
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. 20-16
November 2020



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:
<http://auditor.hawaii.gov>

Foreword

This is a report of our review of the special funds, revolving funds, trust funds, and trust accounts administered by the State of Hawai‘i, Department of Hawaiian Home Lands.

Section 23-12, Hawai‘i Revised Statutes (HRS), requires the Auditor to review all existing special, revolving, and trust funds once every five years. Although not mandated by statute, we included trust accounts as part of our review. This is our sixth review of the revolving funds, trust funds, and trust accounts, and our second review of the special funds of the Department of Hawaiian Home Lands.

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.

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 Department of Hawaiian Home Lands (DHHL). 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. For each fund, the Auditor’s review must include:

1. An evaluation of the original intent and purpose of the fund, both as expressed by the Legislature and as understood by the expending agency;
2. The degree to which the 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 balance for each fiscal year.

This is our sixth review of DHHL’s revolving funds, trust funds, and trust accounts.¹ It is our second review of DHHL’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. 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. We last examined these funds and accounts in 2015.

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 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 to review trust funds and trust accounts are the extent to which each fund and 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 the degree to which each fund 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 DHHL.
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 (FY2016 – FY2020) unaudited financial summary for each fund and account of DHHL.

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 (FY2016 – FY2020). Funds and accounts included those established by statute as well as by administrative authority.

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, 2015 to June 30, 2020), 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 FY2015 reported in our last review and opening balances reported for FY2016. We did not audit DHHL'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. 15-15, *Review of Special Funds, Revolving Funds, Trust Funds and Trust Accounts of the Department of Hawaiian Home Lands*.

Our review was conducted from August to October 2020. Recommendations were made where applicable.

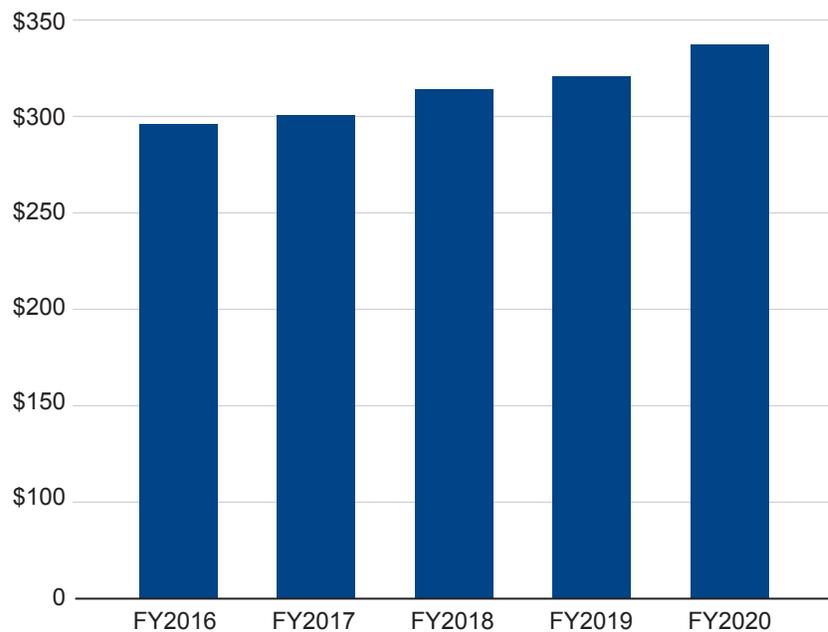
Chapter 2

Department of Hawaiian Home Lands

This section presents the results of our review of 4 special funds, 2 revolving funds, 6 trust funds, and 1 trust account. Total fund fiscal year-end balances amounted to at least \$287 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 DHHL Non-General Funds
FY2016 – FY2020 (in millions)



Source: Office of the Auditor

Substantial amounts were also collected and expended by the funds annually. In FY2020, the special funds, revolving funds, trust funds, and trust accounts collected more than \$66 million and spent or transferred more than \$47 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 FY2020.

