

July 19, 1990

MEMORANDUM

TO: Dr. Fujio Matsuda
Executive Director
Research Corporation of the
University of Hawaii

FROM: Martha L. Young
Staff Attorney

SUBJECT: Applicability of the UIPA to the Research Corporation
of the University of Hawaii

This is in response to a request from the Attorney General to provide you with an advisory opinion concerning the applicability of the Uniform Information Practices Act (Modified), chapter 92F, Hawaii Revised Statutes ("UIPA"), to information maintained by the Research Corporation of the University of Hawaii ("Research Corporation").

ISSUE PRESENTED

Whether the Research Corporation constitutes an "agency" as defined by section 92F-3, Hawaii Revised Statutes, and therefore, is subject to the provisions of the UIPA.

BRIEF ANSWER

Yes. The Research Corporation is an "agency" as defined by the UIPA. Therefore, information maintained by the Research Corporation meets the UIPA's definition of "government record" and is subject to the UIPA.

DISCUSSION

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The UIPA provides that "[a]ll government records are open to public inspection unless access is restricted or closed by law." Haw. Rev. Stat. § 92F-11(a) (Supp. 1989). The term "government record" is defined by the UIPA as "information maintained by an agency in written, auditory, visual, electronic, or other physical form." Haw. Rev. Stat. § 92F-3 (Supp. 1989) (emphasis added). The UIPA defines an "agency" as follows:

"Agency" means any unit of government in this State, any county, or any combination of counties; department; institution; board; commission; district; council; bureau; office; governing authority; other instrumentality of state or county government; or corporation or other establishment owned, operated, or managed by or on behalf of this State or any county, but does not include the nonadministrative functions of the courts of this State.

Haw. Rev. Stat. § 92F-3 (Supp. 1989) (emphases added).

Section 307.1, Hawaii Revised Statutes, established the Research Corporation "as a body corporate," "a public instrumentality . . . [which] shall be a part of the University of Hawaii for administrative purposes." In an earlier OIP opinion letter¹ we opined that the University of Hawaii is an agency of the State.

The Research Corporation was clearly established as a "public instrumentality" of state government and also appears to be a "corporation . . . owned, operated, or managed by or on behalf of this State." Therefore, we find that the Research Corporation is an "agency" as defined by the UIPA. Consequently, the UIPA applies to government records maintained by the Research Corporation,² including "information maintained in written, auditory, visual, electronic, or other physical form." Haw. Rev. Stat. § 92F-3 (Supp. 1989).

We note that the UIPA's disclosure mandate applies "unless access is restricted or closed by law," and that there may be

¹See OIP Op. Ltr. No. 89-9 (Nov. 20, 1989) at 4.

²We note that chapter 307 exempts the Research Corporation from several specific state laws, and Hawaii's public records law is not included. Haw. Rev. Stat. § 307-4 (1985).

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other state statutes or federal laws restricting the disclosure of particular records of the Research Corporation. Haw. Rev. Stat. § 92F-13(4) (Supp. 1989). If questions arise regarding the public or confidential nature of particular information or records, the OIP may be contacted for assistance.

CONCLUSION

The Research Corporation was established as a public instrumentality of state government and is administratively attached to the University of Hawaii. It is an "agency" as defined by the UIPA, and any information it maintains is a "government record," subject to the UIPA.

Martha L. Young
Staff Attorney

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APPROVED:

Kathleen A. Callaghan
Director