



Office of Performance Evaluations Idaho State Legislature

Report 97-02

July 1997

The Bishop's House Historic Site

In December 1996 the Joint Legislative Oversight Committee requested an evaluative review of a 50-year lease governing use of the Bishop's House. The Bishop's House is a late 1800s house purchased by the Idaho State Historical Society in 1975 to preserve its historic significance. The house is leased to Friends of the Bishop's House, Inc., a non-profit corporation. It is located at the Old Penitentiary Historic District, land owned and managed by the State Land Board of Commissioners. We conducted this review because of concerns that the lease may not be valid, and that it may not protect public interests. We asked:

- How is the house currently managed? Does its management support public interests?
- Is the lease valid? Does it protect public interests in the house?

To answer these questions, we:

- Interviewed Friends of the Bishop's House board members and staff and reviewed information and financial records made available by the group;
- Interviewed Department of Lands and Idaho State Historical Society staff and reviewed agency data;
- Consulted with Legislative Services Office audit staff on questions of financial management and internal controls; and
- Consulted with the Office of the Attorney General on questions of legal interpretation.

Summary Conclusions and Recommendations

We determined the Bishop's House is not managed as a public historic site, its lease is problematic, and that the agents of the state have not adequately protected public interests through their oversight of this historic resource. First, we found that public access to the Bishop's House is restricted, because the house is used primarily for private, commercial purposes to generate revenue for its preservation. Second, we identified management practices that may not adequately protect the public's interest in preserving the house. Finally, we found that responsible state agencies have not adequately performed oversight functions for this historic site. Therefore, we recommend the Historical Society develop a historic site plan for the Bishop's House that specifies public access requirements and protects public interests. We also recommend the Land Board and Friends enter into negotiations to ensure leasing of the house provides accountability and protects public interests.

The State Preserved the House for Public Appreciation

The Bishop's House is a historic site located on state land.

The Bishop's House, the home of Episcopal bishops in Idaho from the 1880s to the 1960s, is listed on the National Register of Historic Places. In 1975, the state relocated the house to the Old Penitentiary Historic District in Boise, property which is owned

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and managed by the Land Board. The district also includes the Old Idaho Penitentiary and the Idaho Botanical Gardens.

The lease helped to affirm the public purpose of the house.

In 1980, the Land Board approved a 50-year lease of the house between the state and Friends of the Bishop's House, Inc. According to the director of the Historical Society at the time, the purpose of the lease was to clarify Friends' role in preserving the house for public benefit. Further, the director acknowledged that Friends' efforts could help preserve the house without using tax dollars. Funding for the house's preservation, he said, would come from renting office space in the house to community groups, charging tourist admission fees, and renting space for private gatherings. The director reported that the house, "the only historic house in Southwest Idaho open to the public," would serve senior citizens, community groups, school children, and tourists.¹

Friends maintains the Bishop's House using rental revenues.

Prior to the lease in 1980, Friends' members were instrumental in raising funds to move the house to the Old Penitentiary Historic District. Since 1980, Friends has maintained the Bishop's House using revenues generated primarily from renting the house for events like weddings, holiday parties, and business meetings. Revenues for fiscal year 1997 totaled \$65,281. Maintenance efforts undertaken by Friends have included painting the exterior of the house, constructing a gazebo and a storage shed, and replacing the sewer system to the house. Friends board members have contributed their expertise in history and architecture to preservation efforts.

Public Access to the Bishop's House Is Restricted

We reviewed the current use of the house and legal guidelines that govern the use of public assets.

¹ "Bishop's House Relocation and Restoration," by Arthur Hart, Director, Idaho State Historical Society, February 7, 1975.

We found:

- **Current use of the Bishop's House may not adequately support a public purpose because it is used primarily for commercial purposes, limiting public access.**

Although the state acquired the Bishop's House to ensure public benefit from its history, current use of the house serves a primarily private, commercial purpose. According to Idaho Code, the state preserves historic sites to make them available "for the better appreciation of the historical heritage of [Idaho] by the people of the state."² However, the Bishop's House is used primarily as rental space for weddings, holiday parties, and meetings.

