

DEPT. COMM. NO. 213

December 14, 2016

VIA HAND DELIVERY

The Honorable Ronald D. Kouchi
Senate President
415 South Beretania Street
State Capitol, Room 409
Honolulu, Hawaii 96813

Re: Review of Special Funds, Revolving Funds, Trust Funds, and Trust
Accounts of the Office of Hawaiian Affairs

Dear President Kouchi:

We are enclosing a copy of our report, *Review of the Special Funds, Revolving Funds, Trust Funds and Trust Accounts of the Office of Hawaiian Affairs*, Report No. 16-10. This report presents a five-year summary for each special fund, revolving fund, and trust fund, evaluates the original intent and purpose of each fund, and determines the degree to which each fund achieves its stated and claimed purpose. The Office of Hawaiian Affairs did not have any trust accounts during the period of our review. We determined that one special fund no longer serves its original purpose and should be closed.

The report is accessible through the Office of the Auditor's website at <http://files.hawaii.gov/auditor/Reports/2016/16-10.pdf>.

If you have questions about the report, please contact me.

Very truly yours,

Leslie H. Kondo
State Auditor

LHK:RTS:ifs

c: Legislative Reference Bureau Library
Ben Villaflor, Senate Sergeant-At-Arms
Carol T. Taniguchi, Senate Chief Clerk

Enclosure

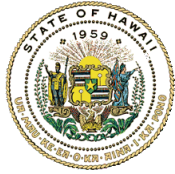
Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Office of Hawaiian Affairs

A Report to the Governor
and the Legislature of
the State of Hawai'i

Report No. 16-10
December 2016



OFFICE OF THE AUDITOR
STATE OF HAWAI'I



OFFICE OF THE AUDITOR STATE OF HAWAI'I

Constitutional Mandate

Pursuant to Article VII, Section 10 of the Hawai'i State Constitution, the Office of the Auditor shall conduct post-audits of the transactions, accounts, programs and performance of all departments, offices and agencies of the State and its political subdivisions.

The Auditor's position was established to help eliminate waste and inefficiency in government, provide the Legislature with a check against the powers of the executive branch, and ensure that public funds are expended according to legislative intent.

Hawai'i Revised Statutes, chapter 23, gives the Auditor broad powers to examine all books, records, files, papers and documents, and financial affairs of every agency. The Auditor also has the authority to summon people to produce records and answer questions under oath.

Our Mission

To improve government through independent and objective analyses.

We provide independent, objective and meaningful answers to questions about government performance. Our aim is to hold agencies accountable for their policy implementation, program management and expenditure of public funds.

Our Work

We conduct performance audits (also called management or operations audits), which examine the efficiency and effectiveness of government programs or agencies, as well as financial audits, which attest to the fairness of financial statements of the State and its agencies.

Additionally, we perform procurement audits, sunrise analyses and sunset evaluations of proposed regulatory programs, analyses of proposals to mandate health insurance benefits, analyses of proposed special and revolving funds, analyses of existing special, revolving and trust funds, and special studies requested by the Legislature.

We report our findings and recommendations to the Governor and the Legislature to help them make informed decisions.

For more information on the Office of the Auditor, visit our website:
<http://auditor.hawaii.gov>

Foreword

This is a report of our review of the special funds, revolving funds, trust funds and trust accounts of the Office of Hawaiian Affairs.

Section 23-12, Hawai'i Revised Statutes (HRS), requires the Auditor to review all existing special, revolving, and trust funds once every five years. Although not mandated by statute, we included trust accounts as part of our review. This is our fifth review of the revolving funds and trust funds of the Office of Hawaiian Affairs. It is our first review of its special funds since section 23-12, HRS, was amended by Act 130, Session Laws of Hawai'i 2013, to include reviews of special funds.

We wish to express our appreciation for the cooperation and assistance extended to us by the Office of Hawaiian Affairs.

Leslie H. Kondo
State Auditor



This page is intentionally left blank.

