
Report on the Implementation of State Auditor's Recommendations 2017 – 2020

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

Report No. 22-15
December 2022



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

Foreword

This is a report on the follow-up reviews of state departments and agencies' implementation of audit recommendations contained in audits issued in calendar years 2017–2020. We conducted the follow-ups pursuant to Section 23-7.5, Hawai'i Revised Statutes, which requires the Auditor to report to the Legislature on each recommendation that the Auditor has made that is more than one year old and that has not been implemented by the audited agency.

We wish to express our appreciation for the cooperation and assistance extended to us by the various audited agencies and others whom we contacted during the course of the follow-up reviews.

Leslie H. Kondo
State Auditor

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Status of Implementation of Audit Recommendations from Reports Issued 2017 – 2020

Section 23-7.5, Hawai‘i Revised Statutes, requires the Auditor to report to the Legislature annually on each audit recommendation more than one year old that has not been implemented by the audited agency. Our office follows up on recommendations in two ways. First, on an annual basis, we send requests to the agencies for status of implementation of our recommendations and details on steps taken toward implementation. Second, we conduct an active follow-up two to three years after issuance of the audit report containing recommendations and issue a separate follow-up report. Here, we report the latest status on the implementation of recommendations made in our reports issued from 2017 to 2020.

Introduction

EVERY YEAR, we follow up on recommendations made in our audit reports. We ask agencies to provide us with the status of their implementation of the recommendations made as part of our audit starting a year after the report was issued. After two or three years, we conduct a more rigorous follow-up review. Those reviews, which we refer to as “active reviews,” include interviewing

Definition of Terms

WE DEEM recommendations:

Implemented

where the department or agency provided sufficient and appropriate evidence to support all elements of the recommendation;

Partially Implemented

where some evidence was provided but not all elements of the recommendation were addressed;

Not Implemented

where evidence did not support meaningful movement towards implementation, and/or where no evidence was provided;

Not Implemented - N/A

where circumstances changed to make a recommendation not applicable; and

Not Implemented - Disagree

where the department or agency disagreed with the recommendation, did not intend to implement, and no further action will be reported.

selected personnel from the agency and examining the agency's relevant policies, procedures, records, and documents to assess whether action on recommendations has been taken. Our efforts are limited to the reviewing and reporting on an agency's implementation of recommendations made in the original audit report. We do not explore new issues or revisit issues from the report that are unrelated to our original recommendations.

From 2017 to 2020, we made 178 audit recommendations. Based on information self-reported by the agencies and information from active reviews, 137 of those recommendations have been partially or fully implemented.

In 2020, we suspended work on ongoing audits so those auditees could adjust to performing their work remotely and address COVID-19-related issues. During that time we performed a series of limited scope reviews and financial reporting on pandemic-related issues such as contact tracing, reporting of cases, suspension of tax breaks during difficult fiscal times, and amounts in special and revolving funds. These reports were specifically applicable to the challenges facing our state in 2020, so any recommendations in those reports are not included in our count, and no follow-up of implementation status of recommendations contained in those reports was warranted.

We based our scope and methodology on the United States Government Accountability Office (GAO) – formerly the General Accounting Office – guidelines, published in *How to Get Action on Audit Recommendations* (1991), as well as the *Government Auditing Standards* and Hawai'i Revised Statutes (HRS), Section 23-7.5.

According to the GAO, saving tax dollars, improving programs and operations, and providing better service to the public represent audit work's "bottom line." Recommendations are the vehicles by which these objectives are sought. However, it is action on recommendations – not the recommendations themselves – that helps government work better. Effective follow-up is essential to realizing the full benefits of audit work.

Audit Recommendations Implementation Reports Issued 2017 – 2020

Determining progress

The rate of progress of a recommendation’s implementation depends on the type of recommendation. While some fall fully within the purview of an audited agency and can be addressed relatively quickly, others may deal with complex problems, involve multiple agencies, or require legislative action, resulting in a longer implementation period. We recognize ample time should be afforded to agencies implementing recommendations for a follow-up system to be useful and relevant.

With those observations in mind, we have determined an “active” follow-up effort, where we review and assess an agency’s efforts to implement our recommendations, is most effective and relevant if conducted two to three years after publication of an audit report. Too short of an interval between audit report and follow-up might not give agencies enough time to implement; too long might allow agencies to lose valuable personnel and institutional knowledge needed to implement change. This is consistent with the GAO’s experience that action on recommendations usually occurs in the first three years after the recommendation is made.

Our current policy is to conduct follow-ups on recommendations for a five-year period after issuance of the report. We have determined that, after this time, further action on recommendations is unlikely. At that point, a new audit may be more appropriate.

On the following pages are our summaries of the most recent status for recommendations from reports issued in the last five years. In many cases, the latest status is based on the agencies’ responses to our formal requests for an updated status of implementation of our recommendations.

It is important to stress that, unlike our “active” follow-up reports, the agencies’ responses to our requests for updates are just that – status as reported by the agencies themselves. Reporting of these responses is not based on an independent assessment by our office. However, the responses do represent the most recent status available to us.

Copies of our reports, including active follow-up reports, are available on our website at <https://www.auditor.hawaii.gov/>.

Audit Recommendations Implementation Dashboard

No. 17-05	Hawai'i Department of Agriculture Audit of Hawai'i Department of Agriculture's Plant Quarantine Branch	 7 recommendations
No. 17-14	Department of Health Audit of the Disease Outbreak Control Division of the Department of Health	 5 recommendations
No. 18-01	Department of Business, Economic Development and Tourism Audit of the Hawai'i State Energy Office	 9 recommendations
No. 18-03	Office of Hawaiian Affairs Audit of the Office of Hawaiian Affairs	 39 recommendations
No. 18-04	Hawai'i Tourism Authority Audit of the Hawai'i Tourism Authority	 27 recommendations
No. 18-05	Public Utilities Commission Audit of the Public Utilities Commission	 12 recommendations
No. 18-08	Office of Hawaiian Affairs Audit of the Office of Hawaiian Affairs' Competitive Grants	 11 recommendations
No. 18-09	Department of the Attorney General Audit of the Department of the Attorney General's Asset Forfeiture Program	 7 recommendations
No. 18-18	Department of Health Audit of the Office of Health Care Assurance's Adult Residential Care Homes Program	 9 recommendations
No. 19-01	Department of Land and Natural Resources Audit of the Department of Land and Natural Resources' Land Conservation Fund	 13 recommendations*
No. 19-12	Department of Land and Natural Resources Audit of the Department of Land and Natural Resources' Special Land and Development Fund	 17 recommendations
No. 19-13	Department of Education Audit of the Department of Education's Administration of School Impact Fees	 22 recommendations

■ Implemented
 ■ Partially Implemented
 ■ Not Implemented
 ■ Not Implemented - N/A
 ■ Not Implemented - Disagree

Source: Office of the Auditor



PHOTO: OFFICE OF THE AUDITOR

REPORT NO. 17-05
***Audit of Hawai'i Department of Agriculture's
 Plant Quarantine Branch***

Number of Recommendations: 7	<p>Audit Recommendations by Status</p> <p>In Report No. 17-05, we made a total of 7 recommendations to the agency.</p> 	<ul style="list-style-type: none"> ■ Implemented ■ Partially Implemented ■ Not Implemented ■ Not Implemented - N/A ■ Not Implemented - Disagree
Number of Recommendations Partially or Fully Implemented: 7		
Percent Partially or Fully Implemented: 100%		

Source: Office of the Auditor

IN REPORT NO. 17-05, *Audit of Hawai'i Department of Agriculture's Plant Quarantine Branch*, we found that the Plant Quarantine Branch (PQB) lacked data gathering and data analysis functions necessary to actively and continuously assess risks of invasive species. We also found the branch's central database did not perform its core functions and was considered by PQB staff to be unreliable and cumbersome to use. We noted PQB lacked the organizational framework necessary to manage and communicate risks from invasive species.

In 2018 and 2019, formal requests for information were issued to the Hawai'i Department of Agriculture (HDOA) on the status of audit recommendations from Report No. 17-05. The agency reported that 100% of our recommendations had been at least partially implemented.

In 2020, we conducted an active follow-up into the implementation of our recommendations, and issued Report No. 20-12 entitled, *Follow-Up on*

Recommendations from Report No. 17-05, Audit of Hawai'i Department of Agriculture's Plant Quarantine Branch. As a result of that report, we found that 6 out of 7 (86%) of our recommendations had been at least partially implemented.

In 2021, we issued a formal request for information on the status of audit recommendations that had not been deemed fully implemented in our follow-up Report No. 20-12. The agency reported that 100% of our recommendations had been at least partially implemented.

In 2022, we issued another formal request for information on the status of the audit recommendation not deemed fully implemented in HDOA's 2021 response. The agency responded that the applicable audit recommendation is still partially implemented

The following is a list of recommendations made and a chronological summary of our follow-up efforts. Any findings by the Office of the Auditor are highlighted in yellow.

Recommendation	Status of Recommendation
<p>(1.a.) The Hawai'i Department of Agriculture should plan and implement a risk analysis process to define and respond to threats of invasive species introduction, incorporating data-driven elements to monitor, evaluate, adjust, and improve inspection activities. This would include developing and implementing policies and procedures for data collection and verification, including establishing standards for data entry, which will ensure the completeness and accuracy of the data recorded.</p>	<ul style="list-style-type: none"> <li data-bbox="797 361 1235 432"> 2021: HDOA reports Implemented Self-reported, October 28, 2021. <li data-bbox="797 474 1349 533" style="background-color: #fff3cd;"> 2020: Auditor reports Partially Implemented Follow-Up, Report No. 20-12. <li data-bbox="797 575 1333 634"> 2019: HDOA reports Partially Implemented Self-reported August 29, 2019. <li data-bbox="797 676 1333 730"> 2018: HDOA reports Partially Implemented Self-reported September 5, 2018.
<p>(1.b.) The Hawai'i Department of Agriculture should plan, implement, and operate an up-to-date database system that houses important taxonomic data, communicates with other databases, and supports an e-manifest program, among other functions.</p>	<ul style="list-style-type: none"> <li data-bbox="797 823 1235 894"> 2021: HDOA reports Implemented Self-reported October 28, 2021. <li data-bbox="797 936 1349 995" style="background-color: #fff3cd;"> 2020: Auditor reports Partially Implemented Follow-Up, Report No. 20-12. <li data-bbox="797 1037 1333 1096"> 2019: HDOA reports Partially Implemented Self-reported August 29, 2019. <li data-bbox="797 1138 1333 1192"> 2018 : HDOA reports Partially Implemented Self-reported August 31, 2018.
<p>(1.c.) The Hawai'i Department of Agriculture should determine the personnel necessary to implement and operate a data-driven biosecurity program, ensuring that PQB is sufficiently staffed and supported to carry out these complex and specialized duties.</p>	<ul style="list-style-type: none"> <li data-bbox="797 1276 1325 1348"> 2022: HDOA reports Partially Implemented Self-reported November 3, 2022. <li data-bbox="797 1390 1333 1449"> 2021: HDOA reports Partially Implemented Self-reported October 28, 2021. <li data-bbox="797 1491 1396 1789" style="background-color: #fff3cd;"> 2020: Auditor reports Not Implemented Follow-Up, Report No. 20-12. Our follow-up report noted: “Although PQB has taken steps to implement the biosecurity program, we could not find enough at this time to conclude that substantial progress has been made to determine the number and necessary qualifications of personnel needed to implement its new Pacific Point system and use the new data-driven biosecurity program.” <li data-bbox="797 1831 1219 1881"> 2018: HDOA reports Implemented Self-reported September 5, 2018.

