
Review of Special Funds, Revolving Funds, Trust Funds and Trust Accounts of the Department of Hawaiian Home Lands

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

Report No. 15-15
December 2015



THE AUDITOR
STATE OF HAWAI'I

Office of the Auditor

The missions of the Office of the Auditor are assigned by the Hawai'i State Constitution (Article VII, Section 10). The primary mission is to conduct post audits of the transactions, accounts, programs, and performance of public agencies. A supplemental mission is to conduct such other investigations and prepare such additional reports as may be directed by the Legislature.

Under its assigned missions, the office conducts the following types of examinations:

1. Financial audits attest to the fairness of the financial statements of agencies. They examine the adequacy of the financial records and accounting and internal controls, and they determine the legality and propriety of expenditures.
2. Management audits, which are also referred to as performance audits, examine the effectiveness of programs or the efficiency of agencies or both. These audits are also called program audits, when they focus on whether programs are attaining the objectives and results expected of them, and operations audits, when they examine how well agencies are organized and managed and how efficiently they acquire and utilize resources.
3. Sunset evaluations evaluate new professional and occupational licensing programs to determine whether the programs should be terminated, continued, or modified. These evaluations are conducted in accordance with criteria established by statute.
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5. Health insurance analyses examine bills that propose to mandate certain health insurance benefits. Such bills cannot be enacted unless they are referred to the Office of the Auditor for an assessment of the social and financial impact of the proposed measure.
6. Analyses of proposed special funds and existing trust and revolving funds determine if proposals to establish these funds are existing funds meet legislative criteria.
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8. Fiscal accountability reports analyze expenditures by the state Department of Education in various areas.
9. Special studies respond to requests from both houses of the Legislature. The studies usually address specific problems for which the Legislature is seeking solutions.

Hawai'i's laws provide the Auditor with broad powers to examine all books, records, files, papers, and documents and all financial affairs of every agency. The Auditor also has the authority to summon persons to produce records and to question persons under oath. However, the Office of the Auditor exercises no control function, and its authority is limited to reviewing, evaluating, and reporting on its findings and recommendations to the Legislature and the Governor.



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**We found 86
old contract
encumbrances
totaling almost
\$4.6 million
at the end of
FY2015.**

Response

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Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of Hawaiian Home Lands

Report No. 15-15, December 2015

Ten special funds, revolving funds, and trust funds were reviewed

Two trust funds did not meet the definition of a trust fund

Our review of special funds, revolving funds, and trust funds of the Department of Hawaiian Home Lands (DHHL) found two trust funds did not meet the definition of a trust fund.

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. This is our fifth review of the trust funds of DHHL. It is our first review of DHHL special funds since enactment of Act 130, Session Laws of Hawai'i 2013, amended Section 23-12, HRS, to include reviews of all special funds statewide.

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 for the benefit of 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.

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.

Long-outstanding contracts unnecessarily commit funds

We noted FY2015 fund balances were committed to several contract encumbrances made more than five years ago. We found 86 old contract encumbrances totaling almost \$4.6 million at the end of FY2015.

Reporting shortfall

We also noted inconsistent adherence by DHHL when filing statutorily required reports for non-general funds and for administratively created funds and accounts. Accurate and complete reporting, as well as timely closing of funds, will greatly improve the Legislature's oversight and control of these funds and provide increased statewide budgetary flexibility.

Agency response

The department generally agreed with our findings. However, it provided clarification on two trust funds and reported that it has closed 78 of 86 long-outstanding contracts, worth more than \$3.8 million. It also disagreed with our conclusion that it did not report all funds to the Legislature as required by law. The department said it is still in the process of completing its reports and that since the reports are due November 27, 2015, it is not remiss in this reporting requirement. We reiterate that our review refers to FY2014 reporting requirements, which were due in November 2014.

Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of Hawaiian Home Lands

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Governor
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Hawai'i

Submitted by

THE AUDITOR
STATE OF HAWAI'I

Report No. 15-15
December 2015

Foreword

This is a report of our review of special funds, revolving funds, trust funds, and trust accounts used by the Department of Hawaiian Home Lands.

Section 23-12, Hawai'i Revised Statutes (HRS), requires the State Auditor to review all existing special, revolving, and trust funds and accounts once every five years. This is our fifth review of the revolving funds, trust funds, and trust accounts of the Department of Hawaiian Home Lands. It is our first review of its special funds since Act 130, Session Laws of Hawai'i 2013, amended Section 23-12, HRS, to include reviews of all special funds statewide.

We wish to express our appreciation for the cooperation and assistance extended to us by the officials and staff of the Department of Hawaiian Home Lands.

Jan K. Yamane
Acting State Auditor

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Chapter 1

Introduction

This review encompasses the special funds, revolving funds, trust funds, and trust accounts of the Department of Hawaiian Home Lands (DHHL). Section 23-12, *Review of special, revolving, and trust funds*, Hawai‘i Revised Statutes (HRS), requires the State Auditor to review all special, revolving, and trust funds administered by each state department every five years.