**Exhibit 2.2
DHHL Fund and Account Totals by Type, FY2020**

Fund Type	Revenue and Interest	Expenses and Transfers	FY2020 End Cash Balance
Special Funds	\$19,072,000	\$19,460,000	\$42,946,000
Revolving Funds	13,361,000	2,098,000	50,653,000
Trust Funds/Trust Accounts	33,902,000	25,854,000	241,061,000
Total	\$66,335,000	\$47,412,000	\$334,660,000

Source: Office of the Auditor

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

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

**Exhibit 2.3
DHHL Fund Not Meeting Criteria**

Fund Name	Fund Type	FY2020 Ending Balance (rounded)	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
Hawaiian Home Receipts Fund	Trust Fund	\$818,000					✓
Total		\$818,000					

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 2016 – 2020 (in thousands)					
	FY2016	FY2017	FY2018	FY2019	FY2020
Beginning Balance	\$13,035*	\$13,094	\$10,173	\$12,022	\$11,889
Revenues	3,070	91	5,057	3,082	1,145
Interest	0	0	0	0	0
Expenditures	(3,011)	(3,012)	(3,208)	(3,215)	(2,654)
Transfers**	0	0	0	0	10,736
Ending Balance	\$13,094	\$10,173	\$12,022	\$11,889	\$21,116
Encumbrances	\$529	\$700	\$243	\$103	\$650

*FY2016 beginning balance does not agree to FY2015 ending balance in Report No. 15-15. During our prior review, balances for DHHL Revenue Bond Special Fund (S-350) were combined with Hawaiian Home Trust Fund (T-991). Our current review analyzes and reports on each fund separately.

**Transfers from Hawaiian Home Administration Account to DHHL Revenue Bond Special Fund pursuant to DHHL General Bond Resolution dated August 25, 2017.

This fund meets the criteria of a special fund and continues to serve the purpose for which it was originally established. Established in 1989, the fund is used to account for each undertaking financed from the proceeds of revenue bonds. Revenues are from all rentals, income, receipts, and other revenues derived by the department from the particular undertaking for which financing is undertaken and includes moneys committed for debt service, maintenance of reserve accounts, and interest from investments of reserve accounts. Expenditures primarily include repayment of 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 2016 – 2020 (in thousands)*					
	FY2016	FY2017	FY2018	FY2019	FY2020
Beginning Balance	\$33,575	\$30,081	\$44,142	\$39,258	\$31,443
Revenues	22,574	16,263	16,681	17,547	17,928
Interest	0	0	0	0	0
Expenditures	(26,068)	(2,202)	(21,565)	(25,362)	(16,806)
Transfers (net)**	0	0	0	0	(10,736)
Ending Balance	\$30,081	\$44,142	\$39,258	\$31,443	\$21,829
Encumbrances	\$2,230	\$2,313	\$2,808	\$1,941	\$2,996

*The financial data presented is a consolidation of the Hawaiian Home Administration Account (special fund, S-305) which is managed together with the Planning and Development for Hawaiian Homesteads fund (special fund, S-325) and the Management and General Support for Hawaiian Homesteads fund (special fund, S-326). The department asserts that the fund identified in FAMIS as S-398 Protocol Funds for Executive Heads is a part of S-325 and supports program Planning and Development for Hawaiian Homesteads (HHL 602). The only source of income for the S-398 account are transfers from the Hawaiian Home Administrative Account (S-325). This account is also included in the financial data presented. The balances for S-398 Protocol Funds for Executive Heads were not included in the prior review, as such, the beginning balance for FY2016 differs from the FY2015 ending balance.

**Transfers from Hawaiian Home Administration Account (S-325) to DHHL Revenue Bond Special Fund pursuant to DHHL General Bond Resolution dated August 25, 2017.

This fund meets the criteria of a special fund and continues to serve the purpose for which it was originally established. Established in 1998, the fund is used to hold receipts from any leasing or dispositions of the department's available lands. Revenues are from receipts from general leases, licenses, revocable permits, rights of entry, any other dispositions of Hawaiian home lands and any interest in other earnings arising out of investments from this fund. Expenditures include salaries and other administration expenses of the department and are required to be incorporated into the executive budget and appropriated by the Legislature before they can be used for salaries and operating costs.

