

February 18, 2025

VIA EMAIL

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

VIA EMAIL

The Honorable Nadine K. Nakamura
Speaker, House of Representatives
415 South Beretania Street
Hawai'i State Capitol, Room 431
Honolulu, Hawai'i 96813

Re: *Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of the Attorney General, Report No. 25-04*

Dear President Kouchi and Speaker Nakamura:

Please find attached Report No. 25-04, *Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of the Attorney General*, along with a copy of the Auditor's Summary. Our review of the department's funds and accounts was performed pursuant to Section 23-12, Hawai'i Revised Statutes (HRS), which requires the Auditor to review each state department's special, revolving, and trust funds every five years. 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 funded outside of the General Fund appropriation process and, therefore, are generally subject to less legislative scrutiny. We last reported on the Department of the Attorney General's funds and accounts in 2019.

The report is accessible through our website at:
<http://files.hawaii.gov/auditor/Reports/2025/25-04.pdf>.

The summary is also accessible through our website at:
<http://files.hawaii.gov/auditor/Overviews/2025/25-04AuditorSummary.pdf>.

If you or other Legislators have questions about the report or would like a printed version of the report, please let me know.

Very truly yours,

Leslie H. Kondo
State Auditor

LHK:lml

Attachments

cc/attach: Members of the Senate
Members of the House of Representatives
Carol Taniguchi, Senate Chief Clerk
Brian Takeshita, House Chief Clerk

Auditor's Summary

Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of Attorney General

Report No. 25-04

Two revolving funds, one trust fund, and two trust accounts did not meet criteria

OUR REVIEW of five special funds, three revolving funds, four trust funds, and five trust accounts of the Department of the Attorney General (AG) found two revolving funds, one trust fund, and two trust accounts did not meet the criteria for revolving funds, trust funds, and trust accounts, respectively, and should be closed or reclassified.

Section 23-12, Hawai'i Revised Statutes (HRS), 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. This is our seventh review of AG's revolving funds, trust funds, and trust accounts. It is our third review of the special funds held by AG since Act 130, Session Laws of Hawai'i 2013, amended Section 23-12, HRS, to require review of special funds along with revolving funds and trust funds.

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 programs or their management, or whether the programs should be continued

Reporting shortfall

WE NOTED THAT AG did not file statutorily required reports for non-general funds totaling approximately \$4.7 million, administratively created non-general funds totaling approximately \$1.8 million, non-general funds with balances totaling approximately \$4.7 million under the program measures reporting requirement, and non-general funds with balances totaling approximately \$4.7 million under the cost element reporting requirement. Accurate and complete reporting will greatly improve the Legislature's oversight and control of these funds.



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.

Agency response

AG CONCURRED WITH OUR RECOMMENDATIONS for reclassifications for two revolving funds and one trust fund and will consider our recommendations for two trust accounts after further review. AG stated that it will take appropriate measures to ensure compliance with all statutory reporting requirements.



Link to the complete report:

Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of the Attorney General

<https://files.hawaii.gov/auditor/Reports/2025/25-04.pdf>

Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of the Attorney General

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

Report No. 25-04
February 2025



OFFICE OF THE AUDITOR
STATE OF HAWAII



OFFICE OF THE AUDITOR STATE OF HAWAII

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 make 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:
<https://auditor.hawaii.gov>

Foreword

This is a report of our review of the special funds, revolving funds, trust funds, and trust accounts of the Department of the Attorney General.

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 include trust accounts as part of our review. This is our seventh review of the revolving funds, trust funds, and trust accounts of the Department of the Attorney General. It is our third 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 Department of the Attorney General.

Leslie H. Kondo
State Auditor



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Chapter 1

Introduction

This review encompasses the special funds, revolving funds, trust funds, and trust accounts administered by the State of Hawai‘i Department of the Attorney General (AG). Section 23-12, Hawai‘i Revised Statutes (HRS), requires the Auditor to review each state department’s special, revolving, and trust funds every five years. 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 funded outside of the General Fund appropriation process and are therefore generally subject to less legislative scrutiny than the State’s General Fund. For each fund and account, our review included:

1. An evaluation of the original intent and purpose of the fund or account, both as expressed by the Legislature and as understood by the expending agency;
2. The degree to which the fund or account achieves its stated and claimed purposes;
3. An evaluation of the fund or account’s performance standards as established by the agency; and
4. A summary statement reflecting total fund transactions in the preceding five fiscal years, including the fund or account balance at the beginning of each fiscal year, total deposits and withdrawals, amount of interest earned, total expenditures made from the fund or account, and the ending balance for each fiscal year.

This is our seventh review of AG’s revolving funds, trust funds, and trust accounts¹. It is our third review of AG’s special funds, since Act 130, Session Laws of Hawai‘i (SLH) 2013, amended Section 23-12, HRS, to require review of special funds along with revolving funds and trust funds. We last examined these funds and accounts in 2019.

¹ Prior to 2013, Section 23-12, HRS, did not require reviews of departments’ special funds.

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.

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.

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 the assets held 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, state that special and revolving funds may only be established by statute. The criteria used to review special and revolving funds are the extent to which each fund:

- Serves a need, as demonstrated by: (a) the purpose of the program to be supported by the fund; (b) the scope of the program, including financial information on fees to be charged, sources of projected revenue, and costs; and (c) 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 must be established by statute. The criteria used in this report to review trust funds and trust accounts are the extent to which the fund or account:

- Continues to serve the purpose and intent for which it was originally created, and
- Meets the definition of a trust fund or trust account, respectively.

The first criterion is derived from the objectives of Section 23-12, HRS, which requires the Auditor to evaluate the original intent of each fund and account and the degree to which each fund and account achieves its stated purpose. The second criterion assesses whether a fund is held by the State only for the benefit of those with a vested interest in the assets or an account is held as a separate or clearing account.

Objectives of the Review

1. Identify and review all special funds, revolving funds, trust funds, and trust accounts of AG.
2. For each special fund, revolving fund, trust fund, and trust account, determine whether the fund or account meets the respective criteria.
3. Provide a five-year (FY2020 – FY2024) unaudited financial summary for each fund and account of AG.