Further, the site does not include an interpretative sign indicating the Bishop's House is a public building, or explaining the house's historic significance to visitors at the Old Penitentiary Historic District. Instead, a sign affixed to the front porch railing informs visitors the house was moved in 1975 and is operated by Friends of the Bishop's House. Another sign frequently in front of the house reads that the house is closed for a private party. In addition, the interior of the house contains few period pieces contributing to the educational purpose of the house; Friends keeps the house sparsely furnished to accommodate tables and chairs necessary for those renting the house.

Friends' officials reported that, in recent years, the house has been formally open to the public about once a year. In contrast, the two other Old Penitentiary Historic District tenants, the prison and the gardens, are regularly open to the public and during fiscal year 1996, 30,000 people visited the prison, and from April–October 1996, 2,511 people visited the gardens.³ In addition, more people attended special events at these facilities.

In response to our concerns regarding public access, Friends officials told us they believe the house benefits the public because its exterior features may

² IDAHO CODE § 67-4114 (1997).

³ Both the Old Penitentiary and the Botanical Gardens generate revenues from admission fees.

be viewed at any time and the public has access to the house through attendance at private functions. However, as a public building, we would expect the access and benefit to be greater than that readily available from private properties.

Friends' Current Financial Management Practices May Not Protect Public Interests

We reviewed Friends' financial practices and records for fiscal years 1994–1996 to determine how revenues were managed and whether expenditures supported public interests.⁴ We found:

- **Friends has not developed a written maintenance plan or dedicated a maintenance reserve account to ensure the protection of long-term public interests in the Bishop's House.**

⁴ We reviewed check registers, bank statements, rental contracts, and management procedures for this period.

The Bishop's House lease requires Friends to maintain the house. Friends officials told us they do not have a written maintenance plan, but that they try to keep up with maintenance needs. A plan would help ensure maintenance needs are met in a timely manner and demonstrate to the state that the house's preservation needs will be met over the long-term. In addition, Friends has not established a reserve account dedicated to the house's long-term maintenance and preservation needs. Friends officials told us they have a savings account they use as necessary for maintenance costs. As of April 30, 1997, the balance in this account was \$2,098.

In the absence of a plan, we reviewed expenditures for fiscal year 1997 to determine Friends' level of maintenance and improvement effort. As shown in Table 1, in fiscal year 1997 Friends directed 56 percent of all expenditures to personnel costs, primarily funding a social coordinator position. House and grounds maintenance totaled 15 percent, and capital improvements totaled 8 percent of all expenditures. Utility payments, insurance, and miscellaneous expenses accounted for the remainder.

Table 1: Bishop's House Expenditures, Fiscal Year 1997

		Percentage of Total ^a
Gross wages, payroll taxes, contract labor	\$39,729	56%
House and grounds maintenance, security	10,575	15
Miscellaneous expenses ^b	5,938	8
Utilities	5,951	8
Capital improvements	5,727	8
Insurance	<u>2,552</u>	4
Total	\$70,472	

^a Percentages may not add due to rounding.

^b Includes house supplies, equipment, printing and supplies, rental expense, miscellaneous expense, board meetings, postage, and bank fees.

Source: Friends of the Bishop's House, Inc. Profit and Loss Report, FY1997

In addition, we found:

- **Friends' management practices may not maximize revenue available for Bishop's House maintenance.**

Our review identified four practices which may have reduced the amount of revenue available to maintain the Bishop's House. First, Friends did not include some applicable fees in the total rental cost for some events. Second, the board rents an apartment in the house to a board member for only \$175 per month, including all utilities except telephone. Third, Friends' grants members a ten percent discount on house rentals.⁵ Finally, some bank funds were unnecessarily held in non-interest bearing accounts. We were unable to determine the total cost of these practices due to the limited level of detail available in the records we reviewed.

No independent financial audits of Friends' revenues and expenditures were conducted during the period we reviewed. In addition, Friends officials told us they had not conducted their own internal audits. As a result, we requested that legislative audit staff assist in our review of Friends' financial practices and records.

We found that during the period we reviewed:

- **Friends of the Bishop's House's internal controls were weak and needed improvement.**

Problems identified include:

- Cash handling responsibilities were not segregated;
- Eight checks totaling \$1,600 were signed by the person to whom the checks were payable;
- A check for \$150 was written to "Cash;"
- Voided checks were not retained with the signature line removed; and
- Payees were not always identified in the check register.

⁵ Friends' staff reported that board members rented the house three times during the past year.