Recommendation

Status of Recommendation

(1.d.) The Hawai'i Department of Agriculture should ensure timely recruitment of vacant PQB positions, paying particular attention to filling vacant managerial positions with permanent hires.

2020: Auditor reports **Implemented**

Follow-Up, Report No. 20-12.

2018: HDOA reports **Implemented**

Self-reported August 1, 2018.

(2.a.) The Plant Quarantine Branch should develop appropriate policies and procedures to ensure that its inspectors carry out the branch's biosecurity plan.

2021: HDOA reports **Implemented**

Self-reported October 28, 2021.

2020: Auditor reports **Partially Implemented**

Follow-Up, Report No. 20-12.

2019: HDOA reports **Partially Implemented**

Self-reported August 29, 2019.

2018: HDOA reports **Partially Implemented**

Self-reported September 5, 2018.

(2.b.) The Plant Quarantine Branch should provide staff with the appropriate training to carry out this new approach.

2021: HDOA reports **Implemented**

Self-reported October 28, 2021.

2020: Auditor reports **Partially Implemented**

Follow-Up, Report No. 20-12.

2018: HDOA reports **Implemented**

Self-reported September 5, 2018.

(2.c.) The Plant Quarantine Branch should periodically review and update policies and procedures to ensure continued relevance.

2021: HDOA reports **Implemented**

Self-reported October 28, 2021.

2020: Auditor reports **Partially Implemented**

Follow-Up, Report No. 20-12.

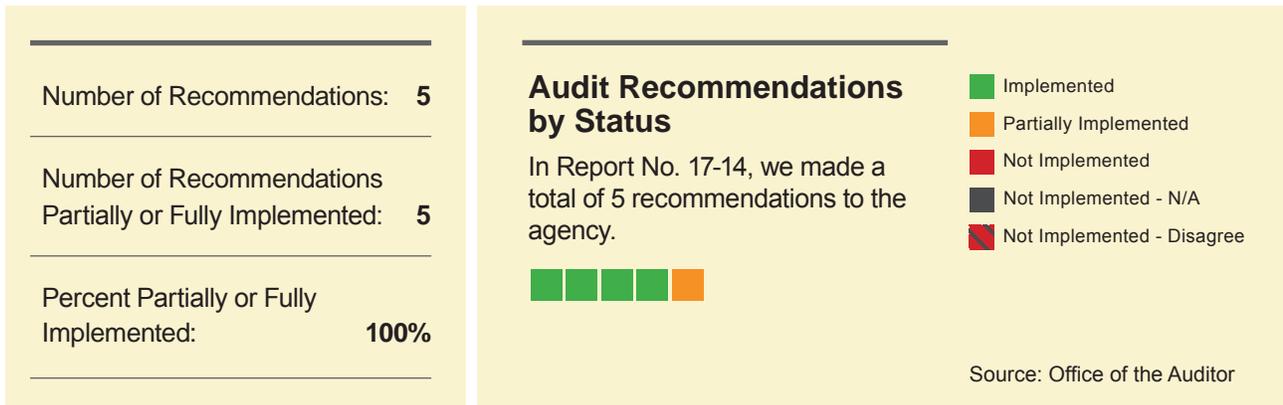
2018: HDOA reports **Implemented**

Self-reported September 5, 2018.



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REPORT NO. 17-14
Audit of the Disease Outbreak Control Division of the Department of Health



IN REPORT NO. 17-14, *Audit of the Disease Outbreak Control Division of the Department of Health*, we found communication breakdowns had caused confusion, discord, and delays, and lax procedures and records management may have been hampering outbreak response. We also found the Disease Outbreak Control Division had inconsistent procedures related to recordkeeping, internal reviews, and reporting.

In 2019, we issued a formal request for information to the Department of Health on the status of audit recommendations from Report No. 17-14. The agency reported that all of our recommendations have been at least partially implemented.

An active follow-up was suspended in early 2020 due to the COVID-19 pandemic.

The following is a list of recommendations made and a chronological summary of our follow-up efforts. Any findings by the Office of the Auditor are highlighted in yellow.

Recommendation

Status of Recommendation

(1.a.) The Department of Health should continue developing the All Hazards Preparedness Plan or an alternative strategy that establishes a defined chain of command, communication guidelines, and roles and responsibilities for responding to significant outbreaks.

2019: DOH reports **Implemented**

Self-reported, January 22, 2019.

(1.b.) The Department of Health should determine the type of information that can/ should be shared with external agencies and parties involved in jointly responding to an outbreak and develop procedures for sharing such information (e.g., HIPAA/ confidentiality agreement). DOH may consider seeking advice and counsel from the Department of the Attorney General and oversight agencies such as CDC.

2019: DOH reports **Partially Implemented**

Self-reported, January 30, 2019.

(2.a.) The Disease Outbreak Control Division should develop and enforce administrative procedures related to the opening, investigating, and closing of cases, clusters, and outbreaks. Such procedures should include review and recordkeeping requirements, reporting requirements, responsible parties involved with each process, and established deadlines.

2019: DOH reports **Implemented**

Self-reported, January 11, 2019.

(2.b.) The Disease Outbreak Control Division should continue to develop and implement guidelines for summary report and after-action assessments for epidemiological investigations. These should include input from responsible parties, established deadlines, and a scientific format as recommended by CDC. We note that Epidemiological Investigation Summary Report Guidelines have been drafted by the Disease Investigation Branch.

2019: DOH reports **Implemented**

Self-reported, January 30, 2019.

(2.c.) The Disease Outbreak Control Division should complete summary reports and after-action assessments for each significant outbreak, including documentation of key activities to ensure accountability.

2019: DOH reports **Implemented**

Self-reported, January 30, 2019.

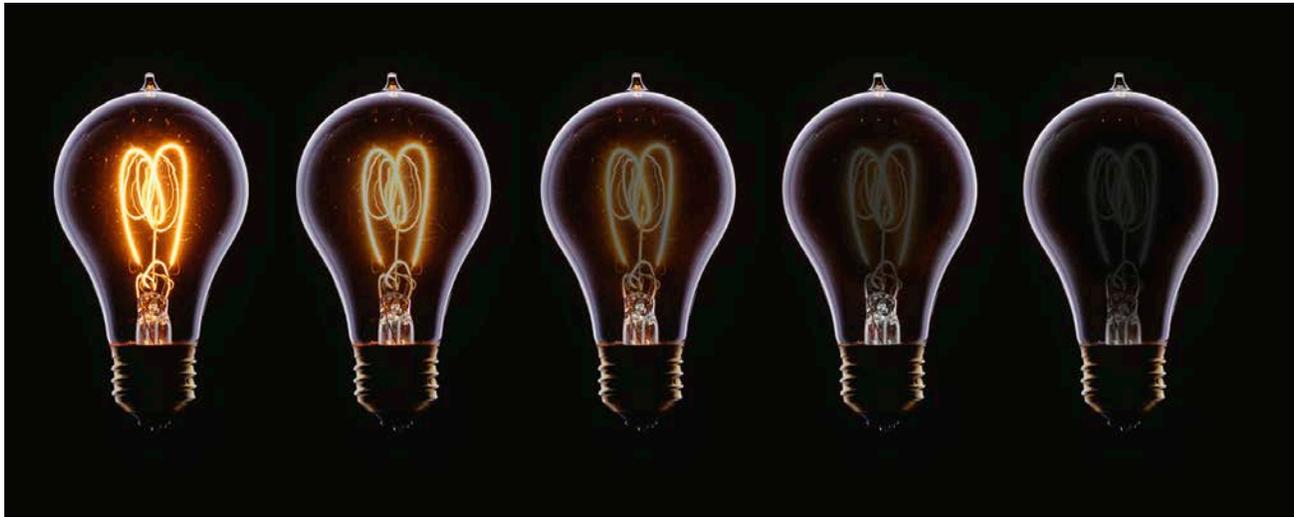


PHOTO: ISTOCK.COM

REPORT NO. 18-01
Audit of the Hawai'i State Energy Office

Number of Recommendations: 9	<p>Audit Recommendations by Status</p> <p>In Report No. 18-01, we made a total of 9 recommendations to the agency.</p> <div style="display: flex; align-items: center; margin-top: 10px;"> <div style="display: flex; gap: 5px;"> <div style="width: 15px; height: 15px; background-color: #28a745;"></div> <div style="width: 15px; height: 15px; background-color: #6c757d;"></div> <div style="width: 15px; height: 15px; background-color: #6c757d;"></div> </div> </div> <div style="margin-top: 10px;"> <ul style="list-style-type: none"> Implemented Partially Implemented Not Implemented Not Implemented - N/A Not Implemented - Disagree </div>
Number of Recommendations Partially or Fully Implemented: 7	
Percent Partially or Fully Implemented: 78%	

Source: Office of the Auditor

IN REPORT NO. 18-01, *Audit of the Hawai'i State Energy Office*, we reported specific contributions to advancing the State's clean energy initiatives were unclear, and the agency's strategic plan and updates included goals and targets that were unrealistic and may be impossible to achieve. We also noted an imminent financial shortfall would significantly impact Energy Office operations.

In 2019, we issued a formal request for information to the Department of Business, Economic Development and Tourism (DBEDT) on the status of audit recommendations from Report No. 18-01. The agency reported that all of our recommendations have been fully implemented.

In 2020, we conducted an active follow-up into the implementation of our recommendations,

and in 2021, we issued Report No. 21-05 entitled, *Follow-Up on Recommendations from Report No. 18-01, Audit of the Hawai'i State Energy Office*. As a result of that report, we found that 7 out of 9 (78%) of our recommendations had been at least partially implemented.

In 2022, we issued a formal request for information on the status of audit recommendations that had not been fully implemented in Report No. 21-05. The agency reported that of the applicable recommendations, all had been fully implemented.

The following is a list of recommendations made and a chronological summary of our follow-up efforts. Any findings by the Office of the Auditor are highlighted in yellow.

Recommendation

Status of Recommendation

(1.a.) The Energy Office should establish short-term and long-term financial plans to ensure sustainability.

2021: Auditor reports **Not Implemented - N/A**

Follow-Up, Report No. 21-05.

Our follow-up report noted: “[T]he Energy Office’s financial plans as of February 2019 were obviated less than six months later when Act 122 transitioned the funding for the Energy Office’s personnel and operations to the State’s general fund in fiscal year 2020.”

2019: DBEDT reports Implemented

Self-reported February 28, 2019.