Scope and Methodology

We reviewed all special funds, revolving funds, trust funds, and trust accounts administered by AG during the five-year period under review (FY2020 – FY2024). Funds and accounts included those established by statute as well as administratively.

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 records. 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, 2019 to June 30, 2024), 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

discrepancies between ending balances for FY2019 reported in our last review and opening balances reported for FY2020. We did not audit the department's financial data, which we provide 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 information on performance standards established for the funds or accounts and performed other procedures as necessary.

Where appropriate, we relied on our prior reports, including Report No. 19-16, *Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of the Attorney General*.

Our review was conducted from September 2024 to December 2024. Recommendations were made where applicable.

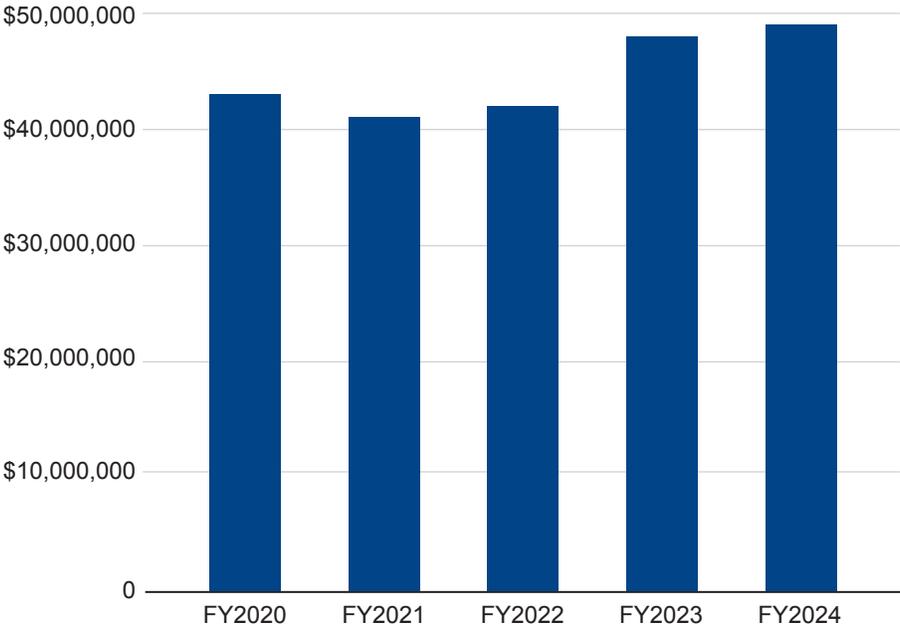
Chapter 2

Department of the Attorney General

This chapter presents the results of our review of five special funds, three revolving funds, four trust funds, and five trust accounts. Total fund fiscal year-end balances for AG were at least \$40 million per year during the period reviewed.

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

Exhibit 2.1
Cash Balances for the Department of the Attorney General's Non-General Funds
FY2020 – FY2024 (in millions)



Source: Office of the Auditor

In FY2024, the special funds, revolving funds, trust funds, and trust accounts collected approximately \$120.5 million and spent or transferred approximately \$121.5 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 FY2024.

**Exhibit 2.2
Fund and Account Totals by Type, FY2024**

Fund Type	Revenue and Interest	Expenses and Transfers	FY2024 End Cash Balance
Special Funds	\$4,410,000	\$8,971,000	\$11,915,000
Revolving Funds	5,060,000	3,438,000	5,858,000
Trust Funds/ Trust Accounts	111,057,000	109,107,000	31,097,000
Total	\$120,527,000	\$121,516,000	\$48,870,000

Source: Office of the Auditor

For each fund and account, we present a five-year financial summary, the purpose of the fund, and conclusions about its use and whether it meets the definition of the type of fund or account. This review does not include an assessment of the effectiveness of the program or its management. Funds are presented in alphabetical order.

Exhibit 2.3 presents AG funds that did not meet criteria for continuance and should be closed or reclassified.

**Exhibit 2.3
Fund(s) Not Meeting Criteria**

Fund Name	Fund Type	FY2024 Ending Balance	No longer serves original purpose and/ or does not serve a need	No clear nexus between benefits sought and user charges or a clear link between the program and revenue sources	Inappropriate financing mechanism	Not financially self-sustaining	Does not meet special fund, revolving fund, trust fund, or trust account definition
Antitrust Trust Fund	Trust Fund	\$1,407,675					✓
Criminal Forfeiture Bond Holding Fund	Trust Account	16,496					✓
Criminal Forfeiture Revolving Fund	Revolving Fund	419,977					✓
Notaries Public Revolving Fund	Revolving Fund	491,476					✓
Seized Funds – Final Disposition Pending Account	Trust Account	721,422					✓
Total		\$3,057,046					

Source: Office of the Auditor

Antitrust Trust Fund

Section 28-13, HRS

Financial Data for Fiscal Years 2020 – 2024 (in thousands)

	FY2020	FY2021	FY2022	FY2023	FY2024
Beginning Balance	\$219	\$167	\$248	\$41	\$15
Revenues	149	175	0	0	1,435
Interest	0	1	1	2	8
Expenditures	(201)	(95)	(208)	(28)	(50)
Transfers	0	0	0	0	0
Ending Balance	\$167	\$248	\$41	\$15	\$1,408
Encumbrances	\$0	\$0	\$0	\$0	\$0

Fund Summary

Account Type	Trust fund
How was the fund created?	Act 97 (SLH 2001)
Why was it created?	The fund is used to provide resources to facilitate the enforcement of antitrust laws and the State’s participation in multi-state antitrust lawsuits and investigations. Pursuant to Section 28-13, HRS, moneys in excess of \$250,000 remaining on balance at June 30 of each year shall lapse to the credit of the General Fund. Those transfers generally occur on or after July 1.
Fund meets criteria?	This fund does <i>not</i> meet all the criteria of a trust fund because it functions more like a special fund, but continues to serve the purpose for which it was originally established. <i>The fund should be reclassified as a special fund.</i>
Performance standards	No, the fund does not have performance standards.
Revenues	Revenues are from 10 percent of any antitrust judgment or settlement received by the State and any appropriations made by the Legislature. Revenues for FY2024 included a \$1.4 million settlement for Hawai’i’s share of a multi-state settlement.
Expenditures	Expenditures include multi-state litigation-related cost share assessments, investigation costs, training, equipment, and educational resources.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-48, HRS	Yes.
Reported pursuant to Section 37-49, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	Not applicable, the fund was established pursuant to an act.