The Bishop's House Lease and Its Enforcement Are Questionable

We consulted with the Office of the Attorney General to determine whether the Bishop's House lease was valid, and whether its terms supported public interests. We found:

- **The Bishop's House lease may be invalid because its terms appear to conflict with constitutional and statutory requirements.**

According to the Office of the Attorney General, the state constitution requires the lease (1) ensure the house is used for a public purpose, and (2) not result in the state subsidizing a private interest.⁶ As previously discussed, current use of the house may not meet public purpose requirements due to insufficient public access, inadequate financial management, and lack of a plan to preserve and maintain the house. Furthermore, Bishop's House lease terms may result in state subsidization of a private interest. The lease requires Friends to pay \$10 rent per year while requiring the state to pay sewer, water, and grounds upkeep costs, costs which totaled over \$5,000 in fiscal year 1997. Although over time Friends has informally agreed to pay these costs, the lease formally obligates the state.⁷

The lease could also be found invalid because it does not satisfy the statutory requirements of Idaho Code. Specifically, limited public access to the house and inadequate planning to fund and maintain the house do not "preserve and enhance the cultural, educational, recreational, and scenic values."⁸

Further, we found:

- **The Bishop's House lease does not contain common terms that protect public interests.**

⁶ IDAHO CONST. art. VIII, § 2.

⁷ Since 1994, Friends has paid water and sewer costs. Friends officials told us they have assumed the costs of yards and grounds over the years in order to make the property more appealing to potential renters. As required by the lease, the state pays fire insurance costs.

⁸ IDAHO CODE § 58-337, (1997).

Department of Lands rules require that state lands leases contain terms authorizing state oversight. For example, geothermal leases must contain terms to allow the Department of Lands director to inspect lessee records. Oil and gas leases require production reports be made available to the director. These leases further ensure that the public benefits from private use of state lands through adequate rents and, in some cases, royalty payments to the state. None of these terms is included in the existing lease between the state and the Friends of the Bishop's House.

We also examined state agency records to determine how lease terms have been monitored and enforced. We found:

- **State agencies responsible for administering the lease have not adequately fulfilled their responsibilities.**

During our review, we learned that for several years, Friends has sublet an apartment in the house. The lease requires Friends obtain Historical Society approval prior to subletting space in the house. However, Friends officials told us they neither sought nor obtained Historical Society approval. Historical Society officials acknowledged that they did not initiate any corrective action although they were aware the apartment was being leased. Furthermore, neither the Historical Society, lease administrators since 1994, nor the Department of Lands, which administered the lease from 1980 to 1994, has attempted to address the deficiencies in the lease noted in the sections above.

Steps Can Be Taken to Address the Problems

The state can address problems related to public access and preservation of this historic site by enforcing existing policies and working with Friends of the Bishop's House to clarify mutual obligations.

Although required to develop a historic site plan for the Bishop's House, the Historical Society has yet to prepare a plan for the house. Historical Society policy requires the agency to develop a historic site plan for each historic site, including the Bishop's House.

Historic site plans help the Historical Society and on-site volunteers define and formalize the site's public access, long-term maintenance and development needs, and budgeting and staffing needs. However, no plan has been developed.

Therefore:

We recommend that the Historical Society develop and implement a historic site plan for the Bishop's House to ensure that the historic site's public access and long-term preservation needs are met.

Developing a historic site plan would enable the Historical Society to assist in specifying the appropriate balance between public access and fundraising needs for the preservation of the site. The lease requires Friends to comply with Historical Society rules and policies, including historic site plans. In addition, development of a historic site plan would clarify and formalize the Historical Society's role in maintaining, preserving, and interpreting this historic site.

Protecting public interests in the Bishop's House will also require lease negotiations. As described above, the lease may obligate the state to subsidize a private interest. Further, the lease omits terms ensuring public access and accountability.

Therefore:

We recommend that the State Land Board of Commissioners and the Friends of the Bishop's House, Inc., in consultation with the Idaho State Historical Society and the Office of the Attorney General, enter into negotiations regarding the lease to ensure public interests are protected.

Negotiations should address required levels of public access, maintenance, and preservation. They should also result in greater accountability for the use of this public resource and require the submission of an annual financial audit. Further, negotiations should result in the enforcement of the Historical Society's historic site plan to ensure that the Bishop's House is managed in a manner consistent with other state historic sites.