Table of Contents

| | |
|---|----|
| Auditor’s Summary | 1 |
| Chapter 1 Introduction | 3 |
| Background..... | 3 |
| Description of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts..... | 4 |
| Criteria for Reviewing Special Funds, Revolving Funds, Trust Funds, and Trust Accounts | 5 |
| Objectives of the Review | 6 |
| Scope and Methodology | 7 |
| Chapter 2 Office of Hawaiian Affairs | 9 |
| Chapter 3 The Office of Hawaiian Affairs Did Not Report Non-General Funds As Required by Law | 15 |
| Office of the Auditor’s Comments on the Affected Agency Response | 17 |
| Attachment 1 Office of Hawaiian Affairs’ Response..... | 19 |
| List of Exhibits | |
| Exhibit 2.1 Cash Balances for OHA Non-General Funds, FY2012–FY2016 (in millions)..... | 9 |
| Exhibit 2.2 OHA Fund and Account Totals by Type, FY2016..... | 10 |
| Exhibit 2.3 OHA Fund Not Meeting Criteria | 10 |



This page is intentionally left blank.

Auditor's Summary

Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Office of Hawaiian Affairs

Report No. 16-10

One special fund no longer serves its original purpose

OUR REVIEW OF THREE SPECIAL FUNDS, one revolving fund, and one trust fund of the Office of Hawaiian Affairs found one special fund no longer serves its original purpose and should be closed.

Section 23-12, Hawai'i Revised Statutes, requires the Auditor to review all existing special, revolving, and trust funds every five years. Reviews are scheduled so that each department's funds are reviewed once every five years. Although not mandated by statute, we included trust accounts as part of our review; however, the Office of Hawaiian Affairs did not have any trust accounts during our review period. This is our fifth review of the revolving funds, trust funds and trust accounts of the Office of Hawaiian Affairs. It is our first review of the special funds of the Office of Hawaiian Affairs.

We used criteria developed by the Legislature and by our office based on public finance and accounting literature. For each fund, we present a five-year financial summary, the purpose of the fund, and conclusions about its use. We did not audit the financial data which is provided for informational purposes. We do not present conclusions about the effectiveness of the program or their management, or whether the program should be continued.

Reporting shortfall

WE ALSO NOTED that the Office of Hawaiian Affairs did not file statutorily required reports for non-general funds and for administratively created funds. Accurate and complete reporting, as well as timely closing of funds, will greatly improve the Legislature's oversight of these funds.

Agency response

WE TRANSMITTED A DRAFT of this review to the Office of Hawaiian Affairs. The Office of Hawaiian Affairs generally agreed with our review and will take appropriate action to ensure compliance with reporting requirements.



FUND TYPES

SPECIAL FUNDS

are used to account for revenues earmarked for particular purposes and from which expenditures are made for those purposes.

REVOLVING FUNDS

such as loan funds, are often established with an appropriation of seed money from the general fund and must demonstrate the capacity to be self-sustaining.

TRUST FUNDS

such as a pension fund, invoke the State's fiduciary responsibility to care for and use the assets held to benefit those with a vested interest in the assets.

TRUST ACCOUNTS

are typically separate holding or clearing accounts and are often used as accounting devices for crediting or charging state agencies or projects for payroll and other costs.

This page intentionally left blank.

Chapter 1

Introduction

This review encompasses the special funds, revolving funds, trust funds, and trust accounts of the Office of Hawaiian Affairs (OHA). Section 23-12, Hawaii Revised Statutes (HRS), requires the Auditor to review all special, revolving, and trust funds administered by each State department and OHA every five years. We have also included trust accounts as part of our review.

This is our fifth review of OHA's revolving funds, trust funds, and trust accounts. Additionally, this is our first review of special funds held by OHA since section 23-12, HRS, was amended to also require reviews of agencies' special funds.

In this report, we reviewed a total of five funds — specifically, three special funds, one revolving fund, and one trust fund.

Background

Through Act 240, SLH 1990, the Legislature required the Auditor to review all special and revolving funds and to recommend whether they be continued, modified, or repealed. The Legislature was concerned with the proliferation of these types of funds because moneys deposited into and spent from such funds are not subject to the same level of legislative scrutiny as moneys deposited into and spent from the State's general fund.