This is our fifth periodic review of DHHL’s revolving funds, trust funds, and trust accounts. Our first review, conducted in 1995 (Report No. 95-32), included two revolving funds. Our second review, conducted in 2001 (Report No. 01-07), included seven (revolving and trust) funds; and our third, conducted in 2005 (Report No. 05-08), included eight (revolving and trust) funds. Our last review, conducted in 2010 (Report No. 10-09), analyzed ten (revolving and trust) funds. This is our first review of DHHL’s special funds since Act 130, Session Laws of Hawai‘i (SLH) 2013, amended Section 23-12, HRS, to also require reviews of special funds at all agencies.

In this report, we reviewed a total of ten funds including two special funds, two revolving funds, and six trust funds.

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 level of legislative scrutiny as those in the State’s general fund.

The review required by Act 240 was completed and presented in five separate reports issued in 1991 and 1992. We reviewed 166 special and revolving funds and recommended that 70 be repealed, discontinued, or allowed to sunset. We also found that many held cash balances far in excess of program needs and recommended that unneeded cash be transferred to the 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, 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 five-yearly 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; and
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.

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 of Hawai‘i’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 through fees and premium taxes and supports 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.” Revolving funds are often established with an appropriation of seed money from the general fund. 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 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 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 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 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 the degree to which each fund achieves its stated purpose. The third criterion assesses whether a fund relies on general fund appropriations. If general fund appropriations are needed to finance its activities (as opposed to providing seed moneys only), classification as a trust fund may not be warranted. The fourth criterion assesses whether a fund 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 the Department of Hawaiian Home Lands.
2. For each special fund, revolving fund, trust fund, and trust account, determine the original intent and purpose, per statute and as understood by the agency, and determine the degree to which each fund or account achieves its stated and claimed purposes.
3. Evaluate fund performance standards established by the agencies.
4. Provide a five-year (FY2011–FY2015) unaudited financial summary for each fund or account reviewed.

Scope and Methodology

We reviewed all special funds, revolving funds, trust funds, and trust accounts directly administered by DHHL during the five-year period under review (FY2011–FY2015). Funds and accounts included those established by statute as well as by administrative authority.

We researched statutes, session laws, and legislative history. We reviewed applicable administrative rules, policies and procedures, financial audit reports, agency financial reports, performance standards established by the agency, and other documents as appropriate.

According to the Senate Ways and Means Committee, there is no master list of non-general funds. To identify funds subject to this review, we used a variety of sources, including our prior reviews, accounting reports from the Department of Accounting and General Services, non-general fund reports filed by DHHL, legislative budget briefing documents, and other documents. To gain an understanding of fund operations, we 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, 2015), including fund balances at the beginning of each fiscal year, 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 FY2010 reported in our last DHHL review, Report No. 10-09, and opening balances reported for FY2011.

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 provided by DHHL on performance standards established for the funds or accounts and performed other procedures as necessary. We did not audit DHHL's financial data, which are provided for informational purposes only.

Where appropriate, we relied on our prior reports, including Report Nos. 95-32, *Review of Revolving and Trust Funds of the Judiciary and the Departments of Commerce and Consumer Affairs, Hawaiian Home Lands, Health, and Human Services*; 01-07, *Review of Revolving Funds, Trust Funds, and Trust Accounts of the Judiciary and the Departments of Commerce and Consumer Affairs, Hawaiian Home Lands, Health, and Human Services*; 05-08, *Review of Revolving Funds, Trust Funds, and Trust Accounts of the Judiciary and the Departments of Commerce and Consumer Affairs, Hawaiian Home Lands, Health and Human Services*; 10-09, *Review of Revolving Funds, Trust Funds, and Trust Accounts of the Judiciary and the Departments of Commerce and Consumer Affairs, Hawaiian Home Lands, Health, and Human Services*; and 12-04, *Study of the Transfer of Non-general Funds to the General Fund*.

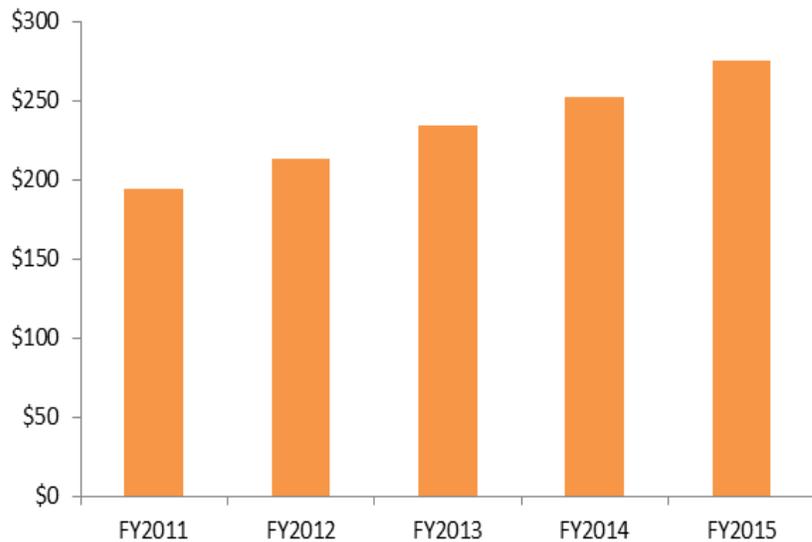
Our review was conducted from May 2015 to September 2015 and followed standard office procedures according to the Office of the Auditor's *Manual of Guides*. Recommendations were made where applicable.