The excess of the receipts deposited into this fund over the amount approved or made available by the Legislature may be transferred to the Hawaiian Home Operating Fund (trust fund).

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

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

Financial Data for Fiscal Years 2016 – 2020 (in thousands)

	FY2016	FY2017	FY2018	FY2019	FY2020
Beginning Balance	\$16,826	\$21,687	\$27,252	\$28,147	\$36,156
Revenues	9,542	9,161	9,796	12,317	13,271
Interest	0	0	0	0	0
Expenditures	(4,681)	(3,596)	(8,901)	(4,308)	(2,098)
Transfers	0	0	0	0	0
Ending Balance	\$21,687	\$27,252	\$28,147	\$36,156	\$47,329
Encumbrances	\$0	\$0	\$0	\$0	\$0

This fund continues to serve the purpose for which it was established and meets the criteria for a revolving fund. Established in 1986, Act 249, SLH 1986, consolidated five existing funds to create this fund which provides loans to native Hawaiians. Revenues are from the repayment of principal loan amounts. Interest from loans are transferred in from the Hawaiian Home Receipts Trust Fund on a quarterly basis. However, the quarterly transfers from the Hawaiian Home Receipts Trust Fund are reflected in revenues and not as transfers in FAMIS. The Hawaiian Home General Loan Fund finances department loans for the following purposes:

- Repair, maintenance, purchase, or erection of dwellings on any tract and any permanent improvements
- Guaranteed loans
- Replacement loans
- Farm loans not to exceed \$200,000
- New home construction loans

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

**Section 213.6, Hawaiian
Homes Commission
Act**

Financial Data for Fiscal Years 2016 – 2020 (in thousands)					
	FY2016	FY2017	FY2018	FY2019	FY2020
Beginning Balance	\$165,611	\$156,673	\$146,061	\$150,704	\$145,842
Revenues	2,150	1,465	7,004	1,942	5,874
Interest	0	0	0	0	0
Expenditures	(11,088)	(12,077)	(2,361)	(6,804)	(997)
Transfers	0	0	0	0	0
Ending Balance	\$156,673	\$146,061	\$150,704	\$145,842	\$150,719
Encumbrances	\$15,348	\$12,605	\$8,050	\$7,039	\$7,821

This fund meets the criteria of a trust fund and continues to serve the purpose for which it was originally established. Established in 1995, the fund is used to settle all claims made on behalf of the Hawaiian Home Lands Trust against the State between August 21, 1959 and July 1, 1988, pursuant to Act 14, Special Session 1995 (DHHL Land Claims Settlement Act). The DHHL Land Claims Settlement Act requires the State make twenty annual deposits of \$30 million, or their discounted equivalent, into this fund. Revenues are also from interest or other earnings arising out of investments from this fund. Expenditures include financing capital improvement projects.

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

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

Financial Data for Fiscal Years 2016 – 2020 (in thousands)					
	FY2016	FY2017	FY2018	FY2019	FY2020
Beginning Balance	\$2,571	\$2,733	\$2,484	\$3,032	\$3,236
Revenues	162	142	548	204	89
Interest	0	0	0	0	0
Expenditures	0	(391)	0	0	0
Transfers	0	0	0	0	0
Ending Balance	\$2,733	\$2,484	\$3,032	\$3,236	\$3,325
Encumbrances	\$0	\$0	\$0	\$0	\$0

This fund continues to serve the purpose for which it was established and meets the criteria for a revolving fund. Established in 1921, the fund is used to pay the net proceeds when a homestead lease is canceled, surrendered, or when a lessee passes without a qualified successor. The fund is also used to make loans to lessees or licensees for purposes including, but not limited to, purchasing, building, maintaining or repairing improvements; purchasing livestock, poultry, swine, fowl, farm and aquaculture equipment; and assisting in the development of tracts or farm, ranch and aquaculture operations. Revenues are from the repayment of principal loan amounts originating from the fund. Expenditures include the payment of net proceeds when a homestead lease is canceled, surrendered, or when a lessee passes without a qualified successor. New loans are financed from this fund for the re-award of canceled or surrendered lots.

