Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Offices of the Governor and Lieutenant Governor

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

Report No. 21-12
October 2021

OFFICE OF THE AUDITOR
STATE OF HAWAI‘I

OFFICE OF THE AUDITOR
STATE OF HAWAIʻI

Constitutional Mandate

Pursuant to Article VII, Section 10 of the Hawaiʻi 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.

Hawaiʻi Revised Statutes, Chapter 23, gives the Auditor broad powers to examine all books, records, files, papers and documents, and financial affairs of every agency. The Auditor also has the authority to summon people to produce records and answer questions under oath.

Our Mission

To improve government through independent and objective analyses.

We provide independent, objective, and meaningful answers to questions about government performance. Our aim is to hold agencies accountable for their policy implementation, program management, and expenditure of public funds.

Our Work

We conduct performance audits (also called management or operations audits), which examine the efficiency and effectiveness of government programs or agencies, as well as financial audits, which attest to the fairness of financial statements of the State and its agencies.

Additionally, we perform procurement audits, sunrise analyses and sunset evaluations of proposed regulatory programs, analyses of proposals to mandate health insurance benefits, analyses of proposed special and revolving funds, analyses of existing special, revolving and trust funds, and special studies requested by the Legislature.

We report our findings and make recommendations to the Governor and the Legislature to help them make informed decisions.

For more information on the Office of the Auditor, visit our website:
https://auditor.hawaii.gov

COVER PHOTO: ISTOCK.COM

Foreword

This is a report of our review of the trust funds of the Office of the Governor. The Office of the Lieutenant Governor did not have any non-general funds during our review period.

Section 23-12, Hawaiʻi 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 GOV's revolving funds, trust funds, and trust accounts, and our fifth review of LTG's funds and accounts. It is our second review of its special funds since section 23-12, HRS was amended by Act 130, Session Laws of Hawaiʻi 2013, to include reviews of special funds.

We wish to express our appreciation for the cooperation and assistance extended to us by the officials and staff of the Office of the Governor and the Office of the Lieutenant Governor.

Leslie H. Kondo
State Auditor

Table of Contents

Chapter 1 Introduction 1

Description of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts 2

Criteria for Reviewing Special Funds, Revolving Funds, Trust Funds, and Trust Accounts 3

Objectives of the Review 4

Scope and Methodology 4

Chapter 2 Offices of the Governor and Lieutenant Governor 7

Chapter 3 Observations on Office of the Governor's Reporting and Accounting for Funds 13

The Office of the Governor Did Not Report Non-General Funds as Required by Law 13

Office of the Auditor's Comments on the the Affected Agency Responses 15

Attachment 1 Office of the Governor's Response 16

List of Exhibits

Exhibit 2.1 Cash Balances for Office of the Governor Non-General Funds FY2017 – FY2021 7

Exhibit 2.2 Office of the Governor Fund and Account Totals by Type, FY2021 8

Exhibit 2.3 Office of the Governor Funds Not Meeting Criteria 9

Exhibit 3.1 Office of the Governor Non-General Funds and Administratively Created Funds Not Reported to the Legislature 14

Chapter 1
Introduction

This review encompasses the special funds, revolving funds, trust funds, and trust accounts of the Office of the Governor (GOV) pursuant to Section 23-12, Hawai‘i Revised Statutes (HRS), *Review of special, revolving, and trust funds*, and the Office of the Lieutenant Governor (LTG).[1] Section 23-12, 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 GOV's revolving funds, trust funds, and trust accounts, and our fifth review of LTG's funds and accounts.[2] It is our second review of the special funds held by GOV and LTG 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 2016.

[1] LTG did not have any special, revolving, and trust funds, or trust accounts during the period of our review.

[2] Prior to 2013, Section 23-12, HRS, did not require reviews of departments' special funds.

Description of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts

Special funds

Section 37-62, HRS, defines a special fund as one that is "dedicated or set aside by law for a specified object or purpose, but excluding revolving funds and trust funds." According to the State's Accounting Manual, special funds are funds used to account for revenues earmarked for particular purposes and from which expenditures are made for those purposes.

Revolving funds

Section 37-62, HRS, defines a revolving fund as one "from which is paid the cost of goods and services rendered or furnished to or by a state agency and which is replenished through charges made for the goods or services or through transfers from other accounts or funds." Activities commonly financed through revolving funds include loan programs, which are initially established by general fund seed moneys and are then replenished through the repayment of loans.