Additional Information

In Report Nos. 14-13 and 19-16, we similarly concluded that the fund functions more like a special fund than a trust fund because revenues are used for statutorily allowed purposes and there are no designated persons or classes of persons having a vested beneficial interest or equitable ownership in the assets of the fund. According to the department, the fund does not have the capacity to be financially self-sustaining as proceeds from antitrust litigation judgments and settlements are unpredictable.

Child Support Collections (Not in State Treasury)

Section 576D-10, HRS

Financial Data for Fiscal Years 2020 – 2024 (in thousands)

	FY2020	FY2021	FY2022	FY2023	FY2024
Beginning Balance	\$23,231	\$33,150	\$29,490	\$28,526	\$22,132
Revenues	141,311	127,199	113,298	110,759	107,109
Interest	0	0	0	0	0
Expenditures	(131,392)	(130,859)	(114,262)	(117,153)	(106,928)
Transfers	0	0	0	0	0
Ending Balance	\$33,150	\$29,490	\$28,526	\$22,132	\$22,313
Encumbrances	\$0	\$0	\$0	\$0	\$0

Fund Summary

Account Type	Trust fund
How was the fund created?	Act 323 (SLH 1987)
Why was it created?	The fund is used to hold child support collections from non-custodial parents before making disbursements to custodial parents.
Fund meets criteria?	This fund meets the criteria of a trust fund and continues to serve the purpose for which it was originally established.
Performance standards	No, the fund does not have performance standards.
Revenues	Revenues are from child support payments received by the agency from non-custodial parents.
Expenditures	Expenditures include child support disbursements made by the agency to custodial parents.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-48, HRS	Yes.
Reported pursuant to Section 37-49, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	Not applicable, the fund was established pursuant to an act.

**Criminal Forfeiture
Bond Holding Fund**

Financial Data for Fiscal Years 2020 – 2024 (in thousands)

	FY2020	FY2021	FY2022	FY2023	FY2024
Beginning Balance	\$18	\$15	\$15	\$15	\$15
Revenues	0	6	0	0	1
Interest	0	0	0	0	0
Expenditures	(3)	(6)	0	0	0
Transfers	0	0	0	0	0
Ending Balance	\$15	\$15	\$15	\$15	\$16
Encumbrances	\$0	\$0	\$0	\$0	\$0

Fund Summary

Account Type	Trust account
How was the account created?	Administratively established (1988)
Why was it created?	The account is used as a holding account for bond payments made by persons who claim an interest in property seized as part of a forfeiture petition.
Account meets criteria?	This account does <i>not</i> meet all the criteria of a trust account because it functions more like a trust fund, but continues to serve the purpose for which it was originally established. <i>The account should be reclassified as a trust fund.</i>
Performance standards	No, the account does not have performance standards.
Revenues	Revenues are from bond payments made by persons who claim an interest in property seized as part of a forfeiture petition.
Expenditures	Expenditures include payments to the parties claiming an interest in the seized property and forfeited moneys that could be transferred to the Criminal Forfeiture Revolving Fund depending on the decision of the case.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-48, HRS	Yes.
Reported pursuant to Section 37-49, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	No.

**Criminal Forfeiture
Revolving Fund**

**Section 712A-16(4),
HRS**

Financial Data for Fiscal Years 2020-2024 (in thousands)

	FY2020	FY2021	FY2022	FY2023	FY2024
Beginning Balance	\$330	\$482	\$463	\$457	\$377
Revenues	675	314	337	139	422
Interest	0	0	0	0	0
Expenditures	(523)	(323)	(343)	(219)	(379)
Transfers*	0	(10)	0	0	0
Ending Balance	\$482	\$463	\$457	\$377	\$420
Encumbrances	\$0	\$0	\$0	\$0	\$0

*Transfer in FY2020 of \$9,580 to the Collective Bargaining revolving fund pursuant to Executive Memorandum No. 20-09.

Fund Summary

Account Type	Revolving fund
How was the fund created?	Act 260 (SLH 1988), as amended by Act 9 (First Special Session 2021)
Why was it created?	The fund is used to pay for costs associated with the Asset Forfeiture Program including, but not limited to, personnel; utilities; distributions to seizing and prosecuting agencies; and the storage, maintenance, repair, preparation for sale, and transport of seized property.
Fund meets criteria?	This fund does <i>not</i> meet all the criteria of a revolving fund because it functions more like a special fund, but continues to serve the purpose for which it was originally established. <i>In Report No. 19-16, the Auditor recommended that the fund be reclassified as a special fund, which was done by the Legislature via Act 9 (First Special Session 2021). The fund has not been reclassified as a special fund by the department. Our recommendation has not changed based on the department's description of the fund. The fund should be reclassified as a special fund in accordance with Section 712A-16, HRS, as amended by Act 9.</i>
Performance standards	No, the fund does not have performance standards.
Revenues	Revenues are from one half of the proceeds of a forfeiture, and any penalty payments.
Expenditures	Expenditures include costs of the Asset Forfeiture Program such as personnel; utilities; distributions to seizing and prosecuting agencies; and the storage, maintenance, repair, preparation for sale, and transport of seized property.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-48, HRS	Yes.

**Reported pursuant to
Section 37-49, HRS**

Yes.

**Reported pursuant to
Section 37-52.5, HRS**

Not applicable, the fund was established pursuant to an act.

