revenue producing investments. (page 43)

Comment: DHHL is examining the role of other central staff agencies to determine whether external systems of control can prevent this situation from occurring. It is acknowledged that DHHL is responsible for management of its available cash. An external control system would be helpful, especially in a situation of high staff turnover.

DHHL cash investment, generally before and after the period included in the draft report, have consistently ranged between 75 and 85 percent of available cash. During the period covered in the draft report audit, DHHL experienced high staff turnover. Vacant positions existed.

Hiring and staff training has received high priority. Serious efforts have been made in this area and a proper level of investment achieved since completion of the draft report.

Cash management is also influenced by the nature of various funds involved. Certain funds are predictable in terms of income and disbursements. Others are subject to large periodic fluctuations. Estimating available cash for investment purposes can be very difficult.

2. Financial Statements

a. Finding: Complete financial statements are not prepared, therefore the overall financial condition of DHHL is not readily apparent. Inappropriate management decisions may have been made. (page 43)

Comment: DHHL recognizes that improvements are needed in this area. Reconciliation of accounts is being pursued. DHHL will also explore the possibility of additional assistance from the State Department of Accounting and General Services (DAGS) and from the Department of Budget and Finance (DB&F). Further, consultant services may be required to determine a feasible method of initiating proper accounting systems equipment so that complete financial statements can be developed periodically.

3. Accounting System is not Auditable

a. Finding: The main deficiency in the accounting system is that key reconciliations are not performed. (page 47)

Comment: An ongoing effort continues in this area. The reconciliation process may require another one and a half to two years to complete.

4. Accuracy of Annual Report Data

a. Finding: DHHL needs to improve the accuracy of data included in its annual report. (page 48)

Comment: The annual reports reflect the most current and accurate information available. Changes will continue to be made as progress is made.

A related concern is the need for a broad-based management information system which can accommodate fiscal, accounting, loan, applicant and lessee lists, land inventory, beneficiary demographic data, and leasing activities. The first step would include retaining a consultant's services to assess DHHL's data and analysis needs and to recommend a feasible management information system. The system is needed for daily operations, periodic reporting. Such a system would provide more timely data. As the accuracy of data input increases, the system will reflect this.

D. ELIGIBILITY LISTS

a. Finding: DHHL has not notified applicants who filed since June 1981 as to whether their applications have been approved. (page 53)

Comment: Letters of notification to each applicant not previously notified will be sent as the process of verification of native Hawaiian ancestry is completed. This process was delayed at the time of the draft report audit because DHHL applicant data base information was being transferred from one system to a word processor. DHHL is currently making positive progress in terms of resolving this problem.

b. Finding: There is no system of application accountability numbers whereby a single series of numbers is used and a number is assigned once to an application. (page 53)

Comment: A new application procedure is being established which will satisfy this concern. Internal procedures need to be finalized before implementation.

c. Finding: DHHL does not have current addresses for a large number of applicants and attempts to contact the individuals have not been successful. (page 53)

Comment: A key problem has been maintaining updated addresses for DHHL applicants. Rules provide that each applicant be contacted every two years. These biennium contacts and periodic area screenings help to identify applicants whose mail cannot be delivered because of a change of address.

DHHL maintains a mail return file for followup by staff. Lack of manpower has been a problem. The current plan is to conduct segmented screenings to comply with the biennium contact requirement and keep the mail return followup manageable. For example a segmented system of contacts would result in 300 mailings each month, rather than 7,500 mailings at one time every two years.

d. Finding: The Hawaiian Homes Commission should establish policies and procedures to drop applicants from the eligibility lists or penalize them after reasonable efforts to verify whereabouts and confirm interest are unsuccessful. (pp. 56-57)

Comment: Interest and commitment are at a high level at the time of application. This decreases as the length of time on the waiting list increases. When leases are made available, the applicant is asked to decide interest within 30 days after waiting for several years. This is a major decision involving a large financial investment and possibly relocation. The current procedure of placing applicants on an inactive status provides DHHL with opportunities to identify the effective (i.e. interested and committed) waiting list.

This procedure was authorized in 1977, became operational in 1980, and provides for an inactive list. At the present time, DHHL has no desire to drop applicants entirely from eligibility lists.

e. Finding: Question as to whether 1952 list of Waimea ranch applicants received proper notification when the list was cancelled on May 14, 1956. (pp. 55-56)

Comment: DHHL is aware of this issue. Staff is reviewing historical data to determine a final resolution.

E. LEASING ACTIVITIES

1. Revocable Permits

a. Finding: Revocable permits continued when general leases would be more appropriate. (page 61)

Comment: Development Plans need to be completed before commitments are made to any general leasing activities.

One of the revocable permits cited will be affected by the Kawaihae Development Plan now in process. Pending completion of this Development Plan, a general lease may be issued if the proper zoning is in place.

Plans for homestead use of the other revocable permit
parcel may preclude issuing a general lease.

Chapter V

ASSESSMENT OF ADDITIONAL FEDERAL RESPONSES
TO THE UNIQUE NEEDS OF NATIVE HAWAIIANS

The preceding two chapters have analyzed and reviewed two suggested federal responses to the unique needs of native Hawaiians. Chapter III concludes that the response of compensation for any possible loss of land or sovereignty is not available under present law. Chapter IV reviews the Hawaiian Home Lands program, including ways to ensure better administration of the program. This Chapter sets forth other federal responses that are available or being undertaken.

**A. IDENTIFICATION OF FEDERAL PROGRAMS FOR WHICH NATIVE HAWAIIANS
MAY BE ELIGIBLE**

The federal government sponsors a vast array of programs administered through a large number of agencies. Five federal programs specifically assist native Hawaiians. 1/ These are: Title VII of the Native Americans Program Act; 2/ Title III of the Comprehensive Employment and Training Act; 3/ the American Indian Religious Freedoms Act; 4/ the Mental Health Systems Act; 5/ and the Hawaiian Homes Commission Act of 1921. 6/

Once this Commission identifies the unique needs of native Hawaiians, the Commission will search the available federal programs to identify those for which native Hawaiians are now eligible, which would address those unique needs.

[The Commission has agreed that the listing of programs can most appropriately be undertaken after the needs are identified. Therefore, this portion of the report will be completed later.]

B. STUDY OF MILITARY PROPERTY REQUIREMENTS IN HAWAII

Periodically, the Department of Defense undertakes a study of military property use requirements in Hawaii. A report growing out of such a study was made in January, 1973 (the FRESH study); another report was completed in April, 1979 (MILPRO-HI Report). 7/ The purpose of these reports is to identify landholdings required to support planned military missions and force levels in Hawaii. As part of the study, the Department of Defense identifies DOD-controlled real property that can be made available for release without degradation of the Defense Department's mission. It also reviews joint military/civil use of DOD-controlled property to evaluate existing joint use and to identify areas of possible additional joint use. The reviews provide the opportunity for identification of land and facilities that might be made available for native Hawaiian use.