Trust funds

Section 37-62, HRS, defines a trust fund as one in which "designated persons or classes of persons have a vested beneficial interest or equitable ownership, or which was created or established by a gift, grant, contribution, devise or bequest that limits the use of the fund to designated objects or purposes." Trust funds invoke a fiduciary responsibility of state government to care for and use the assets held only for those designated to benefit from the funds. A pension fund is an example of a trust fund. Contributions and payments are to be held for the beneficiaries of the pension fund. Tenants' security deposits are another example, as they 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 GOV and LTG.
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 (FY2017 – FY2021) unaudited financial summary for each fund and account of GOV and LTG.

Scope and Methodology

We reviewed all special funds, revolving funds, trust funds, and trust accounts directly administered by GOV during the five-year period under review (FY2017 – FY2021). 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, 2016 to June 30, 2021), 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 FY2016 reported in our last review and opening balances reported for FY2017. We did not audit the 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. 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. 16-09, *Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Offices of the Governor and Lieutenant Governor*.

Our review was conducted from August to September 2021. Recommendations were made where applicable.

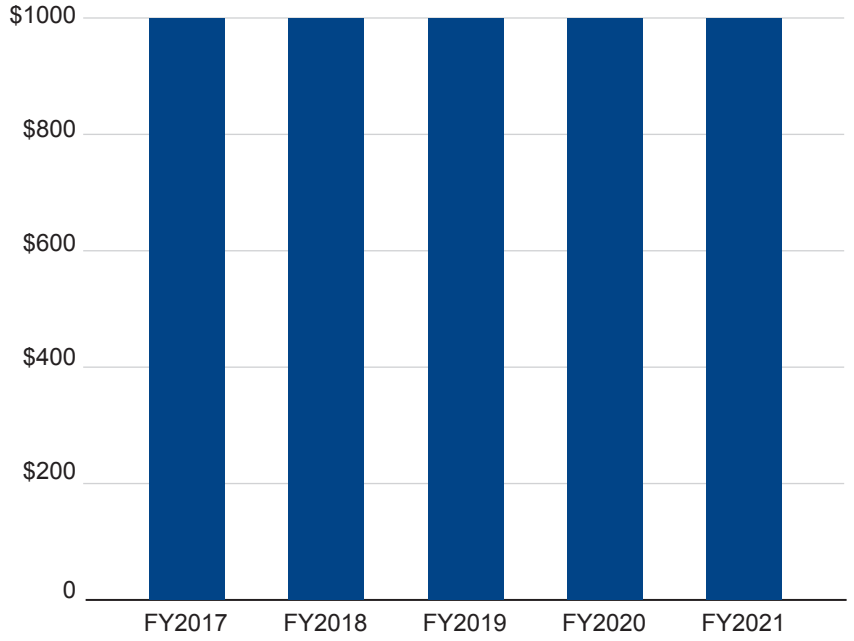
Chapter 2

Offices of the Governor and the Lieutenant Governor

This chapter presents the results of our review of three trust funds of GOV. GOV did not have any special funds, revolving funds, or trust accounts during the period of review. Total fund fiscal year-end balances for GOV were $1,000 or less per year during the period reviewed. LTG did not have any special funds, revolving funds, trust funds, or trust accounts during the period of our review.

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

Exhibit 2.1
Cash Balances for Office of the Governor Non-General Funds FY2017 – FY2021



Source: Office of the Auditor

In FY2021, the trust funds did not collect, spend, or transfer any funds. As we report below, GOV closed two of the trust funds during the period under review and plans to close the third.

Exhibit 2.2 presents totals for the combined revenue and interest, expenses, transfers, and ending fund balances for the different fund types for FY2021.

Exhibit 2.2
Office of the Governor Fund and Account Totals by Type, FY2021

Fund Type	Revenue and Interest	Expenses and Transfers	FY2021 End Cash Balance
Special Funds	$0	$0	$0
Revolving Funds	0	0	0
Trust Funds/ Trust Accounts	0	0	1,000
Total	**$0**	**$0**	**$1,000**

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 GOV funds that did not meet criteria for continuance and should be closed or reclassified.

Exhibit 2.3
Office of the Governor Funds Not Meeting Criteria

Fund Name	Fund Type	FY2021 Ending Balance	No longer serves original purpose and / or does not serve a need	No clear nexus between benefits sought and user charges or a clear link between the program and revenue sources	Inappropriate financing mechanism	Not financially self-sustaining	Does not meet special fund, revolving fund, trust fund, or trust account definition
Healthcare Transformation Coordinator Grant	Trust Fund	$1,000	✓				
Total		**$1,000**					

Source: Office of the Auditor

Emergency Appropriation – Office of the Governor (trust fund)

Administratively established

Financial Data for Fiscal Year 2017* (in thousands)	
	FY2017
Beginning Balance	$0
Revenues	0
Interest	0
Expenditures	0
Transfers	0
Ending Balance	**$0**
Encumbrances	$0

*While GOV reported that this fund was closed in October 2019, we did not find Financial Accounting Management and Information System (FAMIS) financial data records after FY2017.