(1.b.) The Energy Office should reduce operating expenses to a sustainable level.

2021: Auditor reports **Not Implemented - N/A**

Follow-Up, Report No. 21-05.

Our follow-up report noted: “[W]e need not determine whether those reductions amounted to ‘a sustainable level’ of operating expenses, as we recommended. Nor need we decide whether what the Energy Office characterized as its achievement of ‘a more sustainable’ level of expenses partially implements the ‘sustainable level’ we recommended. Those determinations have been obviated by the intervening enactment of Act 122.”

2019: DBEDT reports Implemented

Self-reported February 28, 2019.

(1.c.) The Energy Office should immediately update its strategic plan.

2021: Auditor reports **Implemented**

Follow-Up, Report No. 21-05.

2019: DBEDT reports Implemented

Self-reported February 28, 2019.

(2.a.) The Energy Office should also develop and implement robust project management and reporting processes by documenting the justification for initiation of each project, measurable goals, budget and staffing requirements, implementation and execution strategies, and project schedule.

2022: DBEDT reports **Implemented**

Self-reported, April 29, 2022.

2021: Auditor reports Partially Implemented

Follow-Up, Report No. 21-05.

2019: DBEDT reports Implemented

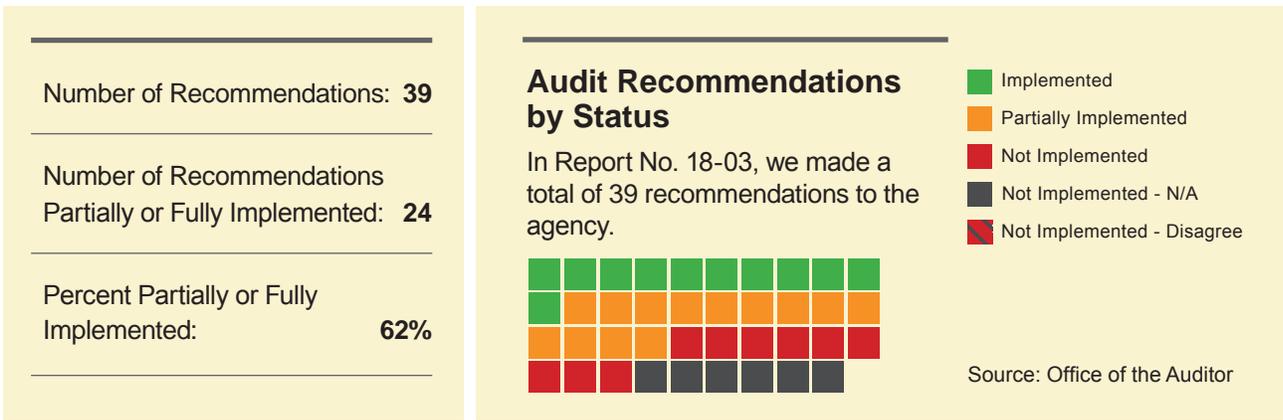
Self-reported February 28, 2019.

Recommendation	Status of Recommendation
<p>(2.b.) The Energy Office should also develop and implement robust project management and reporting processes by establishing performance measures for all programs and activities.</p>	<ul style="list-style-type: none"> <li data-bbox="786 365 1235 436"> • 2022: DBEDT reports Implemented Self-reported, April 29, 2022. <li data-bbox="786 470 1336 541" style="background-color: #fff3cd;"> • 2021: Auditor reports Partially Implemented Follow-Up, Report No. 21-05. <li data-bbox="786 562 1219 621"> • 2019: DBEDT reports Implemented Self-reported February 28, 2019.
<p>(2.c.) The Energy Office should also develop and implement robust project management and reporting processes by monitoring the progress and status of programs and activities.</p>	<ul style="list-style-type: none"> <li data-bbox="786 680 1235 751"> • 2022: DBEDT reports Implemented Self-reported, April 29, 2022. <li data-bbox="786 785 1336 856" style="background-color: #fff3cd;"> • 2021: Auditor reports Partially Implemented Follow-Up, Report No. 21-05. <li data-bbox="786 877 1219 936"> • 2019: DBEDT reports Implemented Self-reported February 28, 2019.
<p>(2.d.) The Energy Office should also develop and implement robust project management and reporting processes by ensuring an analysis of achievements and impacts on the State’s clean energy goals upon project completion.</p>	<ul style="list-style-type: none"> <li data-bbox="786 1005 1235 1077"> • 2022: DBEDT reports Implemented Self-reported, April 29, 2022. <li data-bbox="786 1110 1336 1182" style="background-color: #fff3cd;"> • 2021: Auditor reports Partially Implemented Follow-Up, Report No. 21-05. <li data-bbox="786 1203 1219 1262"> • 2019: DBEDT reports Implemented Self-reported February 28, 2019.
<p>(2.e.) The Energy Office should also develop and implement robust project management and reporting processes by reporting the resultant achievements and impacts in its annual and Act 73 reports clearly and concisely, so that the Legislature and public can evaluate the office’s progress toward its goals.</p>	<ul style="list-style-type: none"> <li data-bbox="786 1320 1235 1392"> • 2022: DBEDT reports Implemented Self-reported, April 29, 2022. <li data-bbox="786 1425 1336 1497" style="background-color: #fff3cd;"> • 2021: Auditor reports Partially Implemented Follow-Up, Report No. 21-05. <li data-bbox="786 1518 1219 1577"> • 2019: DBEDT reports Implemented Self-reported February 28, 2019.
<p>(2.f.) The Energy Office should also develop and implement robust project management and reporting processes by establishing written policies and procedures that all program staff are required to follow.</p>	<ul style="list-style-type: none"> <li data-bbox="786 1635 1235 1707"> • 2022: DBEDT reports Implemented Self-reported, April 29, 2022. <li data-bbox="786 1740 1336 1812" style="background-color: #fff3cd;"> • 2021: Auditor reports Partially Implemented Follow-Up, Report No. 21-05. <li data-bbox="786 1833 1219 1892"> • 2019: DBEDT reports Implemented Self-reported February 28, 2019.



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REPORT NO. 18-03
Audit of the Office of Hawaiian Affairs



IN REPORT NO. 18-03, *Audit of the Office of Hawaiian Affairs*, we found spending on non-competitive Kūlia Initiatives was nearly double what the Office of Hawaiian Affairs (OHA) spent on closely vetted, competitive grants and that the Fiscal Reserve lacked a clear policy guiding its use and had been spent down rapidly. We reported CEO Sponsorships were subject to minimal oversight and were often, despite written guidelines, approved based on personal discretion. We also reported rules governing Trustee Allowances were broad and arbitrarily enforced, leading to many instances of questionable spending.

In 2019, we issued a formal request for information to OHA on the status of audit recommendations from Report No. 18-03. The

agency reported that all of our recommendations have been at least partially implemented.

In 2021, we conducted an active follow-up into the implementation of our recommendations, and in 2022 we issued Report No. 22-04 entitled, *Follow-Up on Recommendations from Report No. 18-03, Audit of the Office of Hawaiian Affairs*. As a result of that report, we found that 24 out of 39 (62%) of our recommendations had been at least partially implemented.

The following is a list of recommendations made and a chronological summary of our follow-up efforts. Any findings by the Office of the Auditor are highlighted in yellow.

Recommendation	Status of Recommendation
<p>(OHA Board of Trustees, 1.a.) OHA Board of Trustees should, in general, require trustees and trustee staff to attend regular training that includes, but is not limited to:</p> <ul style="list-style-type: none"> i. Fiduciary duties and other responsibilities of trustees; ii. State Ethics Code, Chapter 84, HRS; iii. Sunshine Law, part I of Chapter 92, HRS; and iv. Uniform Information Practices Act (Modified), Chapter 92F, HRS. 	<ul style="list-style-type: none"> • 2022: Auditor reports Partially Implemented Follow-Up, Report No. 22-04. • 2019: OHA reports Partially Implemented Self-reported March 28, 2019.
<p>(OHA Board of Trustees, 1.b.) OHA Board of Trustees should, in general, ensure that OHA policies and procedures, applicable to trustees and the Administration, align and are consistent with OHA’s mission, trustees’ fiduciary duties, and State laws.</p>	<ul style="list-style-type: none"> • 2022: Auditor reports Partially Implemented Follow-Up, Report No. 22-04. • 2019: OHA reports Partially Implemented Self-reported March 28, 2019.
<p>(OHA Board of Trustees, 1.c.) OHA Board of Trustees should, in general, develop a clearly defined process by which trustees must hold each other individually accountable for actions that are inconsistent with their collective fiduciary duties and responsibilities to trust beneficiaries and for violations of State laws.</p>	<ul style="list-style-type: none"> • 2022: Auditor reports Partially Implemented Follow-Up, Report No. 22-04. • 2019: OHA reports Partially Implemented Self-reported March 28, 2019.
<p>(OHA Board of Trustees, 1.d.) OHA Board of Trustees should, in general, provide greater transparency into OHA’s administration of trust assets, including OHA’s fiscal year budgets and actual expenditures, specific information regarding the Grants, Sponsorships, and other funding awarded by OHA, OHA’s investment portfolio holdings and returns, and expenditures by trustees using Trustee Allowances. Consider posting such information on OHA’s website or some other similarly accessible public portal.</p>	<ul style="list-style-type: none"> • 2022: Auditor reports Implemented Follow-Up, Report No. 22-04. • 2019: OHA reports Partially Implemented Self-reported March 28, 2019.

Recommendation

Status of Recommendation

(OHA Board of Trustees, 1.e.) OHA Board of Trustees should, in general, consider requiring board approval of all Grants, Sponsorships, and other funding awarded by OHA and/or that use Native Hawaiian Trust Fund assets.

2022: Auditor reports **Partially Implemented**

Follow-Up, Report No. 22-04.

2019: OHA reports **Partially Implemented**

Self-reported March 28, 2019.

(OHA Board of Trustees, 1.f.) OHA Board of Trustees should, in general, require the Administration to develop a master list of all OHA Grants, Sponsorships, and other funding awarded, including the name of the individual, group, or organization receiving the funds, the amount of the award, and the approving or granting entity within OHA (such as the board, CEO, or line of business).

2022: Auditor reports **Not Implemented**

Follow-Up, Report No. 22-04.

Our follow-up report noted: “While the Board of Trustees has not required the Administration to develop a master list of all OHA grants, sponsorships and other funding awarded, according to OHA, it has developed an information database system that ensures grants are monitored and evaluated consistently... OHA represents its practice is to run a quarterly report for all grants and contracts, which is documented in OHA’s financial reporting, including variances and budget adjustment parameters for each quarter. The master list provided by OHA in March 2021 included 36 active grants, 26 closed grants, and 11 pending grants and is updated on a weekly and quarterly basis.