Regular reviews of revolving and trust funds were later required by Act 280, SLH 1993. Codified as section 23-12, HRS, the Act expanded the scope of Act 240, SLH 1990, by requiring the Auditor to review all revolving and trust funds administered by the State once every five years. The law was again broadened in 2013 through Act 130, SLH 2013, to include a review of all special funds once every five years and to add the departments of Defense and Transportation to the list of agencies reviewed.

Section 23-12, HRS, now specifies that the reviews must include:

1. An evaluation of the original intent and purpose of each fund, both as expressed by the Legislature and as understood by the expending agency;
2. The degree to which each fund achieves its stated and claimed purposes;

3. An evaluation of the fund’s performance standards, as established by the agency;
4. A summary statement reflecting total fund transactions in the preceding five fiscal years, including the fund balance at the beginning of each fiscal year, total deposits and withdrawals, amount of interest earned, total expenditures made from the fund, and the ending fund balance for each fiscal year; and
5. Although not mandated by section 23-12 HRS, we have included trust accounts as part of our review. Trust accounts, like special, revolving and trust funds, are subject to minimal legislative scrutiny.

Description of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts

Special funds

Section 37-62, HRS, defines a special fund as one that is “dedicated or set aside by law for a specified object or purpose, but excluding revolving funds and trust funds.” According to the State’s *Accounting Manual*, special funds are funds used to account for revenues earmarked for particular purposes and from which expenditures are made for those purposes. Examples of special funds include the Captive Insurance Administrative Fund, which is funded by fees paid by insurers that support the State’s Captive Insurance Program, and the Wireless Enhanced 911 Fund. The Wireless Enhanced 911 Fund receives surcharges from wireless phone users for the upgrade of the 911 emergency system.

Revolving funds

Section 37-62, HRS, defines a revolving fund as one “from which is paid the cost of goods and services rendered or furnished to or by a State agency and which is replenished through charges made for the goods or services or through transfers from other accounts or funds.” Activities commonly financed through revolving funds include loan programs, which are initially established by general fund seed moneys and are then replenished through the repayment of loans. An example of a revolving fund is the State Motor Pool Revolving Fund, which is used to purchase and maintain the State’s fleet of motor vehicles and is replenished by charges to State agencies for the use of the vehicles.

Trust funds

Section 37-62, HRS, defines a trust fund as one in which “designated persons or classes of persons have a vested beneficial interest or equitable ownership, or which was created or established by a gift, grant, contribution, devise or bequest that limits the use of the fund to designated objects or purposes.” Trust funds invoke a fiduciary responsibility of state government to care for and use only for those designated to benefit from the funds. A pension fund is an example of a trust fund. Contributions and payments are to be held for the beneficiaries of the pension fund. Another example is tenants’ security deposits, which are held in trust for the future benefit of tenants and landlords. Until forfeited or returned, deposits are the property of the tenants and should be accounted for accordingly.

Trust accounts

The Department of Accounting and General Services (DAGS) defines a trust account as a separate holding or clearing account for State agencies. Trust accounts also serve as accounting devices to credit or charge agencies or projects for payroll or other costs.

Criteria for Reviewing Special Funds, Revolving Funds, Trust Funds, and Trust Accounts

Special and revolving fund criteria

In 2002, the Legislature set the requirements for establishing and continuing special and revolving funds. Sections 37-52.3 and 37-52.4, HRS, now state that special and revolving funds may be established only by statute. The criteria used to review special and revolving funds are the extent to which each fund:

- Serves a need, as demonstrated by the purpose of the program to be supported by the fund; the scope of the program, including financial information on fees to be charged, sources of projected revenue, and costs; and an explanation of why the program cannot be implemented successfully under the general fund appropriation process;
- Reflects a clear nexus between the benefits sought and charges made upon the program users or beneficiaries, or a clear link between the program and the sources of revenue—as opposed to serving primarily as a means to provide the program or users with an automatic means of support, removed from the normal budget and appropriation process;

- Provides an appropriate means of financing for the program or activity that is used only when essential to the successful operation of the program or activity; and
- Demonstrates the capacity to be financially self-sustaining.