GOV reported that this fund was closed in October 2019. This fund was administratively established in 2011 with an appropriation amount of $29,050 and has had no financial activity since FY2012.

Healthcare Transformation Coordinator Grant (trust fund)

Administratively established

Financial Data for Fiscal Years 2017 – 2021 (in thousands)					
	FY2017	**FY2018**	**FY2019**	**FY2020**	**FY2021**
Beginning Balance	$1	$1	$1	$1	$1
Revenues	0	0	0	0	0
Interest	0	0	0	0	0
Expenditures	0	0	0	0	0
Transfers	0	0	0	0	0
Ending Balance	**$1**	**$1**	**$1**	**$1**	**$1**
Encumbrances	$0	$0	$0	$0	$0

This fund does not meet all the criteria of a trust fund and, according to GOV, is in the process of being closed. Administratively established in 2012, the fund was used to administer the funds provided by Hawai‘i Community Foundation to support the Health Care Transformation Coordinator. GOV is currently in the process of determining how to transfer the fund balance and close out the account.

Omidyar ‘Ohana Fund (trust fund)

Administratively established

Financial Data for Fiscal Year 2017* (in thousands)

	FY2017
Beginning Balance	$163
Revenues	0
Interest	0
Expenditures	163
Transfers	0
Ending Balance	**$0**
Encumbrances	$0

*While GOV reported that this fund was closed in October 2019, we did not find FAMIS financial data records after FY2017.

GOV reported that this fund was closed, and the remaining balance returned to the Hawai‘i Community Foundation in 2016. Administratively established in 2014, the fund was used to support the Executive Office on Early Learning in its continued implementation of the Early Childhood Action Strategy (“Take Action for Hawai‘i’s Children”).

Chapter 3

Observations on Office of the Governor'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.

The Office of the Governor 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 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 Office of the Governor's non-general funds, we noted noncompliance with statutory requirements to report financial activity and balances, as required by Section 37-47, HRS, as well as fund information for administratively established funds and accounts under Section 37-52.5, HRS.

As shown in Exhibit 3.1, the Office of the Governor had non-general funds and administratively created non-general funds with balances totaling approximately $1,000 that were not reported to the 2021 Legislature as required by Sections 37-47 and 37-52.5, HRS.

Exhibit 3.1
Office of the Governor Non-General Funds and Administratively Created Funds Not Reported to the Legislature

Office of the Governor

Fund Name	Fund Type	HRS 37-47 (Non-General)	FY2021 Ending Balance (rounded)	HRS 37-52.5 (Admin Created)	FY2021 Ending Balance (rounded)
Healthcare Transformation Coordinator Grant	Trust Fund	✓	$1,000	✓	$1,000
Total			**$1,000**		**$1,000**

Source: Office of the Auditor

Office of the Auditor's Comments on the Affected Agency Responses

Comments on Agency Response

WE TRANSMITTED drafts of this review to the Office of the Governor and the Office of the Lieutenant Governor on October 13, 2021.

We received an informal response by email from the Office of the Lieutenant Governor dated October 14, 2021, confirming the Office of the Lieutenant Governor did not have any special, revolving, and trust funds, or trust accounts during the period of the review and stating it had no further comments to the report.

We received a formal response to the report from the Office of the Governor on October 15, 2021. The Office of the Governor did not dispute the findings and will take appropriate action to close a trust fund that no longer serves its original purpose. The Office of the Governor also stated that it will ensure compliance with all reporting requirements.

The formal response from the Office of the Governor is reprinted as Attachment 1.

EXECUTIVE CHAMBERS

HONOLULU

DAVID Y. IGE
GOVERNOR

October 15, 2021

The Honorable Leslie H. Kondo
State Auditor
Office of the Auditor
465 S. King Street, Room 500
Honolulu, Hawai'i 96813

Dear Mr. Kondo:

We have reviewed the Draft Report *2021 Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Office of the Governor and Lieutenant Governor* (Draft Report) and we do not dispute the findings or recommendation in the Draft Report. As noted, we are currently working on transferring the remaining $471 to the general fund to close out the Healthcare Transformation Coordinator Grant (trust fund). Going forward, the Office of the Governor will file the appropriate reports with the Department of Budget and Finance and the Legislature as required by Sections 37-47 and 37-52.5, Hawaii Revised Statutes.

Sincerely,

Keith Y. Yamamoto
Chief Operating Officer, Office of the Governor