**Criminal History
Record Improvement
Revolving Fund**

**Section 846-10.6,
HRS**

Financial Data for Fiscal Years 2020-2024 (in thousands)

	FY2020	FY2021	FY2022	FY2023	FY2024
Beginning Balance	\$2,614	\$2,795	\$3,209	\$3,679	\$3,350
Revenues	3,006	3,078	3,205	2,377	4,395
Interest	0	0	0	0	0
Expenditures	(2,825)	(2,604)	(2,735)	(2,690)	(2,798)
Transfers*	0	(60)	0	(16)	0
Ending Balance	\$2,795	\$3,209	\$3,679	\$3,350	\$4,947
Encumbrances	\$1	\$32	\$35	\$0	\$0

*Transfers in FY2021 and FY2023 of \$59,885 and \$15,706 to the Collective Bargaining revolving fund pursuant to Executive Memorandum Nos. 20-09 and 22-03, respectively.

Fund Summary

Account Type	Revolving fund
How was the fund created?	Act 7 (First Special Session 1995)
Why was it created?	The fund is used to maintain and support improvements to the criminal history record information system and provide services to collect, store, and disseminate criminal justice data.
Fund meets criteria?	This fund meets the criteria of a revolving fund and continues to serve the purpose for which it was originally established.
Performance standards	No, the fund does not have performance standards.
Revenues	Revenues are from fees assessed and received by the Hawaii Criminal Justice Data Center and state and county criminal justice agencies for services provided related to criminal history record information, such as requests for records and documents.
Expenditures	Expenditures include personnel and operational costs expended by the Hawaii Criminal Justice Data Center to support improvements to the criminal history record information system and provide services related to criminal history record information.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-48, HRS	Yes.
Reported pursuant to Section 37-49, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	Not applicable, the fund was established pursuant to an act.

**DNA Registry
Special Fund**

**Section 706-603,
HRS**

Financial Data for Fiscal Years 2020-2024 (in thousands)

	FY2020	FY2021	FY2022	FY2023	FY2024
Beginning Balance	\$326	\$594	\$55	\$73	\$90
Revenues	28	27	21	21	19
Interest			1	2	3
Expenditures	(15)	(15)	(2)	(5)	(3)
Transfers*	255	(551)	(2)	(1)	(1)
Ending Balance	\$594	\$55	\$73	\$90	\$108
Encumbrances	\$0	\$0	\$0	\$0	\$0

*Transfers to the General Fund for central service expenses. Transfer in FY2020 includes \$257,309 from the Sex Assault Response, Train, and Kit Test special fund for the return of unspent funds. Transfers in FY2021 include \$500,000 to the Medicaid Investigations Recovery Fund to cover the State’s funding obligation for the Medicaid fraud unit pursuant to Act 25 (SLH 2020) and \$50,000 to the General Fund pursuant to Act 87 (SLH 2021).

Fund Summary

Account Type	Special fund
How was the fund created?	Act 271 (SLH 1998)
Why was it created?	The fund is used to defray the costs of Hawaii’s Sexual Assault Response and Training Program; testing and storage of sexual assault evidence collection kits; and costs related to DNA collection, DNA testing, and related costs of recording, preserving, and disseminating DNA information.
Fund meets criteria?	This fund meets the criteria of a special fund and continues to serve the purpose for which it was originally established.
Performance standards	No, the fund does not have performance standards.
Revenues	Revenues are from an assessment of the lesser of \$500 or the actual cost of a DNA analysis from defendants convicted of a sexual or violent offense, and any other moneys received from other sources.
Expenditures	Expenditures include the costs of Hawaii’s sexual assault response and training program; testing and storage of sexual assault evidence collection kits; and costs related to DNA collection, DNA testing, and related costs of recording, preserving, and disseminating DNA information.
Reported pursuant to Section 37-47, HRS	Yes.

Reported pursuant to Section 37-48, HRS	Yes.
Reported pursuant to Section 37-49, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	Not applicable, the fund was established pursuant to an act.

**Internet Crimes Against
Children Special Fund**

Section 846F-4, HRS

Financial Data for Fiscal Years 2020-2024 (in thousands)

	FY2020	FY2021	FY2022	FY2023	FY2024
Beginning Balance	\$126	\$206	\$166	\$195	\$241
Revenues	105	104	90	75	57
Interest	0	1	1	4	8
Expenditures	(25)	(25)	(55)	(30)	(27)
Transfers*	0	(120)	(7)	(3)	(3)
Ending Balance	\$206	\$166	\$195	\$241	\$276
Encumbrances	\$0	\$0	\$0	\$0	\$0

*Transfers to the General Fund for central service expenses. Transfer in FY2021 of \$120,000 to the General Fund pursuant to Act 87 (SLH 2021).

Fund Summary

Account Type	Special fund
How was the fund created?	Act 115 (SLH 2014)
Why was it created?	The fund is used to collect statutorily required court-ordered fees to be used by the Internet Crimes Against Children program which provides training and equipment for local law enforcement agencies to use in investigating and prosecuting internet crimes against children.
Fund meets criteria?	This fund meets the criteria of a special fund and continues to serve the purpose for which it was originally established.
Performance standards	No, the fund does not have performance standards.
Revenues	Revenues are from statutorily required court-ordered fees of up to \$100 from every defendant for each felony or misdemeanor conviction.
Expenditures	Expenditures include costs of training and equipment for local law enforcement agencies to use in investigating and prosecuting internet crimes against children, including funding to increase the forensic capacity of digital evidence.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-48, HRS	Yes.
Reported pursuant to Section 37-49, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	Not applicable, the fund was established pursuant to an act.