Trust fund and trust account criteria

Unlike the requirements for special and revolving funds, the law is silent on whether a trust fund or trust account can be established other than by statute. The criteria used to review trust funds and trust accounts are the extent to which each fund or account:

- Continues to serve the purpose for which it was originally created;
- Provides the benefits or services originally intended to beneficiaries;
- Requires no general fund appropriation; and
- Meets the definition of a trust fund or trust account, respectively.

The first two criteria are derived from the objectives of section 23-12, HRS, which ask for an evaluation of the original intent of each fund and account and the degree to which each fund and account achieves its stated purpose. The third criterion assesses whether a fund or account relies on general fund appropriations. If general fund appropriations are needed to finance the fund or account's activities (as opposed to providing seed moneys only), classification as a trust fund or trust account may not be warranted. The fourth criterion assesses whether a fund or account is held by the State only for the benefit of those with a vested interest in the assets.

Objectives of the Review

1. Identify and review all special funds, revolving funds, trust funds, and trust accounts of OHA.
2. For each special fund, revolving fund, trust fund, and trust account, determine the original intent and purpose, per statute and as understood by OHA, and determine the degree to which each fund or account achieves its stated and claimed purposes.
3. Evaluate fund performance standards established by OHA.
4. Provide a five-year (FY2012–FY2016) unaudited financial summary for each fund or account reviewed.

Scope and Methodology

We reviewed all special funds, revolving funds, and trust funds directly administered by OHA during the five-year period under review (FY2012–FY2016). Funds included those established by statute as well as by administrative authority. OHA did not have any trust accounts during our review period.

To identify funds subject to this review, we used a variety of sources, including our prior reviews, accounting reports from DAGS, non-general fund reports, legislative budget briefing documents, and other documents. We researched statutes, session laws, and legislative history. To gain an understanding of fund operations, we reviewed applicable agency administrative rules and interviewed key fiscal and program personnel, as necessary.

We obtained a summary statement for each fund that reflects total fund transactions in the preceding five fiscal years (July 1, 2011 to June 30, 2016), including beginning fund balances, total revenues, amount of interest earned, total expenditures, transfers, and ending fund balances for each fiscal year. We requested explanations for any discrepancies between ending balances for FY2011 reported in our last review, Report No. 11-04, and opening balances reported for FY2012. We did not audit OHA's financial data, which is provided for informational purposes only.

Procedures were performed on each fund using relevant criteria as stated above. We reviewed fund information for consistency with the intent of each fund's use and to ascertain the relationship between charges on users and expenditures. We reviewed and compared fund balances to financial activity and projected program needs and standards. We reviewed information on performance standards established for the funds and performed other procedures as necessary.

Where appropriate, we relied on our prior reports, including Report Nos. 96-21, *Review of Revolving and Trust Funds of the Office of the Governor, Office of Hawaiian Affairs, and the Department of Education*; 02-05, *Review of Revolving Funds, Trust Funds, and Trust Accounts of the Office of the Governor, Office of the Lieutenant Governor, Department of Education and Hawai'i State Public Library System, and Office of Hawaiian Affairs*; 06-08, *Review of Revolving Funds, Trust Funds, and Trust Accounts of the Office of the Governor, Office of the Lieutenant Governor, Department of Education and Hawai'i State Public Library System, and Office of Hawaiian Affairs*; 11-04, *Review of Revolving Funds, Trust Funds, and Trust Accounts of the Office of the Governor, Office of the Lieutenant Governor, Department of Education*

and Hawai'i State Public Library System, and Office of Hawaiian Affairs; and 12-04, Study of the Transfer of Non-general Funds to the General Fund.

Our review was conducted from June 2016 to September 2016. Recommendations were made where applicable.