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

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

Financial Data for Fiscal Year 2016 (in thousands)

	FY2016
Beginning Balance	\$313
Revenues	0
Interest	0
Expenditures	(313)
Transfers	0
Ending Balance	\$0
Encumbrances	\$0

This fund was closed in 2016 and the remaining balance expended. Created in 1948, the Hawaiian Home Operating Fund was originally established as a revolving fund. In 1986, this fund merged with the Hawaiian Home Development Fund (special fund) and was later reclassified to a trust fund pursuant to Act 27, SLH 1998. In Report No. 15-15, we noted that DHHL had not closed this special fund because encumbrances had not been spent and contracts had not been closed. DHHL subsequently closed this fund in FY2016.

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

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

Financial Data for Fiscal Years 2016 – 2020 (in thousands)*					
	FY2016	FY2017	FY2018	FY2019	FY2020
Beginning Balance	\$19,490	\$36,949	\$35,612	\$50,687	\$63,664
Revenues	21,843	984	21,069	24,614	16,093
Interest	0	0	0	0	0
Expenditures	(4,384)	(2,274)	(5,994)	(11,637)	(13,204)
Transfers (net)**	0	(47)	0	0	0
Ending Balance	\$36,949	\$35,612	\$50,687	\$63,664	\$66,553
Encumbrances	\$4,427	\$5,312	\$8,105	\$15,499	\$55,723

*The financial data presented is a consolidation of the Hawaiian Home Operating Fund (trust fund, T-915) which is managed together with the Planning and Development for Hawaiian Homesteads Fund (trust fund, T-905).

**Transfer to Native Hawaiian Rehabilitation Fund for the purpose of correcting a mis-posted revenue payment from the Department of Agriculture.

This fund meets the criteria of a trust fund and continues to serve the purpose for which it was originally established. Established in 1948, the Hawaiian Home Operating Fund was originally established as a revolving fund, and the Hawaiian Home Development Fund as a special fund in 1941. In 1986, both funds merged into the Hawaiian Home Operating Fund, a special fund. Act 27, SLH 1998, later reclassified the Hawaiian Home Operating Fund from a special fund to a trust fund.

Revenues are from interest and earnings on investments from the Hawaiian Home Loan Fund (revolving fund, S-302) effected by quarterly transfers in from the Hawaiian Home Receipts Fund (trust fund, T-916). The fund serves as a catch-all for moneys received from other sources that are not tied to a specific fund. Moneys in excess of the amount approved by the Legislature or made available for the fiscal period are transferred in from the Hawaiian Home Administration Account (special fund, S-305).

This Hawaiian Home Operating Fund is managed together with the Planning and Development for Hawaiian Homesteads fund in two separate parts: operating (trust fund, T-915) and development (trust fund, T-905). Operating expenditures include constructing and maintaining revenue producing activities intended principally to serve the occupants of Hawaiian home lands; purchasing goods and services that are resold, rented, or furnished to Hawaiian home land occupants; and paying for appraisals, studies, and consultant services.

Development expenditures require approval from the governor and may include the improvement 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; acquisition or lease of 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 2016 – 2020 (in thousands)

	FY2016	FY2017	FY2018	FY2019	FY2020
Beginning Balance	\$317	\$308	\$673	\$1,466	\$656
Revenues	4,157	5,065	5,193	5,456	8,265
Interest	0	0	0	0	0
Expenditures	(4,166)	(4,700)	(4,400)	(6,266)	(8,103)
Transfers	0	0	0	0	0
Ending Balance	\$308	\$673	\$1,466	\$656	\$818
Encumbrances	\$0	\$0	\$0	\$0	\$0

This fund does not meet all the criteria of a trust fund because it functions more like a trust account that serves as a clearing account and accounting device, but continues to serve the purpose for which it was originally established. Established in 1986, the fund is used as a clearing account for interest moneys from loans or investments received by the department from department funds. At the end of each quarter, moneys in this fund are transferred 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 2015, we reviewed this fund and recommended the department reclassify this fund from a trust fund to a trust account. We continue to believe the fund should be reclassified as a trust account.