Legal Services

Financial Data for Fiscal Year 2024 (in thousands)

FY2024	
Beginning Balance	\$0
Revenues	3,100
Interest	0
Expenditures	(1,286)
Transfers	0
Ending Balance	\$1,814
Encumbrances	\$0

Fund Summary

Account Type	Trust fund
How was the fund created?	Administratively established (2024)
Why was it created?	The fund is used to receive quarterly advances from Hawaiian Electric Industries, Inc., Hawaiian Electric Company, Inc., Hawai'i Electric Light Company, Inc., and Maui Electric Company, Inc. (collectively, Hawaiian Electric) for partial reimbursement of the cost of legal services. The legal services were provided by private legal counsel engaged by the department related to the Maui wildfires.
Fund meets criteria?	This fund meets the criteria of a trust fund and continues to serve the purpose for which it was originally established.
Performance standards	No, the fund does not have performance standards.
Revenues	Revenues are quarterly advances from Hawaiian Electric pursuant to an agreement between the State and Hawaiian Electric.
Expenditures	Expenditures include legal fees for various outside firms to provide expert legal services, advice, and counsel on areas of law arising from the Maui wildfires including, but not limited to, bankruptcy, tort litigation, and public financing.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-48, HRS	Yes.
Reported pursuant to Section 37-49, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	No.

**Litigation Deposits
Trust Account**

Section 28-16, HRS

Financial Data for Fiscal Years 2020 – 2024 (in thousands)

	FY2020	FY2021	FY2022	FY2023	FY2024
Beginning Balance	\$4,038	\$1,523	\$1,889	\$3,481	\$4,292
Revenues	143	1,666	1,586	2,611	653
Interest	0	2	6	155	210
Expenditures	(2,658)	(152)	0	(1,955)	(419)
Transfers*	0	(1,150)	0	0	0
Ending Balance	\$1,523	\$1,889	\$3,481	\$4,292	\$4,736
Encumbrances	\$0	\$0	\$0	\$0	\$0

*Transfer to the General Fund to lapse unrequired cash balance.

Fund Summary

Account Type	Trust account
How was the account created?	Act 178 (SLH 2002), as amended by Act 9 (First Special Session 2021)
Why was it created?	The account is used to account for civil action settlements of \$100,000 or higher in which the State is a party, except those actions involving departments able to procure their own legal services and where no other state statute or court order specifically provides for the deposit of moneys received through the action.
Account meets criteria?	This account meets the criteria of a trust account and continues to serve the purpose for which it was originally established.
Performance standards	No, the account does not have performance standards.
Revenues	Revenues are from settlements of \$100,000 or higher from civil actions in which the State is a party.
Expenditures	Expenditures include attorneys' fees and prosecution expenses, as well as disbursements to non-general funds with which the civil action is associated pursuant to court orders.
Reported pursuant to Section 37-47, HRS	No.
Reported pursuant to Section 37-48, HRS	No.
Reported pursuant to Section 37-49, HRS	No.
Reported pursuant to Section 37-52.5, HRS	Not applicable, the account was established pursuant to an act.
Additional Information	This fund was previously analyzed as a trust fund in Report No. 19-16; at the time we recommended it be reclassified as a trust account. AG reclassified the trust fund to a trust account as recommended.

Litigation Settlement Clearance Account

Financial Data for Fiscal Years 2020 – 2024 (in thousands)					
	FY2020	FY2021	FY2022	FY2023	FY2024
Beginning Balance	\$121	\$123	\$1	\$1	\$1
Revenues	0	0	0	0	0
Interest	2	1	0	0	0
Expenditures	0	0	0	0	0
Transfers*	0	(123)	0	0	0
Ending Balance	\$123	\$1	\$1	\$1	\$1
Encumbrances	\$0	\$0	\$0	\$0	\$0

*Transfer to the General Fund to lapse unrequired cash balance.

Fund Summary	
Account Type	Trust account
How was the account created?	Administratively established (1985)
Why was it created?	The account is used as a clearing account for settlements in litigation cases involving the State and co-defenders.
Account meets criteria?	This account meets the criteria of a trust account and continues to serve the purpose for which it was originally established.
Performance standards	No, the account does not have performance standards.
Revenues	Revenues are from the receipt of asbestos settlements, anti-trust settlements, and other collections by the Civil Recoveries Division. However, only interest was received during the period under review.
Expenditures	Expenditures include the disbursement of funds for settlements. However, there were no expenditures during the period under review.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-48, HRS	Yes.
Reported pursuant to Section 37-49, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	No.

**Medicaid Investigations
Recovery Fund**

Financial Data for Fiscal Years 2020-2024 (in thousands)

Section 28-91.5, HRS

	FY2020	FY2021	FY2022	FY2023	FY2024
Beginning Balance	\$434	\$84	\$252	\$302	\$11,435
Revenues	206	174	84	11,129	14
Interest	0	1	1	9	338
Expenditures	(556)	(479)	(35)	(5)	(5,597)
Transfers*	0	472	0	0	0
Ending Balance	\$84	\$252	\$302	\$11,435	\$6,190
Encumbrances	\$0	\$15	\$0	\$0	\$11

*Transfer of \$500,000 from the DNA Registry Special Fund pursuant to Act 25 (SLH 2020) and \$27,812 to the Collective Bargaining special fund pursuant to Executive Memorandum No. 20-09.

Fund Summary

Account Type	Special fund
How was the fund created?	Act 15 (First Special Session 1995)
Why was it created?	The fund is used to receive civil judgments and settlements received by the Medicaid Fraud Control Unit (MFCU) to be used to support the State's 25 percent share of MFCU's operating expenses.
Fund meets criteria?	This fund meets the criteria of a special fund and continues to serve the purpose for which it was originally established.
Performance standards	No, the fund does not have performance standards.
Revenues	Revenues are from funds recovered as a result of Medicaid fraud-related judgments and settlements, global Medicaid fraud settlements, discovery material copy fees, and interest. In FY2023, revenues included an \$11,050,000 settlement.
Expenditures	Expenditures include 25% of MFCU's operating costs including, but not limited to, payroll, rent, office supplies, equipment, training, travel, and investigative and litigation costs. In FY2024, expenditures included \$5,060,584 for the federal share of the FY2023 settlement received.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-48, HRS	Yes.
Reported pursuant to Section 37-49, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	Not applicable, the fund was established pursuant to an act.