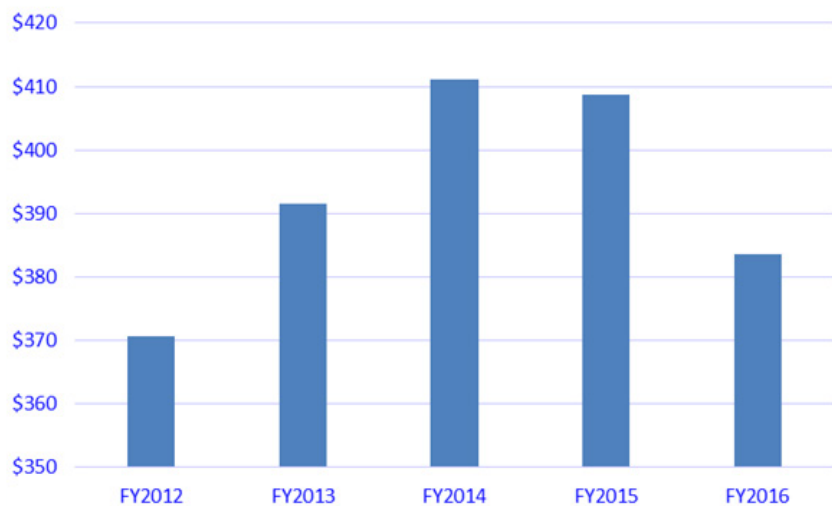
Chapter 2

Office of Hawaiian Affairs

This chapter presents the results of our review of three special funds, one revolving fund, and one trust fund of the Office of Hawaiian Affairs (OHA). Fund fiscal year-end balances amounted to at least \$370 million during the period reviewed.

Exhibit 2.1 displays the totals for these fund balances at the end of each fiscal year.

Exhibit 2.1
Cash Balances for OHA Non-General Funds, FY2012–FY2016
(in millions)



Source: Office of the Auditor

Substantial amounts are also collected, expended, and transferred by the funds annually. In the FY2016, OHA special funds, revolving funds, and trust funds collected more than \$36 million and spent or transferred almost \$62 million.

Exhibit 2.2 presents totals for the combined revenue and interest, expenses and transfers, and ending fund balances for the different fund types for FY2016.

**Exhibit 2.2
OHA Fund and Account Totals by Type, FY2016**

| Fund Type | Revenue and Interest | Expenses and Transfers | Year-End Cash Balance |
|----------------|----------------------|------------------------|-----------------------|
| Special Funds | \$70,000 | \$61,000 | \$362,000 |
| Revolving Fund | \$3,759,000 | \$1,557,000 | \$20,453,000 |
| Trust Fund | \$32,514,000 | \$59,985,000 | \$362,693,000 |
| Total | \$36,343,000 | \$61,603,000 | \$383,508,000 |

Source: Office of the Auditor

For each fund, we present a five-year financial summary, the purpose of the fund, and conclusions about its use and whether it meets the criteria for continuance of a special or revolving fund or the definition of a trust fund. We do not assess the effectiveness of programs and their management. The funds are presented in alphabetical order.

Exhibit 2.3 presents the OHA fund that does not meet criteria for continuance and should be closed.

**Exhibit 2.3
OHA Fund Not Meeting Criteria**

| Fund Name | Fund Type | FY2016 Ending Balance (rounded) | No longer serves original purpose | No clear nexus between benefits sought and user charges or a clear link between the program and revenue sources | Program can operate under general fund appropriation process | Inappropriate financing mechanism | Not financially self-sustaining | Does not serve a need | Does not meet special or trust fund definition |
|---------------------|-----------|---------------------------------|-----------------------------------|---|--|-----------------------------------|---------------------------------|-----------------------|--|
| Planning & Research | Special | \$ 1,000 | ✓ | | | | | ✓ | |

Source: Office of the Auditor

**Hawaiian Projects Fund
(special fund)****Administratively
established****Financial Data for Fiscal Years 2012–2016 (in thousands)**

| | FY2012 | FY2013 | FY2014 | FY2015 | FY2016 |
|-----------------------|---------------|---------------|---------------|---------------|---------------|
| Beginning Balance | \$239 | \$408 | \$906 | \$21 | \$27 |
| Revenues | 99 | 87 | 78 | 76 | 70 |
| Interest | 0 | 0 | 0 | 0 | 0 |
| Expenditures | (1,200) | (3,335) | (2,485) | (943) | (474) |
| Transfers (net)* | 1,270 | 3,746 | 1,522 | 873 | 413 |
| Ending Balance | \$408 | \$906 | \$21 | \$27 | \$36 |
| Encumbrances | \$408 | \$901 | \$21 | \$0 | \$0 |

*Transfers are related to repayments from the OHA-DHHL Homesteader Loan Program and legal settlements, which were initially deposited into OHA's main operating account.