Chapter 2

Department of Hawaiian Home Lands

This chapter presents the results of our review of two special funds, two revolving funds, and six trust funds of the Department of Hawaiian Home Lands (DHHL). Fund fiscal year-end balances amounted to at least \$194 million during the period reviewed. Exhibit 2.1 displays the totals for these cash balances at the end of each fiscal year.

Exhibit 2.1
Cash Balances for DHHL Non-General Funds, FY2011–FY2015
(in millions)



Source: Office of the Auditor

Substantial amounts are also collected, expended, and transferred by the funds and accounts annually. As shown in Exhibit 2.2, DHHL special funds, revolving funds, and trust funds collected more than \$74 million and spent or transferred more than \$51 million in FY2015. Exhibit 2.2 presents totals for the combined revenue and interest, expense and transfers, and ending cash balances for different fund types for FY2015.

Exhibit 2.2
DHHL Fund Totals by Type, FY2015

Fund Type	Revenue and Interest	Expenses and Transfers	Year-End Cash Balance
Special Funds	\$21,462,000	\$17,424,000	\$50,138,000
Revolving Funds	7,166,000	4,560,000	19,397,000
Trust Funds	46,289,000	29,601,000	205,509,000
Total	\$74,917,000	\$51,585,000	\$275,044,000

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 also include information about fund transfers. We do not assess the effectiveness of programs and their management. However, in our review of special and revolving funds, we do conclude on a fund’s necessity based on the purpose and scope of the program it supports, and whether the program can be implemented successfully under the general fund appropriation process. Funds are presented in alphabetical order. Financial data were obtained from the State’s financial accounting system and reviewed by DHHL.

Exhibit 2.3 shows DHHL funds that do not meet criteria for continuance and should be repealed or reclassified.

Exhibit 2.3
DHHL Funds Not Meeting Criteria

Fund Name	Fund Type	FY2015 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
Hawaiian Home Receipts Fund	Trust	\$317,000							✓
Security Deposits/ Clearing Account	Trust	\$1,644,000							✓

Source: Office of the Auditor

**Department of
Hawaiian Home Lands
Revenue Bond Special
Fund
(special fund)**

**Section 213.5, Hawaiian
Homes Commission
Act**

Financial Data for Fiscal Years 2011–2015 (in thousands)

	FY2011	FY2012	FY2013	FY2014	FY2015
Beginning Balance	\$16,476	\$16,678	\$16,734	\$16,758	\$16,782
Revenues	3,211	3,064	3,034	3,033	3,049
Interest	0	0	0	0	0
Expenditures	(3,009)	(3,008)	(3,010)	(3,009)	(3,263)
Transfers (net)	0	0	0	0	0
Ending Balance	\$16,678	\$16,734	\$16,758	\$16,782	\$16,568
Encumbrances	\$850	\$1,297	\$1,496	\$284	\$341

This fund continues to serve the purpose for which it was created and meets the criteria for a special fund. Created in 1989, the fund accounts for the revenue bonds issued by the department on available lands. Revenues come from moneys committed for debt service, maintenance of reserve accounts, and interest from investments of reserve accounts. Moneys are primarily used to repay the debt service on the bonds and to maintain a reserve account as required by the bond resolution.

**Hawaiian Home
Administration
Account
(special fund)**

**Section 213(f),
Hawaiian Homes
Commission Act**

Financial Data for Fiscal Years 2011–2015 (in thousands)

	FY2011	FY2012	FY2013	FY2014	FY2015
Beginning Balance	\$18,809	\$19,689	\$19,674	\$20,111	\$29,234
Revenues	11,313	12,272	12,473	15,792	15,518
Interest	0	0	0	0	0
Expenditures	(8,435)	(9,284)	(9,033)	(2,576)	(5,270)
Transfers (net)	(1,998)	(3,003)	(3,003)	(4,003)	(6,003)
Ending Balance	\$19,689	\$19,674	\$20,111	\$29,324	\$33,569
Encumbrances	\$1,357	\$1,561	\$1,024	\$923	\$2,727

This fund continues to serve the purpose for which it was created and meets the criteria for a special fund. Created in 1998, the fund was managed in two separate segments: (1) Planning and Development for Hawaiian Homesteads and (2) Management and General Support for Hawaiian Homesteads. The fund is used to deposit receipts derived from general leases, licenses, revocable permits, rights of entry, and other dispositions of Hawaiian home lands. Expenditures consist of salaries and other administration expenses. Pursuant to Section 213(f) (3), Hawaiian Homes Commission Act, moneys in excess of the amount approved by the Legislature or made available for the fiscal period may be transferred to the Hawaiian Home Operating Fund. In fiscal years 2011–2015, transfers-out were made to the Hawaiian Home Operating Fund.

