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# Auditor's Summary

## Audit of the Department of Land and Natural Resources' Land Conservation Fund

Report No. 19-01



PHOTO: DEPARTMENT OF LAND AND NATURAL RESOURCES

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**In FY2017, the Land Conservation Fund's cash balance was \$27.8 million, of which approximately \$16.6 million sits idle, not reserved for grant awards or program expenses.**

**IN 1973, THE LEGISLATURE** laid the foundation for a land conservation program and fund, formalizing the importance of protecting and preserving the natural beauty and historic significance of Hawai'i's lands through State-funded acquisition and management. In 2005, the Legislature provided the land conservation program with a dedicated funding source – ten percent of conveyance tax collected – and repurposed an existing fund, renaming it the Land Conservation Fund, for the express purpose of acquiring land having resource value to the State. The Land Conservation Fund and the associated Legacy Land Conservation Program are administered by the Department of Land and Natural Resources (DLNR), which delegated that responsibility to its Division of Forestry and Wildlife (DOFAW).

### What We Found

In our audit, we found that DLNR and DOFAW have struggled to properly manage the Legacy Land Conservation Program, hampering its effectiveness. For example, we found that the program missed fiscal deadlines to create and execute contracts for conservation grant awards, which caused funding for those grants to lapse and triggered a “domino effect” of improperly committing anticipated future appropriations to fund previous awards; the department mistakenly paid a total of nearly \$685,000 for State central service fees – a cost the Land Conservation Fund had been statutorily exempt from since 2015; and DLNR has used the Land Conservation Fund to pay the salary of an employee who is doing

work unrelated to the Legacy Land Conservation Program. In addition, the program has not tracked or reported to the Legislature the balances of Land Conservation Fund moneys transferred to a DLNR trust account.

We also found that DOFAW sought and/or obtained funding from the Land Conservation Fund for its own projects outside of the Legacy Land Conservation Program's grant award process, which is an almost year-long, public process that includes funding recommendations by the Legacy Land Conservation Commission. In those cases, DOFAW acted as an applicant advocating its own projects for funding through the Legacy Land Conservation Program

grant award process; after the Commission prioritized other applicants' projects in front of its projects, DOFAW acted as advisor to the Board of Land and Natural Resources (Land Board) on the use of the same limited moneys to fund its projects. The practice of reprioritizing, and in some cases substituting its judgment for that of the nine Governor-appointed and Senate-confirmed commissioners, each of whom possesses certain statutorily-required professional and cultural expertise, is far less transparent and accountable than the program's grant award process. DOFAW's unique role and special relationship with the Land Board confer an advantage relative to other grant applicants, especially given the limited pool of resources available from the Land Conservation Fund.

### Why Did These Problems Occur?

We found that the department did not have a transition plan to help ensure the seamless operations of the Legacy Land Conservation Program when the former Program Manager resigned, which even the department acknowledges is the cause of many of the program's management issues that we report. Moreover, the department appears to misunderstand its ability to commit future funds – i.e., moneys that it does not have. The department simply cannot commit moneys until those funds are appropriated to the program through the Legislature's budget process.

We also found that the department has not developed a Resource Land Acquisition Plan, which the Legislature directed DLNR to prepare and periodically update when it created the Legacy Land Conservation Commission and the program's dedicated funding source. Without a long-range plan, the program and DLNR's land conservation actions lack a clear, consistent, and transparent direction and purpose; without a plan, DLNR's management of the program and its use of the Land Conservation Fund is arbitrary, opaque, and may be inconsistent with the State's long-term land conservation goals. The need for a plan is magnified by the relatively fluid composition of the Land Board and the importance of the State's mission of stewardship over public lands.

### Why Do These Problems Matter?

Hawai'i has long recognized the concept of government ownership and management of land as a conservation tool. The purpose underlying Hawai'i's land conservation efforts is set forth in Section 173A-1, HRS:

***[T]hese lands, though protected by the land use law, may in many instances require placement under public ownership and management in order that they can be made accessible to all people of the State. The purpose of this chapter is to provide for the acquisition and management of such lands in those instances in which such acquisition and management are considered necessary by the State.***

Without a clear roadmap in place, there is an increased risk that decisions regarding land acquisitions will be arbitrary and inconsistent, and subject to change with each new board, commission, and department head. Although some flexibility and adaptability are necessary, the determination of what is the State's "best interest" in this regard should not be so reliant on subjective understanding and personal biases.

After a little more than a decade in existence, the Legacy Land Conservation Program has awarded 58 projects with \$47.3 million in grant moneys. Only about half of these projects have reached completion – i.e., land purchased and conserved. Almost a third of the awards are still pending. Since the acquisition of conservation land can be a complicated process, and considering the relative infancy of the program, it is difficult to determine if the program is achieving its statutory purpose.