Consistent with Idaho Code § 67-461(2), the Governor, the Department of Lands, the Idaho State Historical Society, and the Friends of the Bishop's House, Inc., were given the opportunity to review this report in advance and respond in writing. The Governor did not provide a written response. Below we have provided the responses of the Idaho State Historical Society and the Department of Lands, and, due to space constraints, summarized the response of the Friends of the Bishop's House, Inc. A copy of the complete response to the review is available from the Office of Performance Evaluations. We appreciate the cooperation we received from all participants in this review.

Summary of Responses to the Evaluative Review

Idaho State Historical Society

“The Idaho State Historical Society finds Report 97-02 on The Bishop’s House Historical Site to be an excellent opportunity for clarification of responsibilities and needs in regard to this important historic building. The ISHS concurs with the recommendations of the study.

“You should be made aware that, as a result of an administrative restructuring at the Society, the agency has already undertaken efforts that will deal with at least one of the report’s recommendations. In early 1997 the Historical Museum and Historic Sites divisions of the agency were consolidated into one work group and the need was recognized at that time for developing a plan for properties over which the ISHS has oversight. That historic sites plan will be similar to the plan already in place for the

maintenance, preservation and interpretation of the Museum and its holdings.

“Appropriate text for the Bishop's House will be incorporated into a section of the over all plan being prepared for the Old Penitentiary Historic District. It will be submitted later this year to the Board of Trustees of the Idaho State Historical Society for their approval.

“The Society would also like to note that the informal agreement by the Friends of the Bishop’s House to begin paying the cost of sewer, water and maintaining of the yard and grounds (see footnote 7) was not entirely voluntary. It took place at the insistence of agency administrators shortly after the ISHS assumed responsibility as lease administrator from the Department of Lands in 1994.”

Steve Guerber, Director

Department of Lands

“Department staff have reviewed your final draft of the report on the Bishop’s House.

“We find no errors in the facts as we know them. We have no recommendations for changes in the final

draft report. We are prepared to help implement the recommendations in a timely fashion.

“Thank you for the opportunity to comment.”

Stanley F. Hamilton, Director

Friends of the Bishop's House, Inc.

Friends of the Bishop's House, Inc. board of directors responded that, overall, they support the recommendations made in the report. However, the board disagrees with some conclusions leading to the recommendations. Below we have included pertinent paragraphs and sentences from their response. A copy of the full response is available from the Office of Performance Evaluations upon request.

“[The Bishop's House] was preserved, under threat of a wrecking ball, because it was intimately connected with the history of Idaho from Idaho's earliest days of statehood, and because the house is a wonderful example of late Victorian architecture. . . . Since the state of Idaho did not have funds with which to restore and maintain the Bishops' house Friends acted as a partner with the state. The state would own the house and land upon which the house sat and the newly incorporated Friends would ensure that the house would be painstakingly restored and preserved.

“Before and after the home was restored and was available for public use Friends engaged in a number of fundraising activities, some of which were very successful, others of which failed. . . . All of [our previous fundraising] activities brought the public into the house, but only some of them provided enough money to help maintain the house. . . . From these experiences Friends discovered that few member [sic] of the public were willing to pay admission to view the interior of the house. . . . As other fundraising activities became more difficult, and more time consuming, Friends discovered that the public truly [sic] wanted to see and to use the Bishops' House and they would pay enough money to enable Friends to maintain the house for the people of Idaho.

“Over the years the Friends of the Bishops' House has taken over responsibility for all of the financial obligations which the state was to bear under the lease except for the provision of fire insurance. Thus, for a number of years the state has been relieved of the obligation to pay between \$4,000 and \$5,000 annually for the various expenses which it agreed to pay under the lease. The Friends, through their fundraising activities, have borne these expenses.

“Because the state contributes nothing towards the upkeep and maintenance of the Bishops' House a continuous source of outside revenue is mandatory. The alternatives to having a predictable funding mechanism are two fold: (1) the state could take over the house and spend around \$30,000 per year to maintain it for public use, or (2) the house could be allowed to deteriorate. From the inception the state rejected the first alternative as an expensive proposition which it would not undertake. And, so long as the Friends exists, its charter will not permit it to allow the home to deteriorate. A significant part of the report attempts to color the rental activities in the house as not meeting a public purpose test. We take exception to this argument and to the characterization of our activities as private, commercial activities. While we are not a public agency, and while we in no way act as agent for the state, we are not a 'private, commercial' organization and we do not view our activities as being 'private, commercial' activities. . . .