**Hawaiian Home
General Loan Fund
(revolving fund)**

**Section 213(c),
Hawaiian Homes
Commission Act**

Financial Data for Fiscal Years 2011–2015 (in thousands)

	FY2011	FY2012	FY2013	FY2014	FY2015
Beginning Balance	\$10,976	\$11,505	\$11,459	\$14,806	\$14,359
Revenues	4,972	4,624	4,965	211	4,518
Interest	0	0	0	0	0
Expenditures	(4,443)	(4,670)	(2,730)	(2,618)	(4,550)
Transfers (net)	0	0	1,112	1,960	2,499
Ending Balance	\$11,505	\$11,459	\$14,806	\$14,359	\$16,826
Encumbrances	\$0	\$0	\$0	\$0	\$0

This fund continues to serve the purpose for which it was created and meets the criteria for a revolving fund. Act 249, Session Laws of Hawai‘i (SLH) 1986 amended the Hawaiian Homes Commission Act and consolidated five existing revolving loan funds into the Hawaiian Home General Loan Fund. Created in 1986, this revolving fund makes loans to Native Hawaiians for a variety of purposes pursuant to Section 214 of the Hawaiian Homes Commission Act. Revenues come from the repayment of loans and advances made from this fund. In fiscal years 2013–2015, interest earned on the loans was transferred-in from the Hawaiian Home Receipts Fund.

***Hawaiian Home Lands
Trust Fund
(trust fund)***

***Section 213.6, Hawaiian
Homes Commission
Act***

Financial Data for Fiscal Years 2011–2015 (in thousands)

	FY2011	FY2012	FY2013	FY2014	FY2015
Beginning Balance	\$92,659*	\$109,066	\$130,100	\$145,694	\$151,662
Revenues	47,171	38,125	36,824	34,506	35,101
Interest	0	0	0	0	0
Expenditures	(30,764)	(17,091)	(21,230)	(28,538)	(21,152)
Transfers (net)	0	0	0	0	0
Ending Balance	\$109,066	\$130,100	\$145,694	\$151,662	\$165,611
Encumbrances	\$24,757	\$37,581	\$51,949	\$36,801	\$27,519

*FY2011 beginning balance does not agree to FY2010 ending balance in Report No. 10-09 due to rounding.

This fund continues to serve the purpose for which it was created and meets the criteria for a trust fund. Created in 1995, the fund is used to finance capital improvement projects and to meet the requirements of the amended Hawaiian Homes Commission Act of 1920. Act 14, Special Session Laws of Hawai‘i 1995, requires that the State make 20 annual deposits of \$30 million, or their discounted equivalent, into the fund to settle all claims made on behalf of the Hawaiian Home Lands Trust against the State between August 21, 1959 and July 1, 1988.

**Hawaiian Home Loan
Fund
(revolving fund)**

**Section 213(b),
Hawaiian Homes
Commission Act**

Financial Data for Fiscal Years 2011–2015 (in thousands)

	FY2011	FY2012	FY2013	FY2014	FY2015
Beginning Balance	\$1,826	\$1,991	\$2,232	\$2,417	\$2,433
Revenues	313	241	185	190	148
Interest	0	0	0	0	0
Expenditures	(148)	0	0	(174)	(10)
Transfers (net)	0	0	0	0	0
Ending Balance	\$1,991	\$2,232	\$2,417	\$2,433	\$2,571
Encumbrances	\$0	\$0	\$0	\$0	\$0

This fund continues to serve the purpose for which it was created and meets the criteria for a revolving fund. Created in 1921, the fund satisfies the obligations of a canceled or surrendered loan and pays the net proceeds when a homestead lease is canceled or surrendered or when a lessee dies without leaving a qualified successor. A new loan is financed from this fund for the re-award of a canceled or surrendered lot. In accordance with Section 213(b) of the Hawaiian Homes Commission Act, cash inflows are primarily from loan principal repayments.

**Hawaiian Home
Operating Fund
(trust fund and special
fund)**

**Section 213(e),
Hawaiian Homes
Commission Act**

**Trust Fund — Financial Data for Fiscal Years 2011–2015
(in thousands)**

	FY2011	FY2012	FY2013	FY2014	FY2015
Beginning Balance	\$13,841	\$14,293	\$15,505	\$16,241	\$16,674
Revenues	836	1,183	1,387	1,049	792
Interest	0	0	0	0	0
Expenditures	(7,344)	(7,749)	(7,205)	(5,684)	(3,976)
Transfers (net)	6,960	7,778	6,554	5,068	6,000
Ending Balance	\$14,293	\$15,505	\$16,241	\$16,674	\$19,490
Encumbrances	\$6,294	\$5,056	\$3,266	\$3,069	\$2,674

**Special Fund — Financial Data for Fiscal Years 2011–2015
(in thousands)**

	FY2011	FY2012	FY2013	FY2014	FY2015
Beginning Balance	\$313	\$313	\$313	\$313	\$313
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	\$313	\$313	\$313	\$313	\$313
Encumbrances	\$264	\$264	\$192	\$192	\$190

This trust fund continues to serve the purpose for which it was created and meets the criteria for a trust fund. Created in 1948, the Hawaiian Home Operating Fund was established as a revolving fund, and the Hawaiian Home Development Fund was established in 1941 as a special fund. In 1986, both were merged into a special fund called the Hawaiian Home Operating Fund. Act 27, SLH 1998, later reclassified the Hawaiian Home Operating Fund as a trust fund. However, as of FY2015, the special fund has not been closed and has a remaining balance of \$313,000 and outstanding encumbrances of \$190,000. According to department personnel, the special fund will not be closed until all encumbrances have been expended and the attached contracts have been closed.