This fund continues to serve the purpose for which it was created and meets the criteria for a special fund. Administratively created in 1987, the fund receives revenues from the sale of advertising space on OHA's monthly newspaper, *Ka Wai Ola*; OHA's portion of proceeds from the sale of publications or books; legal settlements; repayments from the OHA-DHHL Homesteader Loan Program; and other donations designated for OHA's programs impacting the Hawaiian community. Expenditures are for printing OHA's monthly newspaper, public information products such as books and videos, equipment to produce public information videos, and software related to special projects.

**Native Hawaiian
Revolving Loan Fund
(revolving fund)****Administratively
established****Financial Data for Fiscal Years 2012–2016 (in thousands)**

| | FY2012 | FY2013 | FY2014 | FY2015 | FY2016 |
|-----------------------|-----------------|----------------|-----------------|-----------------|-----------------|
| Beginning Balance | \$21,175 | \$ 11,125 | \$8,013 | \$15,311 | \$18,251 |
| Revenues | 6,836 | 3,019 | 5,534 | 4,717 | 3,738 |
| Interest | (6,977) | 4 | 4,550 | (12) | 21 |
| Expenditures | (14,805) | (6,135) | (2,786) | (1,765) | (1,557) |
| Transfers (net)* | 4,896 | 0 | 0 | 0 | 0 |
| Ending Balance | \$11,125 | \$8,013 | \$15,311 | \$18,251 | \$20,453 |
| Encumbrances | \$112 | \$102 | \$126 | \$111 | \$154 |

*Transfers in FY2012 were made to separate investments for the revolving fund from the Public Land Trust Fund.

This fund serves the purpose for which it was created and meets the criteria for a revolving fund. It was administratively created in 1988 with funding by OHA and a series of seven grants from the United States Administration of Native Americans. The purpose of the fund is to provide qualified Native Hawaiian individuals and Native Hawaiian-owned businesses better access to financial capital and financial services. Fund revenues are from principal repayments from loans, interest earned from loans and investments, loan fees, and recovery of loans written-off. Expenditures consisted of loan disbursements, loan application fees, legal services, technical assistance, investment management, bad debt, personnel and various overhead costs.

Native Hawaiian Rights Fund (special fund)

Administratively established

Financial Data for Fiscal Years 2012–2016 (in thousands)

| | FY2012 | FY2013 | FY2014 | FY2015 | FY2016 |
|-----------------------|---------------|---------------|---------------|---------------|---------------|
| Beginning Balance | \$148 | \$196 | \$235 | \$325 | \$325 |
| Revenues | 48 | 39 | 90 | 0 | 0 |
| Interest | 0 | 0 | 0 | 0 | 0 |
| Expenditures | 0 | 0 | 0 | 0 | 0 |
| Transfers (net) | 0 | 0 | 0 | 0 | 0 |
| Ending Balance | \$196 | \$235 | \$325 | \$325 | \$325 |
| Encumbrances | \$0 | \$0 | \$0 | \$0 | \$0 |

This fund serves the purpose for which it was created and meets the criteria for a special fund. Administratively created in 1987, the fund provides legal services to Native Hawaiians defending their property interests in quiet title actions such as water rights hearings and historic site protection. Revenues come from OHA’s portion of legal fees recovered through settlements of Native Hawaiian Legal Corporation land title cases.