National Mortgage Settlement

Financial Data for Fiscal Years 2020 – 2024 (in thousands)					
	FY2020	FY2021	FY2022	FY2023	FY2024
Beginning Balance	\$66	\$64	\$64	\$61	\$60
Revenues	0	0	0	0	13
Interest	0	0	1	1	2
Expenditures	(2)	0	(4)	(2)	(1)
Transfers	0	0	0	0	0
Ending Balance	\$64	\$64	\$61	\$60	\$74
Encumbrances	\$0	\$0	\$0	\$0	\$0

Fund Summary	
Account Type	Trust fund
How was the fund created?	Administratively established (2012)
Why was it created?	The fund is used to hold funds received from a national mortgage settlement and the funds are to be used for housing and financial counseling, public education, mediation, dispute resolution, and the enforcement of laws and agreements protecting the rights of homeowners and lessees.
Fund meets criteria?	This fund meets the criteria of a trust fund and continues to serve the purpose for which it was originally established.
Performance standards	No, the fund does not have performance standards.
Revenues	Revenues were initially from a national mortgage settlement; however, current revenues are from interest and funds returned from the Judiciary.
Expenditures	Expenditures include costs associated with housing and financial counseling, public education, mediation, dispute resolution, and the enforcement of laws and agreements protecting the rights of homeowners and lessees. Expenditures also include the costs for a deputy attorney general to attend a mortgage conference.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-48, HRS	Yes.
Reported pursuant to Section 37-49, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	Yes.
Additional Information	This fund was previously analyzed as a trust account in Report No. 19-16; at the time we recommended it be reclassified as a trust fund. AG reclassified the trust account to a trust fund as recommended.

**Notaries Public
Revolving Fund**

Section 456-9.5, HRS

Financial Data for Fiscal Years 2020-2024 (in thousands)

	FY2020	FY2021	FY2022	FY2023	FY2024
Beginning Balance	\$340	\$440	\$401	\$513	\$509
Revenues	238	304	346	307	242
Interest	0	0	0	0	0
Expenditures	(138)	(330)	(234)	(307)	(260)
Transfers*	0	(13)	0	(4)	0
Ending Balance	\$440	\$401	\$513	\$509	\$491
Encumbrances	\$0	\$0	\$0	\$0	\$0

*Transfers in FY2021 and FY2023 of \$12,959 and \$3,809 to Collective Bargaining revolving fund pursuant to Executive Memorandum Nos. 20-09 and 22-03, respectively.

Fund Summary

Account Type	Revolving fund
How was the fund created?	Act 290 (SLH 1998), as amended by Act 9 (First Special Session 2021)
Why was it created?	The fund is used to administer the Hawai'i Notary Program.
Fund meets criteria?	This fund does <i>not</i> meet all the criteria of a revolving fund because it functions more like a special fund, but continues to serve the purpose for which it was originally established. <i>In Report No. 19-16, the Auditor recommended that the fund be reclassified as a special fund, which was done by the Legislature via Act 9 (First Special Session 2021). The fund has not been reclassified as a special fund by the department. Our recommendation has not changed based on the department's description of the fund. The fund should be reclassified as a special fund in accordance with Section 456-9.5, HRS, as amended by Act 9.</i>
Performance standards	No, the fund does not have performance standards.
Revenues	Revenues are from notary fees, administrative fines, charges, or other payments.
Expenditures	Expenditures include personnel costs; the acquisition of equipment; and operating and administrative costs including supplies, travel, car rental, and exam facility rental necessary for the operation of the Hawai'i Notary Program.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-48, HRS	Yes.
Reported pursuant to Section 37-49, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	Not applicable, the fund was established pursuant to an act.

Seized Funds – Final Disposition Pending Account

Financial Data for Fiscal Years 2020-2024 (in thousands)

	FY2020	FY2021	FY2022	FY2023	FY2024
Beginning Balance	\$1,026	\$716	\$691	\$591	\$794
Revenues	358	290	254	353	336
Interest	0	0	0	0	0
Expenditures	(668)	(315)	(354)	(150)	(409)
Transfers	0	0	0	0	0
Ending Balance	\$716	\$691	\$591	\$794	\$721
Encumbrances	\$0	\$0	\$0	\$0	\$0

Fund Summary

Account Type	Trust account
How was the account created?	Administratively established (1988)
Why was it created?	The account is used to hold currency seized pending the outcome of forfeiture proceedings.
Account meets criteria?	This account does <i>not</i> meet all the criteria of a trust account because it functions more like a trust fund, but continues to serve the purpose for which it was originally established. <i>The account should be reclassified as a trust fund.</i>
Performance standards	No, the account does not have performance standards.
Revenues	Revenues are from currency seized as part of a forfeiture case.
Expenditures	Expenditures include funds returned to the claimants and forfeited funds transferred to the Criminal Forfeiture Revolving Fund.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-48, HRS	Yes.
Reported pursuant to Section 37-49, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	Yes.

**Solicitation of
Funds for Charitable
Purposes Special Fund**

Section 467B-15, HRS

Financial Data for Fiscal Years 2020 – 2024 (in thousands)

	FY2020	FY2021	FY2022	FY2023	FY2024
Beginning Balance	\$2,071	\$2,062	\$2,772	\$3,593	\$3,962
Revenues	1,268	1,910	2,055	1,792	2,557
Interest	0	2	9	12	14
Expenditures	(1,277)	(1,186)	(1,243)	(1,423)	(1,525)
Transfers*	0	(16)	0	(12)	0
Ending Balance	\$2,062	\$2,772	\$3,593	\$3,962	\$5,008
Encumbrances	\$104	\$44	\$114	\$70	\$135

*Transfers in FY2021 and FY2023 of \$16,563 and \$11,978 to Collective Bargaining special fund pursuant to Executive Memorandum Nos. 20-09 and 22-03, respectively.

Fund Summary

Account Type	Special fund
How was the fund created?	Act 93 (SLH 2004)
Why was it created?	The fund is used to provide the Attorney General with necessary resources to register, regulate, and oversee the fundraising activities of organizations in the State as mandated by Chapter 467B, HRS.
Fund meets criteria?	This fund meets the criteria of a special fund and continues to serve the purpose for which it was originally established.
Performance standards	No, the fund does not have performance standards.
Revenues	Revenues are from registration fees paid by professional solicitors and fundraising counsel; annual registration fees paid by registered charitable organizations; fines and other penalties assessed and collected by the Department of the Attorney General; and other costs of investigation and enforcement that are paid through settlements and enforcement actions.
Expenditures	Expenditures include staff salaries; office supplies; investigation and litigation related costs; travel and training expenses; and the development, implementation, maintenance, and technical support for the State's online registration system and publicly searchable charity registry.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-48, HRS	Yes.
Reported pursuant to Section 37-49, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	Not applicable, the fund was established pursuant to an act.