Revenues for the trust fund come from interest and earnings on investments from the Hawaiian Home Loan Fund effected by quarterly transfers-in from the Hawaiian Home Receipts Fund. In addition, moneys in excess of the amount approved by the Legislature or made available for the fiscal period were transferred-in from the Hawaiian Home Administration Account.

The trust fund is managed in two separate segments: operating and development. The operating segment is used to construct and maintain revenue-producing activities intended principally to serve the occupants of Hawaiian home lands; purchase goods and services that are resold, rented, or furnished to Hawaiian home land occupants; and pay for appraisals, studies, and consultant services. The development segment requires approval from the governor and may be used for improvements and development for present and future Hawaiian home land occupants; improvements, additions, and repairs to all assets owned or leased by

the department; engineering, architectural, and planning services for properties; consultant services; purchase or lease of equipment or real property; and construction to benefit Hawaiian Homes Commission Act beneficiaries.

Hawaiian Home Receipts Fund (trust fund)

Section 213(g), Hawaiian Homes Commission Act

Financial Data for Fiscal Years 2011–2015 (in thousands)

	FY2011	FY2012	FY2013	FY2014	FY2015
Beginning Balance	\$406	\$693	\$529	\$411	\$475
Revenues	5,247	4,614	4,548	3,492	3,290
Interest	0	0	0	0	0
Expenditures	0	0	0	0	0
Transfers (net)	(4,960)	(4,778)	(4,666)	(3,428)	(3,448)
Ending Balance	\$693	\$529	\$411	\$475	\$317
Encumbrances	\$0	\$0	\$0	\$0	\$0

This fund continues to serve the purpose for which it was created, but it functions as, and meets the criteria for a trust account and should be reclassified as such. Created in 1986, the fund is used to account for all interest earned from loans or investments from any fund except for borrowed-money loans in the Hawaiian Home General Loan Fund, the Hawaiian Home Loan Fund, the Hawaiian Home Administration Account, the Native Hawaiian Rehabilitation Fund, and the DHHL Revenue Bond Special Fund. Moneys are transferred-out quarterly as required by the Hawaiian Homes Commission Act. The fund serves as a clearing account since all moneys may be transferred-out to the Hawaiian Home Operating Fund, the Hawaiian Home Administration Account, the Hawaiian Home Trust Fund, and any loan fund in accordance with rules adopted by the department. In fiscal years 2011–2015, transfers-out were made to the Hawaiian Home Operating Fund, Hawaiian Home General Loan Fund, and the Hawaiian Home Trust Fund.

**Hawaiian Home Trust
Fund
(trust fund)**

**Section 213(h),
Hawaiian Homes
Commission Act**

Financial Data for Fiscal Years 2011–2015 (in thousands)

	FY2011	FY2012	FY2013	FY2014	FY2015
Beginning Balance	\$10,850	\$10,850	\$8,592	\$8,592	\$11,249
Revenues	0	0	0	6,355	1,124
Interest	0	0	0	0	0
Expenditures	0	(2,258)	0	(4,098)	(1,122)
Transfers (net)	0	0	0	400	949
Ending Balance	\$10,850	\$8,592	\$8,592	\$11,249	\$12,200
Encumbrances	\$0	\$0	\$0	\$0	\$0

This fund continues to serve the purpose for which it was created and meets the criteria for a trust fund. Created by the 1978 Constitutional Convention, the fund is primarily used as a reserve for loans that are insured by the Federal Housing Administration and other agencies that are authorized to insure or guarantee loans. Act 27, SLH 1998, reclassified the fund from a special fund to a trust fund. Moneys deposited into this fund are available for transfers into any other fund or account authorized by the Hawaiian Homes Commission Act for any public purpose, which includes using this trust fund as a reserve for loans insured or guaranteed by the Federal Housing Administration, Department of Veterans Affairs, or any other federal agency authorized to insure or guarantee loans. Transfers-in were made from the Hawaiian Home Receipts Fund to deposit interest moneys earned from loans.

**Native Hawaiian
Rehabilitation Fund
(trust fund and special
fund)**

**Section 213(i),
Hawaiian Homes
Commission Act**

**Trust Fund — Financial Data for Fiscal Years 2011–2015
(in thousands)**

	FY2011	FY2012	FY2013	FY2014	FY2015
Beginning Balance	\$7,742*	\$7,021	\$6,018	\$5,489	\$5,709
Revenues	464	452	380	661	555
Interest	0	0	0	0	0
Expenditures	(1,185)	(1,455)	(909)	(441)	(470)
Transfers (net)	0	0	0	0	0
Ending Balance	\$7,021	\$6,018	\$5,489	\$5,709	\$5,794
Encumbrances	\$3,228	\$3,232	\$2,569	\$2,153	\$1,341

*FY2011 beginning balance does not agree to FY2010 ending balance in Report No. 10-09 due to rounding.