The master list does not include sponsorships and other funding awarded by OHA, and no information about the approving or granting entity within OHA (such as the Board, CEO, or line of business) is included. In its policies and procedures, the Board should document the requirement that the Administration develop a master list of all OHA grants, sponsorships, and other funding awarded, including the name of the individual, group, or organization receiving the funds, the amount of the award, and the approving or granting entity within OHA (such as the Board, CEO, or line of business). A documented policy would clarify the process and allow the Board and the Administration to hold staff accountable for performing the required procedure.”

2019: OHA reports **Partially Implemented**

Self-reported March 28, 2019.

Recommendation	Status of Recommendation
<p>(OHA Board of Trustees, 1.g.) OHA Board of Trustees should, in general, consider developing policies regarding the maximum number and maximum total dollar amounts of Grants, Sponsorships, and other funding awarded to the same individual, group, or organization during a fiscal year or other determined period.</p>	<p>2022: Auditor reports Partially Implemented Follow-Up, Report No. 22-04.</p> <p>2019: OHA reports Partially Implemented Self-reported March 28, 2019.</p>
<p>(OHA Board of Trustees, 2.a.) OHA Board of Trustees should, with respect to Kūlia Initiatives, determine and clearly define the purpose of Kūlia Initiatives.</p>	<p>2022: Auditor reports Not Implemented - N/A Follow-Up, Report No. 22-04.</p> <p>Our follow-up report noted: “In response to Report No. 18-03, <i>Audit of the Office of Hawaiian Affairs</i>, OHA discontinued the use of Kūlia Initiatives.”</p> <p>2019: OHA reports Implemented Self-reported March 28, 2019.</p>
<p>(OHA Board of Trustees, 2.b.) OHA Board of Trustees should, with respect to Kūlia Initiatives, review, update, and amend policies related to Kūlia Initiatives, as needed, to align with the defined purposes of Kūlia Initiatives. Such policies and procedures should clearly describe the types of spending for which Kūlia Initiatives are appropriate (as opposed to the purposes of other OHA funding support mechanisms, such as Community and ‘Ahahui Grants).</p>	<p>2022: Auditor reports Not Implemented - N/A Follow-Up, Report No. 22-04.</p> <p>Our follow-up report noted: “In response to Report No. 18-03, <i>Audit of the Office of Hawaiian Affairs</i>, OHA discontinued the use of Kūlia Initiatives.”</p> <p>2019: OHA reports Implemented Self-reported March 28, 2019.</p>
<p>(OHA Board of Trustees, 2.c.) OHA Board of Trustees should, with respect to Kūlia Initiatives, consider including in OHA’s annual budget a board-determined amount to fund Kūlia Initiatives.</p>	<p>2022: Auditor reports Not Implemented - N/A Follow-Up, Report No. 22-04.</p> <p>Our follow-up report noted: “In response to Report No. 18-03, <i>Audit of the Office of Hawaiian Affairs</i>, OHA discontinued the use of Kūlia Initiatives.”</p> <p>2019: OHA reports Implemented Self-reported March 28, 2019.</p>

Recommendation

Status of Recommendation

(OHA Board of Trustees, 2.d.) OHA Board of Trustees should, with respect to Kūlia Initiatives, ensure that the purpose and use of Kūlia Initiatives aligns and is consistent with: (a) OHA’s mission; (b) OHA’s policies and procedures; (c) trustee’s fiduciary duties; and (d) State laws.

2022: Auditor reports **Not Implemented - N/A**

Follow-Up, Report No. 22-04.

Our follow-up report noted: “In response to Report No. 18-03, *Audit of the Office of Hawaiian Affairs*, OHA discontinued the use of Kūlia Initiatives.”

2019: OHA reports **Implemented**

Self-reported March 28, 2019.

(OHA Board of Trustees, 3.a.) OHA Board of Trustees should, with respect to the Fiscal Reserve, determine and clearly define the purpose of the Fiscal Reserve, considering the original intent of the reserve, as well as the board’s current intent for maintaining a reserve.

2022: Auditor reports **Partially Implemented**

Follow-Up, Report No. 22-04.

2019: OHA reports **Partially Implemented**

Self-reported March 28, 2019.

(OHA Board of Trustees, 3.b.) OHA Board of Trustees should, with respect to the Fiscal Reserve, review, update, and amend policies and procedures related to the Fiscal Reserve, including OHA’s Spending Policy and Fiscal Reserve Guidelines, as needed, to align with the defined purpose of the Fiscal Reserve. Such policies and procedures should clearly describe the circumstances in and purposes for which the Fiscal Reserve can be used.

2022: Auditor reports **Partially Implemented**

Follow-Up, Report No. 22-04.

2019: OHA reports **Partially Implemented**

Self-reported March 28, 2019.

Recommendation

(OHA Board of Trustees, 3.c.) OHA Board of Trustees should, with respect to the Fiscal Reserve, clarify and clearly define the purpose of the 5 percent spending limit, and determine whether it is necessary to establish a withdrawal rate limit to ensure the health and sustainability of the Native Hawaiian Trust Fund.

Status of Recommendation

2022: Auditor reports Not Implemented

Follow-Up, Report No. 22-04.

Our follow-up report noted: “While we acknowledge OHA has made progress in this area, the Fiscal Stabilization Policy ... is still a temporary policy and will be revisited once Board policies are completed. According to OHA, the policies being developed will include identifying whether the agency needs a reserve (rainy day) fund and, if so, the type of reserve fund needed.

We note while the interim policy restricts how the Fiscal Stabilization Fund may be used, expenditures from that fund are not included when calculating the annual spending withdrawal amount in the fiscal year in which moneys are expended. That potentially allows OHA to exceed the 5 percent spending limit established in OHA’s Native Hawaiian Trust Fund Spending Policy.”

2019: OHA reports Partially Implemented

Self-reported March 28, 2019.

Recommendation

Status of Recommendation

(OHA Board of Trustees, 3.d.) OHA Board of Trustees should, with respect to the Fiscal Reserve, work with the administration, including OHA's Investment Management staff, to determine and obtain the financial information necessary for the board to assess the short- and long-term impacts to the Native Hawaiian Trust Fund when considering use of the Fiscal Reserve.

2022: Auditor reports **Not Implemented**

Follow-Up, Report No. 22-04.

Our follow-up report noted: "The intent of this recommendation was that the Board assess impacts to the Native Hawaiian Trust Fund and OHA's ability to serve its beneficiaries, current and future, when considering use of the Fiscal Reserve. While the Fiscal Stabilization Fund was created purportedly in response to Report No. 18-03 (and therefore did not exist at the time of the audit), the recommendation is applicable to the Board's use of the Fiscal Stabilization Fund. Trustees very likely have the same fiduciary duties to OHA's beneficiaries in their use of the Native Hawaiian Trust Fund and the Fiscal Stabilization Fund. Under the new Fiscal Stabilization Policy, it is our understanding that the Board can transfer up to \$3 million annually from the Native Hawaiian Trust Fund to the Fiscal Stabilization Fund. Any withdrawal from the Native Hawaiian Trust Fund can have short- and long-term impacts to the Native Hawaiian Trust Fund, and Trustees should determine and require the Administration to provide them with the financial information necessary for them to make informed decisions about those impacts to the fund."

2019: OHA reports **Partially Implemented**

Self-reported March 28, 2019.

(OHA Board of Trustees, 3.e.) OHA Board of Trustees should, with respect to the Fiscal Reserve, for each action item considering use of the Fiscal Reserve, ensure the Administration clearly includes the specific information as required by the Fiscal Reserve Guidelines and necessary for the board's decision-making.

2022: Auditor reports **Partially Implemented**

Follow-Up, Report No. 22-04.

2019: OHA reports **Partially Implemented**

Self-reported March 28, 2019.

(OHA Board of Trustees, 3.f.) OHA Board of Trustees should, with respect to the Fiscal Reserve, ensure that the purpose and use of the Fiscal Reserve aligns and is consistent with: (a) OHA's mission; (b) OHA's policies and procedures; (c) trustees' fiduciary duties; and (d) State laws.

2022: Auditor reports **Partially Implemented**

Follow-Up, Report No. 22-04.

2019: OHA reports **Partially Implemented**

Self-reported March 28, 2019.

Recommendation	Status of Recommendation
<p>(OHA Board of Trustees, 4.a.) OHA Board of Trustees should, with respect to CEO Sponsorships, determine and clearly define the purpose of CEO Sponsorships.</p>	<ul style="list-style-type: none"> <li data-bbox="800 369 1308 401"> 2022: Auditor reports Not Implemented <li data-bbox="800 413 1122 441">Follow-Up, Report No. 22-04. <li data-bbox="800 464 1390 646"> Our follow-up report noted: “[W]hile there continues to be a moratorium on the CEO Sponsorships, OHA has not taken any other action to address the recommendation and, given that the program has not been discontinued, we consider this recommendation to be not implemented.” <li data-bbox="800 684 1308 716"> 2019: OHA reports Partially Implemented <li data-bbox="800 720 1122 747">Self-reported March 28, 2019.
<p>(OHA Board of Trustees, 4.b.) OHA Board of Trustees should, with respect to CEO Sponsorships, review, update, and amend policies and procedures related to CEO Sponsorships, as needed, to align with the defined purpose of CEO Sponsorships. Such policies and procedures should clearly describe the circumstances in and purposes for which CEO Sponsorships can be used.</p>	<ul style="list-style-type: none"> <li data-bbox="800 804 1308 835"> 2022: Auditor reports Not Implemented <li data-bbox="800 848 1122 875">Follow-Up, Report No. 22-04. <li data-bbox="800 898 1390 1081"> Our follow-up report noted: “[W]hile there continues to be a moratorium on the CEO Sponsorships, OHA has not taken any other action to address the recommendation and, given that the program has not been discontinued, we consider this recommendation to be not implemented.” <li data-bbox="800 1119 1308 1150"> 2019: OHA reports Partially Implemented <li data-bbox="800 1155 1122 1182">Self-reported March 28, 2019.
<p>(OHA Board of Trustees, 4.c.) OHA Board of Trustees should, with respect to CEO Sponsorships, consider restricting the Administration’s ability to independently adjust the fiscal year budget, once approved by the board, to fund or otherwise support CEO Sponsorships.</p>	<ul style="list-style-type: none"> <li data-bbox="800 1239 1308 1270"> 2022: Auditor reports Not Implemented <li data-bbox="800 1283 1122 1310">Follow-Up, Report No. 22-04. <li data-bbox="800 1333 1390 1516"> Our follow-up report noted: “[W]hile there continues to be a moratorium on the CEO Sponsorships, OHA has not taken any other action to address the recommendation and, given that the program has not been discontinued, we consider this recommendation to be not implemented.” <li data-bbox="800 1554 1203 1585"> 2019: OHA reports Implemented <li data-bbox="800 1589 1122 1617">Self-reported March 28, 2019.

Recommendation

Status of Recommendation

(OHA Board of Trustees, 4.d.) OHA Board of Trustees should, with respect to CEO Sponsorships, ensure that the purpose and use of CEO Sponsorships aligns and is consistent with: (a) OHA's mission; (b) OHA's policies and procedures; (c) trustees' fiduciary duties; and (d) State laws.