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

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

Financial Data for Fiscal Years 2016 – 2020 (in thousands)					
	FY2016	FY2017	FY2018	FY2019	FY2020
Beginning Balance	\$12,200	\$12,200	\$12,200	\$12,200	\$11,799
Revenues	0	0	0	0	0
Interest	0	0	0	0	0
Expenditures	0	0	0	(401)	0
Transfers	0	0	0	0	0
Ending Balance	\$12,200	\$12,200	\$12,200	\$11,799	\$11,799
Encumbrances	\$0	\$0	\$0	\$0	\$0

This fund meets the criteria of a trust fund and continues to serve the purpose for which it was originally established. Established in 1978, the fund is primarily used as a reserve for loans that are insured by the Federal Housing Administration (FHA) and other agencies 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 and may be used for any public purpose. Public purposes include the formation of an account within the fund that may be used, as a reserve for loans insured or guaranteed by the FHA, Department of Veterans Affairs, or any other federal agency authorized to insure or guarantee loans. Revenues are from the sale of homes from reassigned loans insured by an FHA loan program and FHA insurance premiums.

***Hawaiian Home Trust
Fund (Not in State
Treasury)
(trust fund)***

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

Financial Data for Fiscal Years 2016 – 2020 (in thousands)

	FY2016	FY2017	FY2018*	FY2019	FY2020
Beginning Balance	\$3,533	\$3,787	\$3,795	\$1,025	\$1,783
Revenues	3,265	3,021	39,535	3,767	3,052
Interest	0	0	0	0	0
Expenditures	(3,011)	(3,013)	(42,305)	(3,009)	(3,027)
Transfers	0	0	0	0	0
Ending Balance	\$3,787	\$3,795	\$1,025	\$1,783	\$1,808
Encumbrances	\$0	\$0	\$0	\$0	\$0

*The large variance in FY2018 revenue/expenditures is due to DHHL successfully pricing \$30,940,000 Revenue Bond Series 2017. Proceeds were used to refund \$36,640,00 Revenue Bond Series 2009.

This fund meets the criteria of a trust fund and continues to serve the purpose for which it was originally established. Established in 2010, this fund is used to account for moneys relating to DHHL Revenue Bonds, Series 2009, that are kept outside of the State Treasury with Wells Fargo Bank. Under the Hawaiian Homes Commission Act, DHHL is authorized to deposit the reserve for loans in any duly organized bank in the State or elsewhere in the United States with automatic fund transfer capabilities and at such reserve amounts reasonably required by the federal agencies as a condition for participation in their respective insurance or guarantee programs. Revenues are from moneys committed for debt service, maintenance of reserve accounts, and interest from investments of reserve accounts. The moneys in this account are primarily used to repay the debt service on the bonds and to maintain a reserve account required by the bond resolution.

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

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

Financial Data for Fiscal Year 2016 (in thousands)

	FY2016
Beginning Balance	\$140
Revenues	0
Interest	0
Expenditures	(140)
Transfers	0
Ending Balance	\$0
Encumbrances	\$0

This fund was closed in 2016 and the remaining balance was transferred to the Native Hawaiian Rehabilitation Trust Fund. Established by the 1978 Constitutional Convention, the fund financed various activities intended to benefit native Hawaiians, including but not limited to, educational, economic, political, social, and cultural processes by which the general welfare and conditions of native Hawaiians are improved and perpetuated.

As we reported in 2015, Act 27, SLH 1998, reclassified this fund from a special fund to a trust fund. However, as of FY2015, this special fund had a remaining balance of \$140,000 and outstanding encumbrances of \$34,000. The department would not close this special fund until all encumbrances were expended and the related contracts closed. This special fund was subsequently closed in FY2016.