**Special Fund — Financial Data for Fiscal Years 2011–2015
(in thousands)**

	FY2011	FY2012	FY2013	FY2014	FY2015
Beginning Balance	\$140	\$140	\$140	\$140	\$140
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	\$140	\$140	\$140	\$140	\$140
Encumbrances	\$59	\$59	\$59	\$53	\$34

The trust fund continues to serve the purpose for which it was created and meets the criteria for a trust fund. Created by the 1978 Constitutional Convention, the fund finances various activities intended to benefit Native Hawaiians exclusively, such as community-based projects and education scholarship programs within the Native Hawaiian community. Revenues come from water license receipts and 30 percent of the state receipts derived from previously cultivated land and cultivated sugarcane land. Act 27, SLH 1998, reclassified the fund from a special fund to a trust fund. However, as of FY2015, the special fund has not been closed and has a remaining balance of \$140,000 and outstanding encumbrances of \$34,000. According to department personnel, the special fund will not be closed until all encumbrances have been expended and the related contracts closed.

**Security Deposits/
Clearing Account
(trust fund)**

**Administratively
established**

Financial Data for Fiscal Years 2011–2015 (in thousands)

	FY2011	FY2012	FY2013	FY2014	FY2015
Beginning Balance	\$3,532	\$1,425	\$1,326	\$2,591	\$2,598
Revenues	1,272	223	1,375	118	141
Interest	0	0	0	0	0
Expenditures	(3,379)	(322)	(110)	(111)	(1,095)
Transfers (net)	0	0	0	0	0
Ending Balance	\$1,425	\$1,326	\$2,591	\$2,598	\$1,644
Encumbrances	\$0	\$0	\$23	\$23	\$0

This fund continues to serve the purpose for which it was created, but functions as, and meets the criteria for, a trust account and should be reclassified as such. Created in 1998, the fund accounts for security deposits held for leased properties and other payments that are received with insufficient documentation to explain the purpose of the payment. Moneys remain in this account until refunded or the department is able to resolve the purpose of the payment.

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Chapter 3

Funds Committed to Long-Outstanding Contracts, Funds Not Reported

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

During our review of the special, revolving, and trust funds of the Department of Hawaiian Home Lands (DHHL), we noted inconsistent adherence to statutory requirements and reporting of financial transactions and balances. In addition, we noted special and trust fund balances that were committed to long-outstanding contracts.

Long-Outstanding Contracts Unnecessarily Commit Funds

In our review of special, revolving, and trust funds, we noted FY2015 fund balances were committed to several contract encumbrances made more than five years ago. There were 86 old contract encumbrances totaling almost \$4.6 million at the end of FY2015. A summary of these contract encumbrances is shown in Exhibit 3.1.

Exhibit 3.1 DHHL Funds With Long-Outstanding, Encumbered Contracts

Encumbrance Fiscal Year Range	Fund Name	Fund Type	FY2015 Ending Balance
1998–2009	Hawaiian Home Land Trust Fund	Trust	\$2,705,298
1994–2009	Hawaiian Home Operating Fund	Special and Trust	1,117,406
1989–2009	Native Hawaiian Rehabilitation Fund	Special and Trust	724,541
1997-2003	Hawaiian Home Administration Account	Special	41,775
Total			\$4,589,020

Source: Office of the Auditor

Section 40-90, Hawai'i Revised Statutes (HRS), states that encumbrances for contracts become void five years after the end of the fiscal year of the original encumbrance. The comptroller may grant an exemption from this subsection if the comptroller finds there is sufficient justification to extend such an encumbrance. Although DHHL received comptroller approval on May 26, 2015, for its request for extension, the department should resolve these long-outstanding encumbrances timely to avoid unnecessarily committing funds that could be directed to other programs.

DHHL Did Not Report All Funds As Required by Law

Section 37-47, HRS, requires departments to submit to the Legislature an annual report of each non-general fund account. These reports, often referred to as non-general fund reports, must include:

1. The name of the fund and a cite to the law authorizing the fund;
2. The intended purpose of the fund;
3. Current program activities that the fund supports;
4. The balance of the fund at the beginning of the current fiscal year;
5. The total amount of expenditures and other outlays from the fund account for the previous fiscal year;
6. The total amount of revenue deposited to the account for the previous fiscal year;
7. A detailed list of all transfers from the fund;
8. The amount of moneys encumbered in the account as of the beginning of the fiscal year;
9. The amount of funds in the account that are required for bond conveyance or other related bond obligations;
10. The amount of moneys in the account derived from bond proceeds; and
11. The amount of moneys in the fund held in certificates of deposit, escrow accounts, or other investments.

We noted that two of the ten funds we reviewed were not reported to the Legislature in non-general fund report filings. At the end of FY2015, these funds had a total balance of \$35.2 million, as shown in Exhibit 3.2.

**Exhibit 3.2
DHHL’s Funds Not Reported to the Legislature**

Fund Name	Fund Type	FY2015 Ending Balance (rounded)
Hawaiian Home Administration Account*	Special	\$33,569,000
Security Deposits/Clearing Account	Trust	1,644,000
Total		\$35,213,000

*The financial activities for this special fund were reported under the Management and General Support for Hawaiian Homesteads and the Planning and Development for Hawaiian Homesteads accounts which are not special funds.