Temporary Deposits – Payroll Overpayment

Financial Data for Fiscal Years 2020 – 2024 (in thousands)					
	FY2020	FY2021	FY2022	FY2023	FY2024
Beginning Balance	\$14	\$14	\$14	\$15	\$24
Revenues	0	0	1	9	4
Interest	0	0	0	0	0
Expenditures	0	0	0	0	(14)
Transfers	0	0	0	0	0
Ending Balance	\$14	\$14	\$15	\$24	\$14
Encumbrances	\$0	\$0	\$0	\$0	\$0

Fund Summary	
Account Type	Trust account
How was the account created?	Administratively established (1997)
Why was it created?	The account is used to account for semi-monthly employee salary overpayments.
Account meets criteria?	This account meets the criteria of a trust account and continues to serve the purpose for which it was originally established.
Performance standards	No, the account does not have performance standards.
Revenues	Revenues are from reimbursements or collections of overpayments from employees.
Expenditures	Expenditures include collected overpayments returned to DAGS.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-48, HRS	Yes.
Reported pursuant to Section 37-49, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	No.

**Tobacco Enforcement
Special Fund**

Section 28-15, HRS

Financial Data for Fiscal Years 2020-2024 (in thousands)

	FY2020	FY2021	FY2022	FY2023	FY2024
Beginning Balance	\$897	\$938	\$993	\$793	\$749
Revenues	1,861	1,803	1,629	1,501	1,382
Interest	8	0	14	11	18
Expenditures	(1,828)	(1,728)	(1,843)	(1,549)	(1,816)
Transfers*	0	(20)	0	(7)	0
Ending Balance	\$938	\$993	\$793	\$749	\$333
Encumbrances	\$26	\$31	\$58	\$30	\$44

*Transfers in FY2021 and FY2023 of \$20,295 and \$7,086 to the Collective Bargaining special fund pursuant to Executive Memorandum Nos. 20-09 and 22-03, respectively.

Fund Summary

Account Type	Special fund
How was the fund created?	Act 270 (SLH 2001)
Why was it created?	The fund is used to administer, operate, monitor, ensure compliance with, and enforce the Master Settlement Agreement (MSA) as defined in Chapter 675, HRS, and other statutes or programs relating to that agreement; Chapters 245, 486P, and 675, HRS; tobacco prevention programs, and the cigarette tax stamp.
Fund meets criteria?	This fund meets the criteria of a special fund and continues to serve the purpose for which it was originally established.
Performance standards	No, the fund does not have performance standards.
Revenues	Revenues are from annual tobacco settlement moneys (as defined in the MSA) and cigarette tax stamp fees.
Expenditures	Expenditures include staffing and operational costs of the Tobacco Enforcement Unit such as payroll, travel, and office lease expenses as well as transfers to the General Fund of unencumbered and unexpended funds in excess of \$500,000 at the end of the fiscal year.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-48, HRS	Yes.
Reported pursuant to Section 37-49, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	Not applicable, the fund was established pursuant to an act.

Chapter 3

Observations on Reporting and Accounting for Funds

Special, revolving, and other types of non-general funds 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 the Legislature tracks non-general funds. The reports are used to monitor fund balances and identify excess moneys for possible transfer to the General Fund.

Non-General Funds Were Not Reported as Required by Law

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 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 37-48, HRS, enacted by the Legislature through Act 87 in 2021, requires departments to submit to the Legislature an annual program measures report of each non-general fund account, including information such as program objectives, program activities, metrics for target population, and metrics for assessing effectiveness over the ensuing six fiscal years. The report must be filed no later than October 1 annually.

Section 37-49, HRS, also enacted by the Legislature through Act 87 in 2021, requires departments to submit to the Legislature an annual cost element report of each non-general fund account, including information such as budget details by cost element and non-general fund names and account codes for each item or object code. The report must be filed no later than October 1 annually.

Section 37-52.5, HRS, requires the Judiciary and any department that administratively establishes a new fund or account to submit a report to the Legislature. 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 also 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. This report is separate from the non-general fund report required under Section 37-47, HRS.

During our review, we noted noncompliance with statutory requirements to report financial activity and balances, as required by Section 37-47, HRS, program measures, as required by Section 37-48, HRS, cost elements, as required by Section 37-49, HRS, as well as fund information for administratively established funds and accounts under Section 37-52.5, HRS.

As shown in Exhibit 3.1, AG had administratively created non-general funds with balances totaling approximately \$1.8 million that were not reported to the Legislature as required by Section 37-52.5, HRS; non-general funds with balances totaling approximately \$4.7 million that were not reported to the Legislature as required by Section 37-47, HRS; non-general funds with balances totaling \$4.7 million that were not reported to the Legislature as required by Section 37-48, HRS; and non-general funds with balances totaling \$4.7 million that were not reported to the Legislature as required by Section 37-49, HRS.