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

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

Financial Data for Fiscal Years 2016 – 2020 (in thousands)

	FY2016	FY2017	FY2018	FY2019	FY2020
Beginning Balance	\$5,794	\$6,215	\$6,630	\$6,683	\$6,567
Revenues	544	582	290	501	478
Interest	0	0	0	0	0
Expenditures	(123)	(213)	(237)	(617)	(487)
Transfers*	0	46	0	0	0
Ending Balance	\$6,215	\$6,630	\$6,683	\$6,567	\$6,558
Encumbrances	\$283	\$254	\$627	\$873	\$891

*Transfer from Hawaiian Home Operating Fund for the purpose of correcting a mis-posted revenue payment from the Department of Agriculture.

This fund meets the criteria of a trust fund and continues to serve the purpose for which it was originally established. Established by the 1978 Constitutional Convention, the fund finances various activities intended to benefit native Hawaiians. The activities include but are not limited to, educational, economic, political, social, and cultural processes by which the general welfare and conditions of native Hawaiians are improved and perpetuated. Revenues are from 30 percent of the state receipts derived from lands previously cultivated as sugarcane lands and from water licenses; 15 percent of all revenues from lease extensions; and any payments of principal, interest or other earnings arising out of the loan or investments from this fund. Expenditures include funding various activities for the rehabilitation of native Hawaiians, native Hawaiian families, and Hawaiian homestead communities.

Act 27, SLH 1998, reclassified the Native Hawaiian Rehabilitation Fund from a special fund to a trust fund. The special fund was subsequently closed in FY2016 and the remaining balance was transferred to this trust fund.

**Security Deposits
Clearing Account
(trust account)**

**Administratively
established**

Financial Data for Fiscal Years 2016 – 2020 (in thousands)					
	FY2016	FY2017	FY2018	FY2019	FY2020
Beginning Balance	\$1,644	\$2,938	\$2,721	\$2,623	\$2,702
Revenues	1,294	124	76	158	139
Interest	0	0	0	0	0
Expenditures	0	(341)	(174)	(79)	(36)
Transfers	0	0	0	0	0
Ending Balance	\$2,938	\$2,721	\$2,623	\$2,702	\$2,805
Encumbrances	\$0	\$42	\$0	\$0	\$0

This account meets the criteria of a trust account and continues to serve the purpose for which it was originally created. Administratively established in 1998, the account is used as a temporary clearing account for (1) security deposits received from lessees with general leases, licenses and/or revocable permits from the department, and (2) transactions and other payments received with insufficient documentation to explain the purpose of the payment. Deposits remain in this account until refunded. Moneys from unexplained transactions or other payments remain in this account until the department is able to determine the original purpose of the payment.

Chapter 3

Observations on the Department of Hawaiian Home Land's Reporting and Accounting for Funds

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

DHHL Did Not Report Non-General 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, 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 37-52.5, 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 the Judiciary and 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 and distinct from the non-general fund report required under Section 37-47, HRS.

During our review of DHHL's non-general funds, we noted noncompliance with statutory requirements to report financial activity and balances, as required by Section 37-47, HRS. As shown in Exhibit 3.1, DHHL had non-general funds with balances totaling \$1.7 million that were not reported to the 2020 Legislature as required by Section 37-47, HRS.

**Exhibit 3.1
DHHL Non-General Fund Not Reported to the Legislature**

Fund Name	Fund Type	HRS 37-47 (Non- General)	FY2019 Ending Balance (rounded)	HRS 37-52.5 (Admin Created)	FY2019 Ending Balance (rounded)
Hawaiian Home Trust Fund (Not in State Treasury)	Trust Fund	✓	\$1,783,000		
Total			\$1,783,000		

Source: Office of the Auditor

Office of the Auditor’s Comments on the Department of Hawaiian Home Land’s Response

Comments on Agency Response

We transmitted to DHHL a draft of our review of its special funds, revolving funds, trust funds, and trust accounts on November 17, 2020. DHHL provided its written response to the draft report on November 17, 2020 (Attachment 1).