Source: Office of the Auditor

Fund reports are one of the primary means through which legislative money committees track non-general funds. The reports are used to monitor fund balances and identify excess moneys for possible transfer to the general fund. According to the Senate Ways and Means Committee, there is no master list of 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. All departments must 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. While we have no evidence to suggest omission of non-general fund reports by DHHL was intentional, we must reiterate the importance of this reporting function.

DHHL Did Not Report One Administratively Created Fund

Section 37-52.5, HRS, requires any department (excluding the Judiciary) that administratively establishes a new fund or account to submit a report to the Legislature. The report, which must be filed within 30 working days of a fund’s creation, must include a justification for the fund or account and identification of its sources of revenue. The law also requires each department, at least 20 days prior to the convening of each regular legislative session, to submit a report listing all administratively established funds or accounts along with a statement of their revenues, expenditures, encumbrances, and ending balances for each fund or account.

We noted that DHHL did not submit a report to the Legislature for one administratively created trust fund. At the end of FY2015, this fund had a balance of \$1.6 million, as shown in Exhibit 3.3.

**Exhibit 3.3
DHHL’s Administratively Created Fund Not Reported to
the Legislature**

Fund Name	Fund Type	FY2015 Ending Balance (rounded)
Security Deposits/Clearing Account	Trust	\$1,644,000
Total		\$1,644,000

Source: Office of the Auditor

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 this reporting requirement. The memorandum noted that departments and agencies are responsible for meeting the requirements as of July 1, 2002. However, DHHL told us it has not filed these reports. These informational gaps hinder the Legislature’s ability to monitor non-general funds.

Response of the Affected Agency

Comments on Agency Response

We transmitted a draft of this review to the Department of Hawaiian Home Lands on November 4, 2015. A copy of the transmittal letter is included as Attachment 1. The department's response, dated November 16, 2015, is included as Attachment 2.

The department generally agreed with our findings. However, it provided clarification on two trust funds and reported that as of November 9, 2015, it had closed 78 of 86 long-standing contracts, worth more than \$3.8 million. The department also disagreed with our conclusion that it did not report all funds to the Legislature as required by law. The department said it is still in the process of completing its reports and that since the reports are due November 27, 2015, it is not remiss in this reporting requirement. We reiterate that our review refers to FY2014 reporting requirements, which were due in November 2014, and stand by our conclusion.

STATE OF HAWAII
OFFICE OF THE AUDITOR
465 S. King Street, Room 500
Honolulu, Hawaii 96813-2917



JAN K. YAMANE
Acting State Auditor

(808) 587-0800
FAX: (808) 587-0830

November 4, 2015

COPY

via EMAIL: Rodney.k.lau@hawaii.gov

Mr. Rodney K.M. Lau
Administrative Services Officer
Department of Hawaiian Home Lands
P.O. Box 1879
Honolulu, Hawai'i 96805

Dear Mr. Lau:

Attached for your information is a .pdf of our confidential draft report no. 4, *Review of Special Funds, Trust Funds and Trust Accounts of the Department of Hawaiian Home Lands*. We ask that you telephone us by Friday, November 6, 2015, on whether or not you intend to comment on our recommendations. If you wish your comments to be included in the report, please submit your hard copy response to our office no later than 12 noon, November 16, 2015.

The Governor, and presiding officers of the two houses of the Legislature have also been provided .pdf copies of this confidential draft report.

Since this report is not in final form and changes may be made to it, access to the report should be restricted to those assisting you in preparing your response. Public release of the report will be made solely by our office and only after the report is published in its final form.

Sincerely,

Jan K. Yamane
Acting State Auditor

Attachment

DAVID Y. IGE
GOVERNOR
STATE OF HAWAII



JOBIE M. K. MASAGATANI
CHAIRMAN
HAWAIIAN HOMES COMMISSION

SHAN S. TSUTSUI
LT. GOVERNOR
STATE OF HAWAII

WILLIAM J. AILA, JR.
DEPUTY TO THE CHAIRMAN

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P. O. BOX 1879
HONOLULU, HAWAII 96805

November 16, 2015

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OFF. OF THE AUDITOR
STATE OF HAWAII

The Honorable Jan K. Yamane
Acting State Auditor
465 S. King Street, Room 500
Honolulu, Hawaii 96813-2917

Dear Ms. Yamane:

Subject: Review of Special Funds, Trust Funds and Trust
Accounts of the Department of Hawaiian Home Lands

Thank you for the opportunity to comment on the State Auditor's draft report, *Review of Special Funds, Trust Funds and Trust Accounts of the Department of Hawaiian Home Lands*. We are in general agreement with the findings of the review. However, we would like to highlight several areas where the department does not concur, has concerns or has taken corrective action.

I. DHHL Funds Not Meeting Criteria

In Exhibit 2.3 of the Auditor's draft report, the Auditor asserts that the "Hawaiian Home Receipts Fund" does not meet criteria for continuance and should be repealed or reclassified as a Trust Account. The Auditor describes Trust accounts as "accounting devices to credit or charge agencies or projects for payroll or other costs." DHHL is unable to find a statutory definition of a "Trust Account" in the Hawaii Revised Statutes.