2022: Auditor reports **Not Implemented**

Follow-Up, Report No. 22-04.

Our follow-up report noted: “[W]hile there continues to be a moratorium on the CEO Sponsorships, OHA has not taken any other action to address the recommendation and, given that the program has not been discontinued, we consider this recommendation to be not implemented.”

2019: OHA reports Partially Implemented

Self-reported March 28, 2019.

(OHA Board of Trustees, 5.a.) OHA Board of Trustees should, with respect to Trustee Allowances, amend the Trustee Allowances policy to restrict the use of Trustee Allowances to expenses incurred by trustees relating to their communication with beneficiaries and the public, as was the original purpose of the Trustee Allowances, and reduce the Trustee Allowances to an amount determined by the board to be reasonably necessary for that purpose.

2022: Auditor reports **Implemented**

Follow-Up, Report No. 22-04.

2019: OHA reports Partially Implemented

Self-reported March 28, 2019.

(OHA Board of Trustees, 5.b.) OHA Board of Trustees should, with respect to Trustee Allowances, prohibit the use of Trustee Allowances to provide financial support, direct or otherwise, to individuals, groups, or organizations. Require requests for financial support by individuals, groups, or organizations to be approved by the board and funded through a program other than Trustee Allowances.

2022: Auditor reports **Implemented**

Follow-Up, Report No. 22-04.

2019: OHA reports Partially Implemented

Self-reported March 28, 2019.

(OHA Board of Trustees, 5.c.) OHA Board of Trustees should, with respect to Trustee Allowances, work with the Administration to more clearly define procedures related to the use and administration of Trustee Allowances.

2022: Auditor reports **Implemented**

Follow-Up, Report No. 22-04.

2019: OHA reports Partially Implemented

Self-reported March 28, 2019.

Recommendation	Status of Recommendation
<p>(OHA Board of Trustees, 5.d.) OHA Board of Trustees should, with respect to Trustee Allowances, require trustees to seek reimbursement of expenses; do not disburse the total amount of Trustee Allowances to trustees at the beginning of the fiscal year or otherwise advance any funds to trustees.</p>	<p>2022: Auditor reports Implemented Follow-Up, Report No. 22-04.</p> <p>2019: OHA reports Partially Implemented Self-reported March 28, 2019.</p>
<p>(OHA Board of Trustees, 5.e.) OHA Board of Trustees should, with respect to Trustee Allowances, review and amend, as needed, the sanctions established in the Code of Conduct for violations of Trustee Allowance policies and procedures and establish a process to ensure enforcement of sanctions to appropriately address such violations.</p>	<p>2022: Auditor reports Partially Implemented Follow-Up, Report No. 22-04.</p> <p>2019: OHA reports Partially Implemented Self-reported March 28, 2019.</p>
<p>(OHA Board of Trustees, 5.f.) OHA Board of Trustees should, with respect to Trustee Allowances, ensure that the purpose and use of Trustee Allowances aligns and is consistent with: (a) OHA’s mission; (b) OHA’s policies and procedures; (c) trustees’ fiduciary duties; and (d) State laws.</p>	<p>2022: Auditor reports Implemented Follow-Up, Report No. 22-04.</p> <p>2019: OHA reports Partially Implemented Self-reported March 28, 2019.</p>
<p>(OHA Administration, 1.a.) OHA Administration should, in general, require the Administration to attend regular training that includes, but is not limited to:</p> <ul style="list-style-type: none"> i. Fiduciary duties and other responsibilities of trustees; ii. State Ethics Code, Chapter 84, HRS; iii. Sunshine Law, part I of Chapter 92, HRS: and iv. Uniform Information Practices Act (Modified), Chapter 92F, HRS. 	<p>2022: Auditor reports Partially Implemented Follow-Up, Report No. 22-04.</p> <p>2019: OHA reports Partially Implemented Self-reported March 28, 2019.</p>
<p>(OHA Administration, 1.b.) OHA Administration should, in general, support trustees in performing their fiduciary duties and other responsibilities by, among other things, providing financial documents and other information in a timely manner as requested by individual trustees.</p>	<p>2022: Auditor reports Implemented Follow-Up, Report No. 22-04.</p> <p>2019: OHA reports Partially Implemented Self-reported March 28, 2019.</p>

Recommendation

Status of Recommendation

(OHA Administration, 2.a.) OHA Administration should, with respect to Kūlia Initiatives, ensure that the board and the Administration adhere to and comply with the board-adopted policies and procedures for Kūlia Initiatives.

2022: Auditor reports **Not Implemented - N/A**

Follow-Up, Report No. 22-04.

Our follow-up report noted: “In response to Report No. 18-03, *Audit of the Office of Hawaiian Affairs*, OHA discontinued the use of Kūlia Initiatives.”

2019: OHA reports Partially Implemented

Self-reported March 28, 2019.

(OHA Administration, 2.b.) OHA Administration should, with respect to Kūlia Initiatives, ensure that OHA’s use of Kūlia Initiatives aligns and is consistent with: (a) OHA’s mission; (b) OHA’s policies and procedures; (c) trustees’ fiduciary duties; and (d) State laws.

2022: Auditor reports **Not Implemented - N/A**

Follow-Up, Report No. 22-04.

Our follow-up report noted: “In response to Report No. 18-03, *Audit of the Office of Hawaiian Affairs*, OHA discontinued the use of Kūlia Initiatives.”

2019: OHA reports Partially Implemented

Self-reported March 28, 2019.

(OHA Administration, 3.a.) OHA Administration should, with respect to the Fiscal Reserve, ensure each proposed use of the Fiscal Reserve is consistent with the Fiscal Reserve Guidelines and the board-stated purpose of the Fiscal Reserve.

2022: Auditor reports **Partially Implemented**

Follow-Up, Report No. 22-04.

2019: OHA reports Partially Implemented

Self-reported March 28, 2019.

(OHA Administration, 3.b.) OHA Administration should, with respect to the Fiscal Reserve, for each requested use of the Fiscal Reserve, provide the board with specific information and recommendations as to whether the board’s or the Administration’s proposed use of the Fiscal Reserve is consistent with the Fiscal Reserve Guidelines and the purpose of the Fiscal Reserve. Such information may include, but is not limited to, specific financial information regarding the Native Hawaiian Trust Fund balance, projected revenue for the fiscal year, and impact to the Native Hawaiian Trust Fund resulting from the requested use of the Fiscal Reserve.

2022: Auditor reports **Partially Implemented**

Follow-Up, Report No. 22-04.

2019: OHA reports Partially Implemented

Self-reported March 28, 2019.

Recommendation	Status of Recommendation
<p>(OHA Administration, 4.a.) OHA Administration should, with respect to CEO Sponsorships, adhere to Grants Staff recommendations regarding the Administration’s requests to fund CEO Sponsorships.</p>	<ul style="list-style-type: none"> <li data-bbox="743 365 1308 653"> <p>2022: Auditor reports Not Implemented Follow-Up, Report No. 22-04. Our follow-up report noted: “[W]hile there continues to be a moratorium on the CEO Sponsorships, OHA has not taken any other action to address the recommendation and, given that the program has not been discontinued, we consider this recommendation to be not implemented.”</p> <li data-bbox="743 684 1308 747"> <p>2019: OHA reports Partially Implemented Self-reported March 28, 2019.</p>
<p>(OHA Administration, 4.b.) OHA Administration should, with respect to CEO Sponsorships, if the Administration is allowed to adjust the budget to fund Sponsorships, obtain board approval before doing so, and provide the board with specific information about the proposed funding request to inform trustees’ decision-making.</p>	<ul style="list-style-type: none"> <li data-bbox="743 804 1308 1092"> <p>2022: Auditor reports Not Implemented Follow-Up, Report No. 22-04. Our follow-up report noted: “[W]hile there continues to be a moratorium on the CEO Sponsorships, OHA has not taken any other action to address the recommendation and, given that the program has not been discontinued, we consider this recommendation to be not implemented.”</p> <li data-bbox="743 1123 1203 1186"> <p>2019: OHA reports Implemented Self-reported March 28, 2019.</p>
<p>(OHA Administration, 5.a.) OHA Administration should, with respect to Trustee Allowances, monitor and review trustees’ use of Trustee Allowances and ensure expenditures using Trustee Allowances comply with the Trustee Allowances policy.</p>	<ul style="list-style-type: none"> <li data-bbox="743 1243 1252 1306"> <p>2022: Auditor reports Implemented Follow-Up, Report No. 22-04.</p> <li data-bbox="743 1346 1308 1409"> <p>2019: OHA reports Partially Implemented Self-reported March 28, 2019.</p>
<p>(OHA Administration, 5.b.) OHA Administration should, with respect to Trustee Allowances, establish procedures to more clearly define the Administration’s role and procedures for administering and monitoring the use of Trustee Allowances.</p>	<ul style="list-style-type: none"> <li data-bbox="743 1509 1252 1572"> <p>2022: Auditor reports Implemented Follow-Up, Report No. 22-04.</p> <li data-bbox="743 1612 1308 1675"> <p>2019: OHA reports Partially Implemented Self-reported March 28, 2019.</p>

Recommendation

Status of Recommendation

(OHA Administration, 5.c.) OHA Administration should, with respect to Trustee Allowances, report to the board the specific expenditures approved and reimbursed to each trustee using Trustee Allowances.

2022: Auditor reports **Implemented**

Follow-Up, Report No. 22-04.

2019: OHA reports Partially Implemented

Self-reported March 28, 2019.

(OHA Administration, 5.d.) OHA Administration should, with respect to Trustee Allowances, create a formal appeal process for trustees to request a second determination of whether they are entitled to reimbursement of expenses using Trustee Allowances, for instance, through staff whose regular duties do not involve review and approval of Trustee Allowances.

2022: Auditor reports **Implemented**

Follow-Up, Report No. 22-04.

2019: OHA reports Partially Implemented

Self-reported March 28, 2019.



PHOTO: HAWAII TOURISM AUTHORITY (HTA) / TOR JOHNSON

REPORT NO. 18-04 *Audit of the Hawai'i Tourism Authority*



IN REPORT NO. 18-04, *Audit of the Hawai'i Tourism Authority*, we found that the Hawai'i Tourism Authority's (HTA) lax oversight of its major contractors did not ensure that public funds were being used effectively and efficiently; deficient procurement and contracting practices undermined accountability and did not ensure best value; and expenses previously classified as "administrative" were shifted to other budget lines to work around a reduced statutory limit for such expenses.

In 2019, we issued a formal request for information to HTA on the status of audit recommendations from Report No. 18-04. The agency reported that all of our recommendations have been at least partially implemented.

In 2020, we issued another formal request for information on the status of audit recommendations

that were marked as Partially Implemented in their 2019 written responses. The agency reported that all of our recommendations have been fully implemented.

In 2021, we conducted an active follow-up into the implementation of our recommendations, and in 2022 we issued Report No. 22-09 entitled, *Follow-Up on Recommendations from Report No. 18-04, Audit of the Hawai'i Tourism Authority*. As a result of that report, we found that 21 out of 27 (78%) of our recommendations had been at least partially implemented.