DHHL generally agreed with our findings and provided clarification on one of its trust funds. However, DHHL disagreed with our conclusion that the Hawaiian Home Receipts Trust Fund should be reclassified to a trust account. We reached a similar conclusion in 2015 and, as recently as last year, DHHL has described this fund as a “clearing account” with no beginning and ending balances at the start and end of the quarter in its non-general fund reports to the Legislature. While we can appreciate reclassifying a statutorily created trust fund may be challenging, we continue to believe that this fund functions as a clearing account and should be reclassified as such.

DAVID Y. IGE
GOVERNOR
STATE OF HAWAII

JOSH GREEN
LT. GOVERNOR
STATE OF HAWAII



WILLIAM J. AILA, JR.
CHAIRMAN
HAWAIIAN HOMES COMMISSION

TYLER I. GOMES
DEPUTY TO THE CHAIRMAN

**STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS**

P. O. BOX 1879
HONOLULU, HAWAII 96805

November 18, 2020

The Honorable Leslie H. Kondo
State Auditor
465 S. King Street, Room 500
Honolulu, Hawaii 96813-2917

Dear Mr. Kondo:

Subject: 2020 Review of Special Funds, Revolving 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, Revolving 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 or needs clarification.

1. Exhibit 2.3, "DHHL Funds Not Meeting Criteria" on page 9 needs to be amended. DHHL does not agree that the Hawaiian Home Receipts Fund is an account and not a fund.

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

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."

The Honorable Leslie H. Kondo
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The Department of Hawaiian Home Lands (DHHL) is charged with the responsibility of administering the provisions of the Hawaiian Homes Commission Act, 1920, as amended, (HHCA) enacted by Congress on July 9, 1921.

It sets aside approximately 203,500 acres of public lands to be designated as Hawaiian home lands and established a homesteading program for native Hawaiians (persons with 50% or more Hawaiian blood).

Article XII, Section 1 of the Hawaii State Constitution provides that "proceeds and income from Hawaiian home lands shall be used only in accordance with the terms and spirit of such Act."

The "Hawaiian Home Receipts Fund" is a trust fund pursuant to Section 213(g) of the Hawaiian Homes Commission Act that underwent Congressional review and consent when established. Any amendment to the Hawaiian Homes Commission Act to remove the Hawaiian Homes Receipts Fund as a trust fund will require Congressional consent.

The Hawaiian Home Receipts Fund is an integral part to account and receive mortgage loan interest receivable and investment income accounts that reflect complex and integrated transactions with DHHL programs. Reclassifying this trust fund to a trust account understates the role of this important fund and requires Congressional consent as this is not an administrative change, but a substantive change.

2. On page 16, clarification in the narrative regarding the Operating portion and Development portion of the Hawaiian Home Operating Fund, a DHHL trust fund.

The Hawaiian Home-Development Fund, established in 1941 as a special fund, and the Hawaiian Home Operating Fund, established in 1948 as a revolving fund, were merged into one fund, the Hawaiian Home Operating Fund, in 1986. The merging of the two funds was for administrative purposes.

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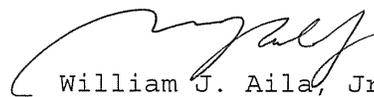
Consequently, the Hawaiian Home Operating Fund is managed as two separate portions, the Operating portion and the Development portion, to retain the characteristics and substance of the predecessors of this fund.

The Hawaiian Home Operating Fund, under the program title "Planning and Development for Hawaiian Homesteads", HHL 602, finances only specified operational costs as authorized by Section 213(e) of the Hawaiian Homes Commission Act.

3. On page 18, as discussed earlier, DHHL disagrees that the Hawaiian Home Receipts Fund should be reclassified from a trust fund to a trust account.
4. On page 25, DHHL's non-reporting of the Hawaiian Home Trust Fund (T-991-I) in the FY 2019 report was an oversight and DHHL has taken corrective action. The fund is a DAGS administratively created fund to report DHHL's Revenue Bond Special Fund reserve funds outside of the State Treasury with a Revenue Bond Trustee pursuant to a bond resolution between the bondholders and DHHL.

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,



William J. Aila, Jr., Chairman
Hawaiian Homes Commission