The "Hawaiian Home Receipts Fund" is classified as a trust fund pursuant to Section 213(g) of the Hawaiian Homes Commission Act and underwent Congressional review and consent when established. Reclassifying this trust fund to a trust account understates the important role of this fund and may require Congressional consent for amendment as this is not an administrative change, but a substantive change.

In Exhibit 2.3, the Auditor asserts that the "Security Deposits/Clearing Account" does not meet criteria for continuance and should be repealed or reclassified as a Trust Account. This is an administratively created fund that is primarily used to hold in reserves general lessee's security deposit for the life of a general lease and native Hawaiian association benefit funds.

II. Department Did Not Report All Funds As Required by Law

The Auditor asserts that the department did not report fiscal year 2015 balances to the Legislature relating to the "Hawaiian Home Administration Account" and the "Security Deposits/Clearing Account". The Auditor describes the process starts with completing Form 37-47, *Report on Non-General Fund Information*, to the Department of Budget and Finance.

Pursuant to the Department of Budget and Finance, Finance Memorandum 15-13, dated October 19, 2015, completed Form 37-47 reports are due to the Department of Budget and Finance on November 27, 2015. Since the reports are not due yet, DHHL is still in the process of completing the Form 37-47 reports (including the Hawaiian Home Administration Account and the Security Deposits/Clearing account reports) and should not be found remiss.

III. DHHL Did Not Report One Administratively Created Fund

The Auditor states that Section 37-52.5, HRS requires any department that administratively establishes a new fund or account to submit a report to the Legislature within 30 working days. The "Security Deposits/Clearing Account", as described above in section I, requires Section 37-52.5 reporting. Department acknowledges the finding and will take appropriate measures to ensure compliance.

IV. Long-Outstanding Contracts Unnecessarily Commit Funds

The Auditor identified 86 long standing contracts totaling almost \$4.6 million. As of November 9, 2015, DHHL closed 78 contracts totaling \$3,836,205.

The Honorable Jan K. Yamane
November 16, 2015
Page 3

V. Financial Data Exhibits

Discrepancies were identified in the data of the DHHL fund schedule in Exhibit 2.2, "DHHL Fund Totals by Type, FY 2015" which appear on page 8 of the Auditor's draft report. Corrections are shown in the attached Exhibit A.

Corrections to financial data on page 9, "Department of Hawaiian Home Lands Revenue Bond Special Fund (special fund)", are listed in the attached Exhibit B.

Clarification is provided to the "Hawaiian Home Administration Account (special fund)" on page 10 of the Auditor's draft report. The Hawaiian Home Administration Account was created by Congress in November 1941 (55 Stat. 782, 785). In 1998, DHHL funds were managed by two program IDs to manage a portion of the administrative and operating costs of the department. Today there is only one program ID, HHL 602.

Financial data for fiscal years 2011-2015 have been corrected to reflect program ID HHL 602 transactions in Exhibit C.

On page 15, the narrative should indicate that the "Transfer-in" were from Hawaiian Home Receipts Fund loan interest deposits received for the "FHA Section 247 Insured Loan program."

We appreciate the opportunity to comment on the draft report and are pleased with the diligent review performed on the department's special, revolving and trust funds.

Aloha,



Jobie M.K. Masagatani, Chairman
Hawaiian Homes Commission

Enclosure

Exhibit A

DHHL Fund Totals by Type, FY 2015 (in thousands)

Fund Type	Revenue and Interest	Expenses and Transfers	Year-End Cash Balance
Special Funds	\$18,562	(\$14,403)	\$46,612
Revolving Funds	4,666	(2,061)	19,397
Trust Funds	40,862	(2,077)	203,412
Total	\$64,090	(\$18,541)	\$269,421

Exhibit B

DHHL Revenue Bond Special Fund (S-350-I)					
Financial Data for Fiscal Years 2011-2015 (in thousands)					
	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Beginning Balance	\$13,187	\$13,382	\$13,694	\$13,727	\$13,129
Revenues	3,207	3,064	3,034	3,033	3,050
Interest	0	0	0	0	0
Expenditures	(3,012)	(2,752)	(3,001)	(3,631)	(3,145)
Transfers (net)	0	0	0	0	0
Ending Balance	\$13,382	\$13,694	\$13,727	\$13,129	\$13,034
Encumbrances	\$850	\$1,297	\$1,496	\$284	\$341

Exhibit C

Hawaiian Home Administration Account (S-325-I)					
Financial Data for Fiscal Years 2011-2015 (in thousands)					
	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Beginning Balance	\$18,809	\$19,689	\$19,674	\$20,111	\$29,324
Revenues	11,313	12,273	12,494	15,792	15,512
Interest	0	0	0	0	0
Expenditures	(8,435)	(9,284)	(9,033)	(2,598)	(5,271)
Transfers (net)	(1,998)	(3,003)	(3,024)	(3,981)	(5,987)
Ending Balance	\$19,689	\$19,675	\$20,111	\$29,324	\$33,578
Encumbrances	\$1,357	\$1,561	\$1,024	\$923	\$2,727