**Planning and Research
(special fund)**

**Administratively
established**

Financial Data for Fiscal Years 2012–2016 (in thousands)

| | FY2012 | FY2013 | FY2014 | FY2015 | FY2016 |
|-----------------------|---------------|---------------|---------------|---------------|---------------|
| Beginning Balance | \$1 | \$1 | \$1 | \$1 | \$1 |
| Revenues | 0 | 0 | 0 | 0 | 0 |
| Interest | 0 | 0 | 0 | 0 | 0 |
| Expenditures | 0 | 0 | 0 | 0 | 0 |
| Transfers (net) | 0 | 0 | 0 | 0 | 0 |
| Ending Balance | \$1 | \$1 | \$1 | \$1 | \$1 |
| Encumbrances | \$0 | \$0 | \$0 | \$0 | \$0 |

This fund no longer serves a purpose and should be closed. The fund had no activity in the period under review. OHA personnel recommend the fund be closed and the remaining balance of \$750 transferred to OHA's main trust account.

**Public Land Trust
(trust fund)**

**Hawai'i State
Constitution,
Article XII, Section 4**

Financial Data for Fiscal Years 2012–2016 (in thousands)

| | FY2012 | FY2013 | FY2014 | FY2015 | FY2016 |
|-----------------------|------------------|------------------|------------------|------------------|------------------|
| Beginning Balance | \$396,147 | \$358,950 | \$382,279 | \$395,501 | \$390,164 |
| Revenues | 15,791 | 19,431 | 23,843 | 21,268 | 27,792 |
| Interest | 4,056 | 66,915 | 54,692 | 29,070 | 4,722 |
| Expenditures | (36,259) | (41,437) | (44,935) | (40,310) | (44,776) |
| Transfers (net)* | (20,785) | (21,580) | (20,378) | (15,365) | (15,209) |
| Ending Balance | \$358,950 | \$382,279 | \$395,501 | \$390,164 | \$362,693 |
| Encumbrances | \$20,816 | \$18,443 | \$17,982 | \$20,336 | \$16,914 |

*Net transfers are disbursements made from OHA's operating account for other accounts not included in the trust funds consolidation and subsequently reimbursed.

This fund continues to serve the purpose for which it was created and meets the criteria for a trust fund. The Public Land Trust, also known as OHA's Native Hawaiian Trust Fund, was established in 1981 to account for OHA's portion of revenues derived from the Public Land Trust. The passage of Act 178, Session Laws of Hawai'i (SLH) 2006, established the annual sum of \$15.1 million as OHA's pro rata portion of the Public Land Trust. For the purposes of this report, all accounts funded with

public land trust funds (as legislatively and board mandated) were combined to show the total revenues and expenditures related to the Public Land Trust. Additional revenue consists of investment income, interest earned from the Consumer Micro-Loan Program, lease and other revenues generated from Na Lama Kukui, and ten percent of estimated lease and other revenues generated from Kakaako Makai parcels. Expenditures of this fund consisted of operating and program costs, plus grant and sponsorship funding for the benefit of Native Hawaiians. In 2015, trust fund accounts were created for the management of the Palaua Cultural Preserve and Wao Kele O Puna Forest Reserve.

Chapter 3

The Office of Hawaiian Affairs Did Not Report Non-General Funds As Required by Law

As we reported in our *Study of the Transfer of Non-general Funds to the General Fund*, Report No. 12-04, special, revolving, and other types of non-general funds collectively represent about half of the State's operating budget—moneys that are not subject to the same level of legislative scrutiny as the general fund. Accurate and complete reporting of all funds as required by law would greatly improve the Legislature's oversight and control of these funds and provide increased budgetary flexibility. Fund reports are one of the primary means through which legislative money committees track non-general funds.

During our review of the non-general funds of the Office of Hawaiian Affairs (OHA), we noted non-compliance with statutory requirements to report financial activity and balances as required by section 37-47, Hawai'i Revised Statutes (HRS), as well as fund information for administratively established funds under section 37-52.5, HRS. OHA did not report to the 2016 Legislature all non-general funds with balances totaling \$408,769,154 at the end of FY2015. In addition, four of those non-general funds were administratively created and were not reported to the Legislature as required by section 37-52.5, HRS.

Section 37-47, HRS, requires departments to submit to the Legislature an annual report of each non-general fund account, including information such as the intended purpose of the fund, current program activities supported by the fund, and financial data. The Director of Finance annually issues a memorandum requesting all departments to complete and submit Form 37-47, *Report on Non-General Fund Information*, to the Department of Budget and Finance for each of their non-general funds. The Department of Budget and Finance compiles a report of all non-general fund accounts and submits it to the Legislature prior to the start of each legislative session.