The following is a list of recommendations made and a chronological summary of our follow-up efforts. Any findings by the Office of the Auditor are highlighted in yellow.

Recommendation

Status of Recommendation

(1.) HTA should, in general, update internal policies and procedures related to training, compliance reviews, and other quality assurance functions, to ensure they align with HTA's current organizational structure and personnel.

2022: Auditor reports **Partially Implemented**

Follow-Up, Report No. 22-09.

2020: HTA reports Implemented

Self-reported June 18, 2020.

2019: HTA reports Partially Implemented

Self-reported March 29, 2019.

(2.) HTA should, in general, assign a senior manager to oversee HTA's quality assurance function and ensure it is a priority for the Authority. Such oversight should include ensuring HTA's quality assurance plan is updated and properly implemented.

2022: Auditor reports **Partially Implemented**

Follow-Up, Report No. 22-09.

2020: HTA reports Implemented

Self-reported June 18, 2020.

2019: HTA reports Partially Implemented

Self-reported March 29, 2019.

(3.) HTA should, with respect to overall procurement, update internal policies and procedures to clearly identify the HTA management and staff who are responsible for procurement, administration, and oversight of all contracts, and clearly delineate the responsibilities assigned to each.

2022: Auditor reports **Partially Implemented**

Follow-Up, Report No. 22-09.

2020: HTA reports Implemented

Self-reported June 18, 2020.

2019: HTA reports Partially Implemented

Self-reported March 29, 2019.

(4.a.) HTA should, with respect to overall procurement, enforce policies and procedures that ensure HTA's actual procurement and contracting practices align with the best interests of the State and foster appropriate use of public funds, including requiring pre-solicitation market research to assess, among other things, market competition and estimated cost.

2022: Auditor reports **Partially Implemented**

Follow-Up, Report No. 22-09.

2020: HTA reports Implemented

Self-reported June 18, 2020.

2019: HTA reports Partially Implemented

Self-reported March 29, 2019.

(4.b.) HTA should, with respect to overall procurement, enforce policies and procedures that ensure HTA's actual procurement and contracting practices align with the best interests of the State and foster appropriate use of public funds, including requiring proposals for each contract, contract amendment, and extension.

2022: Auditor reports **Partially Implemented**

Follow-Up, Report No. 22-09.

2019: HTA reports Implemented

Self-reported March 29, 2019.

Recommendation	Status of Recommendation
<p>(4.c.) HTA should, with respect to overall procurement, enforce policies and procedures that ensure HTA’s actual procurement and contracting practices align with the best interests of the State and foster appropriate use of public funds, including enforcing requirement that contractors provide evidence of a valid Certificate of Vendor Compliance (CVC) prior to contract execution.</p>	<p>2022: Auditor reports Partially Implemented Follow-Up, Report No. 22-09.</p> <p>2019: HTA reports Implemented Self-reported March 29, 2019.</p>
<p>(4.d.) HTA should, with respect to overall procurement, enforce policies and procedures that ensure HTA’s actual procurement and contracting practices align with the best interests of the State and foster appropriate use of public funds, including requiring contracts to include specific performance criteria, performance benchmarks, and deliverables that are aligned with the contract objectives.</p>	<p>2022: Auditor reports Partially Implemented Follow-Up, Report No. 22-09.</p> <p>2019: HTA reports Implemented Self-reported March 29, 2019.</p>
<p>(4.e.) HTA should, with respect to overall procurement, enforce policies and procedures that ensure HTA’s actual procurement and contracting practices align with the best interests of the State and foster appropriate use of public funds, including requiring contractors to provide regular progress reports.</p>	<p>2022: Auditor reports Implemented Follow-Up, Report No. 22-09.</p> <p>2019: HTA reports Implemented Self-reported March 29, 2019.</p>
<p>(4.f.) HTA should, with respect to overall procurement, enforce policies and procedures that ensure HTA’s actual procurement and contracting practices align with the best interests of the State and foster appropriate use of public funds, including evaluating contractor performance against performance criteria.</p>	<p>2022: Auditor reports Partially Implemented Follow-Up, Report No. 22-09.</p> <p>2019: HTA reports Implemented Self-reported March 29, 2019.</p>

Recommendation

Status of Recommendation

(4.g.) HTA should, with respect to overall procurement, enforce policies and procedures that ensure HTA's actual procurement and contracting practices align with the best interests of the State and foster appropriate use of public funds, including requiring written evaluation of contractor performance before amending, modifying, or extending any contract.

2022: Auditor reports **Partially Implemented**

Follow-Up, Report No. 22-09.

2019: HTA reports **Implemented**

Self-reported March 29, 2019.

(5.) HTA should, with respect to overall procurement, retain exclusive ownership of intellectual property created, developed, prepared, or assembled using State funds, absent extraordinary and unique circumstances. Require requests for waiver of the State's ownership of intellectual property to be thoroughly documented and approved by the Department of the Attorney General.

2022: Auditor reports **Partially Implemented**

Follow-Up, Report No. 22-09.

2019: HTA reports **Implemented**

Self-reported March 29, 2019.

(6.) HTA should, with respect to overall procurement, regularly review and evaluate HTA management and staff performance of their respective procurement and contract-related duties and responsibilities.

2022: Auditor reports **Partially Implemented**

Follow-Up, Report No. 22-09.

2020: HTA reports **Implemented**

Self-reported June 18, 2020.

2019: HTA reports **Partially Implemented**

Self-reported March 29, 2019.

(7.) HTA should, with respect to overall procurement, require HTA management and staff who have procurement and contract-related responsibilities to receive regular training on the State Procurement Code, Chapter 103D, HRS, and the State Ethics Code, specifically, Section 84-15, HRS.

2022: Auditor reports **Implemented**

Follow-Up, Report No. 22-09.

2019: HTA reports **Implemented**

Self-reported March 29, 2019.

(8.) HTA should, with respect to sole source procurements, limit sole source procurement to where a good or service is deemed available from only one source.

2022: Auditor reports **Partially Implemented**

Follow-Up, Report No. 22-09.

2019: HTA reports **Implemented**

Self-reported March 29, 2019.

Recommendation	Status of Recommendation
<p>(9.) HTA should, with respect to sole source procurements, require completed documentation to support use of sole source procurement.</p>	<p>2022: Auditor reports Partially Implemented Follow-Up, Report No. 22-09.</p> <p>2019: HTA reports Implemented Self-reported March 29, 2019.</p>
<p>(10.) HTA should, with respect to sole source procurements, require written confirmation and justification of sole source contract pricing.</p>	<p>2022: Auditor reports Partially Implemented Follow-Up, Report No. 22-09.</p> <p>2019: HTA reports Implemented Self-reported March 29, 2019.</p>
<p>(11.) HTA should, with respect to sole source procurements, develop a publicly accessible list of sole source procurement contracts.</p>	<p>2022: Auditor reports Implemented Follow-Up, Report No. 22-09.</p> <p>2020: HTA reports Implemented Self-reported June 18, 2020.</p> <p>2019: HTA reports Implemented Self-reported March 29, 2019.</p>
<p>(12.) HTA should, with respect to cost reimbursement contracts, enforce existing contract provisions requiring AEG, and any other contractors who are reimbursed by HTA for costs they incur, to submit receipts and other supporting documentation for each cost invoiced to HTA for reimbursement or other payment.</p>	<p>2022: Auditor reports Not Implemented - Disagree Follow-Up, Report No. 22-09.</p> <p>Our follow-up report noted: “HTA believes the procedures put into place, which require review of receipts for a sampling of costs, is sufficient. HTA maintains that several layers of controls are in place, including approval and monitoring of the contractor’s budget, the contractor’s presentation of monthly financial statements to the HTA Board, reconciliation of AEG invoices to their monthly financial statement prior to reimbursement, and the financial statement audit required of the contractor. HTA asserts that, given these procedures, inspecting receipts of every cost incurred is not reasonable.”</p> <p>2019: HTA reports Implemented Self-reported March 29, 2019.</p>

Recommendation

Status of Recommendation

(13.) HTA should, with respect to cost reimbursement contracts, develop and implement procedures to review and evaluate receipts and supporting documentation submitted for each cost that AEG, and any other contractors who are reimbursed by HTA for costs they incur, invoices HTA for reimbursement or other payment.

2022: Auditor reports **Not Implemented - Disagree**

Follow-Up, Report No. 22-09.

Our follow-up report noted: “HTA believes the procedures put into place, which require review of receipts for a sampling of costs, is sufficient. HTA added that it is not reasonable to inspect all receipts for every cost incurred, and maintains that several layers of controls are in place, including approval and monitoring of the contractor’s budget, the contractor’s presentation of monthly financial statements to the HTA Board, reconciliation of AEG invoices to their monthly financial statement prior to reimbursement, and the financial statement audit required of the contractor.”

2019: HTA reports Implemented

Self-reported March 29, 2019.

(14.) HTA should, with respect to major contractors (AEG and HVCB), develop and implement procedures to include additional monitoring and more frequent evaluation of contractors’ performance.

2022: Auditor reports **Partially Implemented**

Follow-Up, Report No. 22-09.

2020: HTA reports Implemented

Self-reported June 18, 2020.

2019: HTA reports Partially Implemented

Self-reported March 29, 2019.

(15.) HTA should, with respect to major contractors (AEG and HVCB), require compliance with all material contract terms, including but not limited to HTA’s prior written approval of all subcontracts.

2022: Auditor reports **Not Implemented**

Follow-Up, Report No. 22-09.

Our follow-up report noted: “Although HTA has adopted policies and procedures to strengthen contract administration, it appears the Authority has yet to develop a system to actively manage contracts to ensure contractors comply with contract terms. However, HTA does include this requirement as part of the State’s General Conditions attached to and made part of HTA contracts. Although HTA also said it plans to add the requirement for subcontractors to be approved by HTA to its procedures, the Authority cannot assure compliance with this recommendation.”

2019: HTA reports Implemented

Self-reported March 29, 2019.