“We would like to emphasize that, by our estimate, between 10,000 and 20,000 members of the public have visited the Bishops' House in the past year. . . . Except for the 100 or so individuals or organizations which directly rent the Bishops' House, all of the thousands of invited guests pay nothing to see the House. This is in contrast to the numbers of people, cited on page 2 of the report, who must pay admission charges in order to visit the Old Penitentiary or the Botanical Gardens. . . . Over seventeen years of trial and error we have found that rentals, combined with periodic open houses, are the best, and possibly the only, way to maximize public viewership of the Bishops' House while retaining financial solvency. . . .

“By opening the House to the public in the way that we do we serve the ends of the legislation which established the Penitentiary Site (Idaho Code Section 58-337) to 'preserve and enhance the cultural, educational, recreational, and scenic values' of the site. . . . While in recent times we have not had school classes go through the house we have broached the subject with members of the Bown House volunteers, of having fourth grade classes from the Boise School District visit the house after they have visited the school district owned Bown House, an 1860s stone

house which is used for educational visitations by school children. To date no arrangements have been made.

“A suggestion was made in the report that . . . the Bishops’ House should have a more informative interpretative sign in front of the house, and we think this is a good idea. . . . We also recognize that we could have more pictorial explanations regarding the historical use of the house on the walls. Our primary constraint here is that we have experienced several thefts of small, donated items in years past, so securing items of value is a concern of ours. . . . We are open to suggestion how we may make the house more educationally interesting. . . . [The Bishops’ House is an] important Idaho landmark which can be viewed free, on the outside, by any member of the public and viewed on the inside if one merely knocks on the door and asks for a tour. . . .

“[In summary,] we believe that we do not, in any way, violate the terms of the [Old Penitentiary Site] enacting statute. . . .

“A comment was made that we do not receive interest on much of our funds. . . . Changing this practice has been our aim for the past few months and we are in the process of establishing three accounts [including] . . . a maintenance reserve account. . . . We have been working at tightening our financial controls, and we will continue to work at this process. . . .

“A criticism was directed at us for not having a written maintenance plan or a dedicated maintenance fund. While it is true that we do not have a written plan, we certainly are always aware of our short term and long term maintenance and building needs. . . . We have attempted to maintain a \$6,000 balance in a maintenance reserve to provide for large capital expenditures, or emergency repairs. Some fairly large recent expenditures have depleted the fund but it is being rebuilt, and, as of June 30, 1997, our accountant reports that we can keep the fund at about \$5,000 for the present time. Keeping a segregated account is in process.

“Tightening our internal controls is an ongoing process; many of the examples cited in the report are several years old and they do not reflect current

practice. For example, a payee on a check cannot also sign the check today. Moreover, we will act on the suggestion to save our voided checks. . . .

“The report [argues] that (1) the lease may not meet a public purpose test which is imposed by the Constitution, and (2) that the lease may require state subsidization of a private interest. . . . In my previous response I have addressed the public purpose argument. . . . A second constitutional argument is made that because the lease obligates the state to pay for sewer, water and grounds maintenance, and because this amount exceeds the rent which is paid to the state, somehow the state is lending its credit for private interests which violates Article 8, Section 2 of the Idaho Constitution. . . . Even if the state paid its obligations under the lease it would only be paying for maintenance on its own property, which maintenance would make the home be presently usable [sic] for the benefit of the state in the future. . . . For the[se] reasons, we believe that the lease is neither invalid nor does it violate any constitutional prohibition.

Recommendations

“The board of the Friends of the Bishops’ House does not object to the recommendations which are contained on page 5 of the report. We believe that an historic site plan might well benefit all of the entities which utilize the Old Penitentiary Site. In particular, the coordination of activities at the Penitentiary Site might be advantageous to everyone.

“Nor do we disagree with the idea that the site plan might help all of the entities achieve a balance between public access and fundraising needs for the purpose of preserving the site. Our primary objection to the recommendation section is the implication that for over seventeen years the organization of volunteers which has managed the Bishops’ House for the state has not been protecting the public interest by the conduct of its activities. We take great exception to this implication for we are confident that without the expenditure of thousands of hours of volunteer labor over many years by many different citizens of our community the Bishops’ House would be ashes in a landfill and not a state owned historical jewel.”

Richard Poplack, President