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“Having a large number of separate funds is a relic of 19th-century state budgeting.”

—National Conference of State Legislatures

Study of the Transfer of Non-general Funds to the General Fund

Report No. 12-04, July 2012

Special and revolving funds require closer scrutiny

Fund growth raises concerns about budget flexibility

Non-general funds, such as special, revolving, federal, and trust funds, exist outside the State's main financial account, or general fund. Over the past 30 years, the number of non-general funds and the amount of money contained in them have substantially increased. In FY2011, non-general funds accounted for about half of the State's \$10.4 billion operating budget, up from one-third in 1992. This proliferation of non-general funds has hampered the Legislature's ability to direct general fund spending.

For example, the Legislature typically seeks money in special and revolving funds when general fund budget shortfalls occur. We found that the transfer, or “raid,” process is cumbersome, involving a review of hundreds of funds in addition to a legal review and committee hearings.

We also found:

- At least 729 non-general funds and accounts hold an estimated unencumbered cash balance of \$2.47 billion.
- Between 1980 and 2010, the number of special and revolving funds almost tripled to 313 funds.
- Fund raids authorized by the Legislature in FY2009, FY2010, and FY2011 totaled \$161 million.
- Not all annual, non-general fund reports are filed as required by law.
- No regular reviews of special funds are conducted to determine if they meet criteria set in Hawai'i law.
- Of the 47 special and revolving funds we tested, six failed to meet criteria for continuance. We recommend these be repealed and the \$49.7 million they hold be deposited into the general fund.

Need for more structured legal review process

We also found the process for reviewing proposed fund transfers by the attorney general should be more systematic and structured to eliminate error and liability to the State. A 2008 Hawai'i Supreme Court decision also has complicated these so-called fund raids, eliminating certain types of money that can be transferred. In addition, the Department of the Attorney General's legal review process relies on a single deputy attorney general, is done on an ad-hoc basis, and is not documented. We found some reviews were not as robust or complete as others, resulting in transfers that may violate federal laws. In 2009, the Legislature mistakenly authorized transfers of \$16.5 million from two funds, in possible violation of federal law.

Agencies' responses

Overall, the Department of Budget and Finance agreed with our recommendations. The department reported that it has found some, but not all, of the missing non-general fund reports we cited in our report. This discovery does not change our conclusion that the tracking of funds is problematic.

The Department of the Attorney General objected to our recommendation that a checklist be used, but recognized the need to train all deputies whose clients manage special funds. The department also took issue with several conclusions which we considered. We added clarifying language to the text, but we stand by our report's conclusions and recommendations.