Recommendation	Status of Recommendation
<p>(16.) HTA should, with respect to major contractors (AEG and HVCB), require requests for written approval to subcontract to include, at a minimum: (1) an explanation of the need for the goods or services to be subcontracted; (2) a statement regarding subcontractor’s qualifications to provide the goods or services; (3) a summary of process used to procure the goods or services, including the material terms of bids or other responses to provide the goods or services; and (4) the reason(s) for the selection of the subcontractor, including information used to determine the reasonableness of the subcontract amount.</p>	<p>2022: Auditor reports Partially Implemented Follow-Up, Report No. 22-09.</p> <p>2019: HTA reports Implemented Self-reported March 29, 2019.</p>
<p>(17.) HTA should, with respect to major contractors (AEG and HVCB), for current subcontracts without HTA’s prior written approval, require justification for the subcontracts, including but not limited to the information required for approval to subcontract. For current subcontracts deemed unnecessary, unreasonable, or otherwise contrary to the State’s best interest, consider requiring the goods or services to be re-procured.</p>	<p>2022: Auditor reports Not Implemented Follow-Up, Report No. 22-09.</p> <p>Our follow-up report noted: “In responding to the recommendation, HTA cited the adoption of the previously-mentioned subcontractor approval form as a requirement for existing subcontracts related to the AEG and major marketing area contracts. HTA further stated that the President and CEO determined that it was not in the best interest of the State to re-bid/re-procure the goods/services provided by the subcontractors identified in the audit.</p> <p>As HTA did not provide any other justification of the continued use of these subcontractors, we deem this recommendation to be not implemented.”</p> <p>2019: HTA reports Implemented Self-reported March 29, 2019.</p>
<p>(18.) HTA should, with respect to major contractors (AEG and HVCB), determine whether “agreements” and “arrangements” for goods or services relating to AEG’s performance of the contract, including with AEG affiliates or related organizations, are subcontracts, requiring prior written consent.</p>	<p>2022: Auditor reports Implemented Follow-Up, Report No. 22-09.</p> <p>2019: HTA reports Implemented Self-reported March 29, 2019.</p>

Recommendation

Status of Recommendation

(19.) HTA should, with respect to major contractors (AEG and HVCB), consult with the Department of the Attorney General regarding the concession services agreement between AEG and Levy, specifically about action required to remedy AEG’s failure to competitively procure the concession services as required by law.

2022: Auditor reports **Implemented**

Follow-Up, Report No. 22-09.

2019: HTA reports Implemented

Self-reported March 29, 2019.

(20.) HTA should, with respect to the limit on administrative expenses, seek clarification from the Legislature regarding the term “administrative expenses,” as used in section 201B-11(c)(1), HRS, through legislation to define the term, including the specific types of expenses that are included within that term.

2022: Auditor reports **Not Implemented - N/A**

Follow-Up, Report No. 22-09.

Our follow-up report noted: “HTA said the Tourism Special Fund was repealed by the Legislature in 2021, and therefore this recommendation is no longer relevant.”

2020: HTA reports Implemented

Self-reported June 18, 2020.

2019: HTA reports Partially Implemented

Self-reported March 29, 2019.

(21.) HTA should, with respect to the limit on administrative expenses, until the Legislature provides clarification of the term, request a formal legal opinion from the Attorney General as to the meaning of the term “administrative expenses,” as used in section 201B-11(c)(1), HRS, that HTA can apply in developing its budget and to monitor its use of the Tourism Special Fund.

2022: Auditor reports **Not Implemented - N/A**

Follow-Up, Report No. 22-09.

Our follow-up report noted: “HTA said that this recommendation was no longer relevant as the Tourism Special Fund was no longer in existence, repealed pursuant to Act 1, 2021 Legislative Special Session.”

2020: HTA reports Implemented

Self-reported June 18, 2020.

2019: HTA reports Partially Implemented

Self-reported March 29, 2019.



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REPORT NO. 18-05 *Audit of the Public Utilities Commission*

Number of Recommendations: **12**

Number of Recommendations Partially or Fully Implemented: **11**

Percent Partially or Fully Implemented: **92%**

Audit Recommendations by Status

In Report No. 18-05, we made a total of 12 recommendations to the agency.



- Implemented
- Partially Implemented
- Not Implemented
- Not Implemented - N/A
- Not Implemented - Disagree

Source: Office of the Auditor

IN REPORT NO. 18-05, *Audit of the Public Utilities Commission*, we found that the Public Utilities Commission’s (PUC) “Goals and Objectives of the Commission” was missing action plans and performance measures to link goals and objectives to the commission’s actual work and activities; that PUC did not address critical issues facing the commission such as staff retention, an archaic document management system, and inconsistent docket processing; and that despite spending \$2.8 million on a computerized document management system, PUC’s docket efficiency needs remained unmet.

In 2019 and 2020, we issued formal requests for information to PUC on the status of audit recommendations from Report No. 18-05. The agency reported that all of our recommendations had been at least partially implemented.

In 2021, we conducted an active follow-up into the implementation of our recommendations and issued Report No. 21-08 entitled, *Follow-Up on Recommendations from Report No. 18-05, Audit of the Public Utilities Commission*. As a result of that report, we found that 10 out of 12 (83%) of our recommendations had been at least partially implemented.

In 2022, we issued a formal request for information on the status of audit recommendations that had not been fully implemented in Report No. 21-08. The agency reported that of the applicable recommendations, both had been at least partially implemented.

The following is a list of recommendations made and a chronological summary of our follow-up efforts. Any findings by the Office of the Auditor are highlighted in yellow.

Recommendation

Status of Recommendation

(1.a.) The Public Utilities Commission should, with respect to strategic planning, develop and implement a formal written strategic planning process that includes involving internal and external stakeholders.

2021: Auditor reports **Implemented**

Follow-Up, Report No. 21-08.

2020: PUC reports **Implemented**

Self-reported July 16, 2020.

2019: PUC reports **Partially Implemented**

Self-reported March 29, 2019.

(1.b.) The Public Utilities Commission should, with respect to strategic planning, develop and implement a multi-year strategic plan, separate from the annual report, and ensure the PUC's routine self-evaluation of the plan including the assessment of achieved objectives and goals.

2021: Auditor reports **Implemented**

Follow-Up, Report No. 21-08.

2020: PUC reports **Implemented**

Self-reported July 16, 2020.

2019: PUC reports **Partially Implemented**

Self-reported March 29, 2019.

(1.c.) The Public Utilities Commission should, with respect to strategic planning, ensure that the strategic plan specifically includes a well-defined mission statement and vision statement which clearly articulates short- and long-term objectives, detailed action plans to achieve specific objectives, prioritized goals, performance measurements identifying target milestones, and the ability to monitor and track progress towards achieving the strategic plan.

2021: Auditor reports **Implemented**

Follow-Up, Report No. 21-08.

2020: PUC reports **Partially Implemented**

Self-reported July 16, 2020.

2019: PUC reports **Partially Implemented**

Self-reported March 29, 2019.

(1.d.) The Public Utilities Commission should, with respect to strategic planning, ensure that the strategic plan is communicated to internal and external stakeholders.

2021: Auditor reports **Implemented**

Follow-Up, Report No. 21-08.

2020: PUC reports **Partially Implemented**

Self-reported July 16, 2020.

2019: PUC reports **Partially Implemented**

Self-reported March 29, 2019.

Recommendation

Status of Recommendation

(1.e.) The Public Utilities Commission should, with respect to strategic planning, ensure that the strategic plan specifically addresses PUC’s role in facilitating larger State goals, including the State’s goal of 100 percent renewable energy by 2045.

2021: Auditor reports Implemented

Follow-Up, Report No. 21-08.

2020: PUC reports Implemented

Self-reported July 16, 2020.

2019: PUC reports Partially Implemented

Self-reported March 29, 2019.

(1.f.) The Public Utilities Commission should, with respect to strategic planning, develop and implement multi-year strategic workforce, retention, and succession plans that align with the PUC’s strategic plan.

2022: PUC reports Implemented

Self-reported June 27, 2022.

2021: Auditor reports Partially Implemented

Follow-Up, Report No. 21-08.

2020: PUC reports Implemented

Self-reported July 16, 2020.

2019: PUC reports Partially Implemented

Self-reported March 29, 2019.

(1.g.) The Public Utilities Commission should, with respect to strategic planning, perform annual formal performance evaluations of all employees.

2022: PUC reports Partially Implemented

Self-reported June 27, 2022.

2021: Auditor reports Not Implemented

Follow-Up, Report No. 21-08.

Our follow-up report noted: “[N]otwithstanding the inclusion of the PUC’s updated employee performance review process in the 2020-2022 PUC Strategic Plan, data provided by the PUC does not support that annual formal performance evaluations of all employees were performed in 2019 or in 2020.”

2019: PUC reports Implemented

Self-reported March 29, 2019.

Recommendation

Status of Recommendation

(1.h.) The Public Utilities Commission should, with respect to strategic planning, conduct and document exit interviews.

- **2021: Auditor reports** **Implemented**
Follow-Up, Report No. 21-08.
- **2019: PUC reports** **Implemented**
Self-reported March 29, 2019.

(2.a.) The Public Utilities Commission should, with respect to docket processing, develop, establish, and implement official policies and procedures over the docket process.

- **2021: Auditor reports** **Implemented**
Follow-Up, Report No. 21-08.
- **2019: PUC reports** **Implemented**
Self-reported March 29, 2019.

(2.b.) The Public Utilities Commission should, with respect to docket processing, document, clarify, and communicate the roles and responsibilities of docket team members.

- **2021: Auditor reports** **Implemented**
Follow-Up, Report No. 21-08.
- **2019: PUC reports** **Implemented**
Self-reported March 29, 2019.

(3.a.) The Public Utilities Commission should, with respect to information technology (IT), develop and implement an IT strategy that aligns with the PUC's strategic plan and current needs, and which involves internal and external stakeholders, including the consumer advocate.

- **2021: Auditor reports** **Implemented**
Follow-Up, Report No. 21-08.
- **2020: PUC reports** **Implemented**
Self-reported July 16, 2020.
- **2019: PUC reports** **Partially Implemented**
Self-reported March 29, 2019.

Recommendation

(3.b.) The Public Utilities Commission should, with respect to information technology (IT), complete the Request for Information as soon as possible to avoid additional maintenance costs for the current system.

Status of Recommendation

2021: Auditor reports Not Implemented - N/A

Follow-Up, Report No. 21-08.

Our follow-up report noted: “Although the PUC did not issue a [Request for Information] as initially intended and as recommended in Report No. 18-05, the [Request for Proposal] and contract for a feasibility study as well as the PUC’s strategic plans to replace [Document Management System] appear to meet the original intent of the recommended [Request for Information]. Accordingly, we concluded circumstances have changed such that this recommendation is no longer applicable.”

2020: PUC reports Implemented

Self-reported July 16, 2020.

2019: PUC reports Partially Implemented

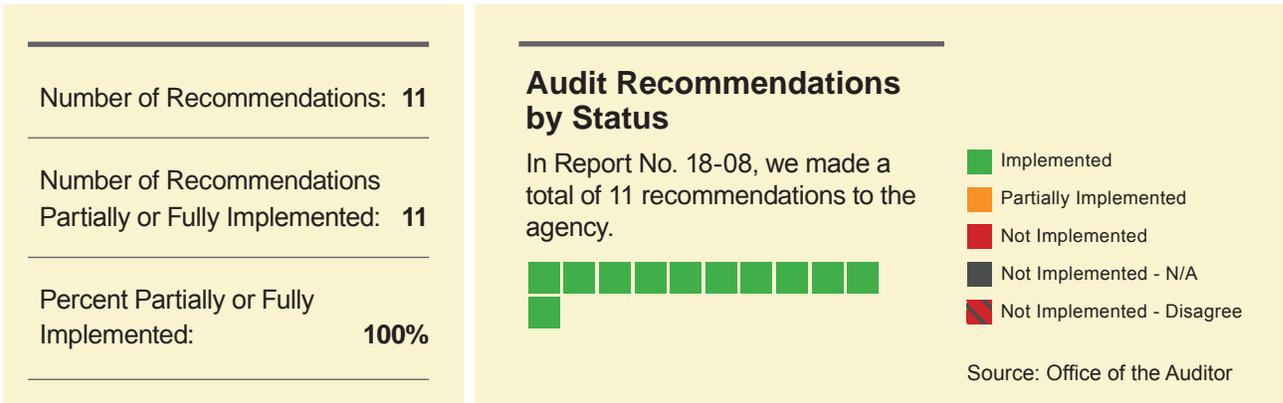
Self-reported March 29, 2019.