Section 37-52.5, HRS, requires any department or agency (excluding the Judiciary) that administratively establishes a new fund or account to submit a report to the Legislature. Shortly after passage of section 37-52.5, HRS, the State Comptroller issued Memorandum No. 2002-35 in October 2002 alerting agency heads as well as departmental administrative and fiscal officers of the legislative reporting requirement. The report must be filed within 30 working days of a fund or account's creation, and should include a justification for the fund or account and identification of its sources of revenue. In addition, prior to the start of each legislative session, the law requires each department

to submit to the Legislature a listing of all administratively established funds or accounts along with a statement of their revenues, expenditures, encumbrances, and ending balances for each fund or account.

Office of the Auditor’s Comments on the Affected Agency Response

Comments on the Affected Agency Response

We transmitted a draft of this review to the Office of Hawaiian Affairs on November 1, 2016. The Office of Hawaiian Affairs subsequently provided its written response to the draft report on November 14, 2016 (Attachment 1).

The Office of Hawaiian Affairs generally agreed with our findings and will take appropriate action to close the one special fund that no longer serves its original purpose. The Office of Hawaiian Affairs stated that it will ensure compliance with all reporting requirements.

This page is intentionally left blank.



STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
560 N. NIMITZ HWY., SUITE 200
HONOLULU, HAWAII 96817

November 14, 2016

Leslie H. Kondo
State Auditor
465 South King Street
Room #500
Honolulu, Hawai'i 96813-2917

Aloha Mr. Kondo:

Mahalo for your recent transmittal of the draft report on your review entitled *Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Office of Hawaiian Affairs* ("OHA"). We would like to respond to the findings noted in your review as follows:

I. OHA (Special) Fund Not Meeting Criteria

In Exhibit 2.3 on page 8 of the draft report, your office notes that the "Planning and Research" (Special) Fund "had no activity in the period under review." Although OHA took steps to close the fund due to inactivity during the review period, OHA did not notify the State's Department of Accounting and General Services (DAGS) until August 2016. The fund is now closed.

II. OHA Did Not Report Non-General Funds As Required By Law

In Chapter 3 on page 13 of the draft report, your office notes "non-compliance with statutory requirements to report financial activity and balances as required by section 37-47, Hawai'i Revised Statutes (HRS), as well as fund information for administratively established funds under section 37-52.5, HRS." We are in general agreement with this finding and will submit the FY 2016 timely. We would like to note, however, the following:

- Our office confirmed with the State's Department of Budget and Finance (B&F) that their memorandum issued annually by the Director of Finance, addressed to 'All Department Heads,' refers to the Executive Branch and therefore, OHA is not included. B&F did not comment on OHA's specific reporting requirement, but gave an example that the Judiciary Branch is also excluded from this memorandum and therefore submits their reports directly to the Legislature.
- Section 10-5, HRS, provides the OHA Board of Trustees with the power to "manage, invest, and administer" non-general funds without legislative appropriation.

- OHA, as required by section 10-15, HRS, provides the Legislature with an annual report, which includes “an enumeration of their activities, income, and expenditures during the year” and is “submitted to the governor and the legislature ten days prior to the convening of each regular session of the legislature.”
- To date, all annual reports have been provided timely and all requests from Legislators to OHA have been fulfilled.

We appreciate the diligence your office demonstrated during this review. OHA staff reports that your office was exemplary in our mutual working relationship. We appreciate the thoroughness and professionalism they demonstrated and we look forward to continued constructive joint efforts in future engagements as we continue to fulfill our mission in providing benefits and services to our beneficiaries.

‘O wau iho nō,

A handwritten signature in black ink, appearing to read "Robert K. Lindsey, Jr.", written in a cursive style.

Trustee Robert K. Lindsey, Jr.
Chairperson, Board of Trustees

Cc: Kamana‘opono M. Crabbe, Ph. D., Ka Pouhana, Chief Executive Officer