Exhibit 3.1

Non-General Funds and Administratively Created Funds Not Reported to the Legislature

Fund Name	Fund Type	HRS 37-47 (Non-General)	FY2024 Ending Balance (rounded)	HRS 37-48 (Non-General Program Measures)	FY2024 Ending Balance (rounded)	HRS 37-49 (Non-General Cost Element)	FY2024 Ending Balance (rounded)	HRS 37-52.5 (Admin Created)	FY2024 Ending Balance (rounded)
Criminal Forfeiture Bond Holding Fund	Trust Account							✓	\$16,000
Legal Services	Trust Fund							✓	1,814,000
Litigation Deposits Trust Account	Trust Account	✓	\$4,736,000	✓	\$4,736,000	✓	\$4,736,000		
Litigation Settlement Clearance Account	Trust Account							✓	1,000
Temporary Deposits – Payroll Overpayment	Trust Account							✓	14,000
Total			\$4,736,000		\$4,736,000		\$4,736,000		\$1,845,000

Source: Office of the Auditor

Office of the Auditor's Response to the Department of the Attorney General's Comments

Comments on Agency Response

WE MET WITH THE ATTORNEY GENERAL and her staff to discuss the report. The Department of the Attorney General (AG) subsequently provided written comments to the draft report, which are attached in their entirety as Attachment 1. AG acknowledged that the Criminal Forfeiture Revolving Fund and the Notaries Public Revolving Fund had been reclassified as special funds by the Legislature in 2021, as we recommended in 2019, and said that it will work with the Department of Budget and Finance and Department of Accounting and General Services to reclassify the funds. While AG did not disagree with our determination that the Antitrust Trust Fund should be reclassified as a trust account, the department noted that such reclassification will require legislative action. We agree; however, it is the department's responsibility to request that the Legislature reclassify the fund.

With respect to our recommendation that the Criminal Forfeiture Bond Holding Fund and the Seized Funds – Final Disposition Pending Accounts be classified as trust funds, AG said that it will review the nature of the funds to determine whether reclassification from trust accounts is appropriate. We are compelled to note that we analyzed whether the use of the accounts is consistent with the statutory criteria for a trust account *based on information about the accounts provided to us by the department*. Based on the department's description, we determined that they did not meet the criteria for a trust account; rather, the accounts functioned as trust funds and need to be reclassified as such, which AG can do administratively. We also note that, during our exit conference, AG did not raise concerns about our determination that those trust accounts functioned as trust funds.

Lastly, AG acknowledges our findings that five funds were not reported pursuant to either Section 37-47, 37-48, 37-49, or 37-52.5, HRS, and will take appropriate measures to ensure compliance.

JOSH GREEN, M.D.
GOVERNOR



ANNE E. LOPEZ
ATTORNEY GENERAL

MATTHEW S. DVONCH
FIRST DEPUTY ATTORNEY GENERAL

STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
Ka 'Oihana O Ka Loio Kuhina
425 QUEEN STREET
HONOLULU, HAWAII 96813
(808) 586-1500

February 13, 2025

The Honorable Leslie H. Kondo, State Auditor
Office of the Auditor
465 South King Street, Room 500
Honolulu, HI 96813

Re: DRAFT Review of Special Funds, Revolving Funds, Trust Funds, and Trust
Accounts of the Department of the Attorney General

Dear Mr. Kondo:

Thank you for the opportunity to provide comments on the subject draft report received by the Department of the Attorney General (Department) on February 5, 2025. The Department notes that a review of the Department's special, revolving, and trust funds, as well as trust accounts was last completed in 2019 under the previous administration. After reviewing the report, the Department respectfully submits the following comments:

While all accounts were found to continue to serve the purpose for which they were originally established, Exhibit 2.3 *Fund(s) Not Meeting Criteria* identified five funds that the Office of the Auditor determined do not meet the definitions of a special fund, revolving fund, trust fund, or trust account. Namely the:

- Antitrust Trust Fund
- Criminal Forfeiture Bond Holding Fund
- Criminal Forfeiture Revolving Fund
- Notaries Public Revolving Fund
- Seized Funds – Final Disposition Pending Account

With respect to the Criminal Forfeiture Revolving Fund and the Notaries Public Revolving Fund, the Department acknowledges the passage of Act 9, SpSLH 2021, which adopted the recommendations of Report No. 19-06 to reclassify these as special funds rather than revolving funds. The Department will work with the Department of Budget and Finance and the Department of Accounting and General Services to reclassify these funds in accordance with Act 9, SpSLH 2021, for the upcoming fiscal biennium beginning July 1, 2025.

With respect to the Antitrust Trust Fund, the Department notes that Section 28-13, HRS, establishes the fund as the Antitrust Trust Fund; the HRS reads "(a) There is

The Honorable Leslie H. Kondo
February 13, 2025
Page 2

established in the state treasury the antitrust trust fund, into which shall be deposited: [...]” Because statute explicitly establishes the Antitrust Trust Fund as a trust fund, legislative action is required to effectuate the recommendations of the State Auditor with respect to this fund.

Finally, with respect to the reclassification of the Criminal Forfeiture Bond Holding Fund and the Seized Funds – Final Disposition Pending Account from trust accounts to trust funds, the Department will review the nature of these accounts to determine whether reclassification from trust accounts to trust funds is appropriate.

The draft report also identified in Exhibit 3.1 *Non-General Funds and Administratively Created Funds Not Reported to the Legislature* five funds that the Office of the Auditor determined were not reported to the Legislature as required by either HRS 37-47, 37-48, 37-49, or 37-52.5. These accounts include the:

- Criminal Forfeiture Bond Holding Fund
- Legal Services
- Litigation Deposits Trust Account
- Litigation Settlement Clearance Account
- Temporary Deposits – Payroll Overpayment

While the Department acknowledges that it did not use the templated forms to report information pursuant to HRS 37-47, 37-48, and 37-49, the Department does provide annual reports to the Legislature for all the funds enumerated above, excluding Legal Services, that captures the information required of HRS 37-47, 37-48, and 37-49 as applicable. These reports are posted on the Department’s website at the following: <https://ag.hawaii.gov/publications/reports/reports-to-the-legislature/reports-to-the-legislature-2025-regular-session/>. Moving forward, the Department will submit information for the subject funds utilizing the templated Forms 37-47, 37-48, and 37-49, in addition to its recurring annual reports; the Department will also incorporate the Legal Services fund into its separate annual reports to satisfy HRS 37-52.5.

The Department appreciates the work of the Office of the Auditor to review the Department’s accounts and point out areas to improve compliance. The new administration is committed to ensuring that procedures are established and followed to assure all required reports are issued and the Office of the Auditor’s determinations carefully considered.

Sincerely,



Matthew S. Dvonch
Acting Attorney General