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REPORT NO. 18-08

Audit of the Office of Hawaiian Affairs’ Competitive Grants and Report on the Implementation of 2013 Audit Recommendations



IN REPORT NO. 18-08, *Audit of the Office of Hawaiian Affairs’ Competitive Grants and Report on the Implementation of 2013 Audit Recommendations*, we found that the Office of Hawaiian Affairs (OHA) did not consistently meet the statutory requirements to monitor and evaluate ‘Ahahui Grants, but predominantly met monitoring and evaluation requirements for Community Grants.

In 2019, we issued a formal request for information to OHA on the status of audit recommendations from Report No. 18-08. The agency reported that all of our recommendations had been fully implemented.

In 2021, we conducted an active follow-up into the implementation of our recommendations and issued Report No. 21-10 entitled, *Follow-Up on*

Recommendations from Report No. 18-08, Audit of the Office of Hawaiian Affairs’ Competitive Grants and Report on the Implementation of 2013 Audit Recommendations. As a result of that report, we found that 11 out of 11 (100%) of our recommendations had been at least partially implemented.

In 2022, we issued a formal request for information on the status of the audit recommendation that had not been fully implemented in Report No. 21-10. The agency reported that the applicable recommendation had been fully implemented.

The following is a list of recommendations made and a chronological summary of our follow-up efforts. Any findings by the Office of the Auditor are highlighted in yellow.

Recommendation	Status of Recommendation
<p>(1.a.) OHA should improve its overall administration and reporting of grants by ensuring that all grants are awarded and administered consistent with the requirements set forth in Section 10-17, HRS.</p>	<p>2021: Auditor reports Implemented Follow-Up, Report No. 21-10.</p>
	<p>2019: OHA reports Implemented Self-reported August 20, 2019.</p>
<p>(1.b.) OHA should improve its <u>overall administration and reporting of grants</u> by developing and documenting a process to ensure a complete list of grants is properly maintained and reported. As part of this process, OHA should consider establishing a master list of all grants, and reconciling TAP’s grant records against the grant records of fiscal and other OHA divisions.</p>	<p>2021: Auditor reports Implemented Follow-Up, Report No. 21-10.</p>
	<p>2019: OHA reports Implemented Self-reported August 20, 2019.</p>
<p>(2.a.) OHA should improve its administration of <u>‘Ahahui Grants</u> by monitoring, tracking, and documenting grantees’ compliance with grant agreement terms and conditions, submission of required grant documents, and achievement of applicable performance measures for use in future grant application reviews and award decisions.</p>	<p>2021: Auditor reports Implemented Follow-Up, Report No. 21-10.</p>
	<p>2019: OHA reports Implemented Self-reported August 20, 2019.</p>
<p>(2.b.) OHA should improve its administration of <u>‘Ahahui Grants</u> by formally evaluating the information gathered from grantee final reports and OHA staff attendance reports to determine whether events met criteria and should be funded in the future.</p>	<p>2021: Auditor reports Implemented Follow-Up, Report No. 21-10.</p>
	<p>2019: OHA reports Implemented Self-reported August 20, 2019.</p>
<p>(2.c.) OHA should improve its administration of <u>‘Ahahui Grants</u> by requiring OHA personnel to attend ‘Ahahui Grant-funded events to monitor and evaluate the events to ensure grants are used consistent with the purpose and intent of the grant, and achieved the expected results; and ensuring that staff reports are submitted by the established deadline.</p>	<p>2021: Auditor reports Implemented Follow-Up, Report No. 21-10.</p>
	<p>2019: OHA reports Implemented Self-reported August 20, 2019.</p>

Recommendation

Status of Recommendation

(2.d.) OHA should improve its administration of 'Ahahui Grants by clarifying and documenting the responsibilities and processes for monitoring and evaluating all 'Ahahui Grants, and updating existing policies and procedures as necessary.

2021: Auditor reports **Implemented**

Follow-Up, Report No. 21-10.

2019: OHA reports **Implemented**

Self-reported August 20, 2019.

(2.e.) OHA should improve its administration of 'Ahahui Grants by implementing a formal, documented system to ensure that grant files are complete and contain all necessary documents, including grantee final reports and OHA staff attendance reports, such as a checklist for each grant.

2021: Auditor reports **Implemented**

Follow-Up, Report No. 21-10.

2019: OHA reports **Implemented**

Self-reported August 20, 2019.

(3.a.) OHA should improve its administration of Community Grants by monitoring, tracking, and documenting grantees' compliance with grant agreement terms and conditions, submission of required grant documents, and achievement of applicable performance measures for use in future grant application reviews and award discussions.

2022: OHA reports **Implemented**

Self-Reported, September 30, 2022

2021: Auditor reports **Partially Implemented**

Follow-Up, Report No. 21-10.

2019: OHA reports **Implemented**

Self-reported August 20, 2019.

(3.b.) OHA should improve its administration of Community Grants by monitoring the scheduling and performance of on-site visits to ensure that visits are conducted annually and results are communicated to grantees in a timely manner.

2021: Auditor reports **Implemented**

Follow-Up, Report No. 21-10.

2019: OHA reports **Implemented**

Self-reported August 20, 2019.

(3.c.) OHA should improve its administration of Community Grants by clarifying and documenting the responsibilities and processes for monitoring and evaluating all Community Grants, and updating existing policies and procedures as necessary.

2021: Auditor reports **Implemented**

Follow-Up, Report No. 21-10.

2019: OHA reports **Implemented**

Self-reported August 20, 2019.

Recommendation

Status of Recommendation

(3.d.) OHA should improve its administration of Community Grants by implementing a formal, documented system to ensure that grant files are complete and contain all necessary documents, including on-site monitoring reports, such as a checklist for each grant.

2021: Auditor reports **Implemented**

Follow-Up, Report No. 21-10.

2019: OHA reports **Implemented**

Self-reported August 20, 2019.



PHOTO: OFFICE OF THE AUDITOR

REPORT NO. 18-09
***Audit of the Department of the Attorney General's
 Asset Forfeiture Program***

<hr/> <p>Number of Recommendations: 7</p> <hr/> <p>Number of Recommendations Partially or Fully Implemented: 6</p> <hr/> <p>Percent Partially or Fully Implemented: 86%</p> <hr/>	<p>Audit Recommendations by Status</p> <p>In Report No. 18-09, we made a total of 7 recommendations to the agency.</p> <div style="display: flex; align-items: center;"> <div style="margin-right: 10px;"> </div> <div> <p> ■ Implemented ■ Partially Implemented ■ Not Implemented ■ Not Implemented - N/A ■ Not Implemented - Disagree </p> </div> </div> <div style="text-align: center; margin-top: 10px;"> </div> <p style="text-align: right; font-size: small;">Source: Office of the Auditor</p>
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IN REPORT NO. 18-09, *Audit of the Department of the Attorney General's Asset Forfeiture Program*, we found that administrative rules describing the procedures and practice requirements for asset forfeiture had not been adopted, and consequently, the Department of the Attorney General (ATG) was providing informal, piecemeal guidance to law enforcement agencies and the public. We also found a lack of internal policies and procedures and that the program manager did not guide and oversee day-to-day activities and financial management.

In 2019 and 2020, we issued formal requests for information to the ATG on the status of audit recommendations from Report No. 18-09. The agency reported that all of our recommendations had been at least partially implemented.

In 2021, we conducted an active follow-up

into the implementation of our recommendations, and issued Report No. 21-09 entitled, *Follow-Up on Recommendations from Report No. 18-09, Audit of the Department of the Attorney General's Asset Forfeiture Program*. As a result of that report, we found that 4 out of 7 (57%) of our recommendations had been at least partially implemented.

In 2022, we issued a formal request for information on the status of audit recommendations that had not been fully implemented in Report No. 21-09. The agency reported that of the applicable recommendations, four had been fully implemented, and one was not implemented because they disagreed with it.

The following is a list of recommendations made and a chronological summary of our follow-up efforts. Any findings by the Office of the Auditor are highlighted in yellow.

Recommendation	Status of Recommendation
<p>(1.) The Department of the Attorney General should promulgate administrative rules necessary to provide direction to county prosecutors, police departments, and those seeking remission or mitigation.</p>	<ul style="list-style-type: none"> <li data-bbox="760 365 1406 443"> <p>2021: Auditor reports Implemented Follow-Up, Report No. 21-09.</p> <li data-bbox="760 470 1406 533"> <p>2020: ATG reports Implemented Self-reported July 13, 2020.</p> <li data-bbox="760 562 1406 625"> <p>2019: ATG reports Partially Implemented Self-reported September 4, 2019.</p>
<p>(2.) The Department of the Attorney General should develop clear internal policies and procedures to ensure that petitions for administrative forfeiture are processed timely and consistently, that forfeited property and program funds are appropriately managed, and that proceeds from the sale of forfeited property are used for purposes intended by the Legislature.</p>	<ul style="list-style-type: none"> <li data-bbox="760 684 1406 758"> <p>2022: ATG reports Implemented Self-reported August 31, 2022.</p> <li data-bbox="760 789 1406 1125"> <p>2021: Auditor reports Not Implemented Follow-Up, Report No. 21-09.</p> <p>Our follow-up report noted the department referred us to various statutes and documents that they considered to be written policies and procedures addressing this recommendation. However, our analysis concluded that these documents did not include written guidance for department staff and did not address the specific areas covered by this recommendation.</p> <li data-bbox="760 1157 1406 1220"> <p>2020: ATG reports Implemented Self-reported September 4, 2019.</p>
<p>(3.a.) The Department of the Attorney General should strengthen internal controls to provide transparency and accountability for forfeited property and program funds by establishing basic accounting policies and procedures to properly account for program revenues and expenditures.</p>	<ul style="list-style-type: none"> <li data-bbox="760 1278 1406 1352"> <p>2022: ATG reports Implemented Self-reported August 31, 2022.</p> <li data-bbox="760 1383 1406 1446"> <p>2021: Auditor reports Partially Implemented Follow-Up, Report No. 21-09.</p> <li data-bbox="760 1478 1406 1541"> <p>2020: ATG reports Implemented Self-reported September 4, 2019.</p>

Recommendation

Status of Recommendation

(3.b.) The Department of the Attorney General should strengthen internal controls to provide transparency and accountability for forfeited property and program funds by maintaining a complete listing of forfeited property with estimated values for each property; and properly accounting for transactions for each property auctioned, destroyed, or kept for use by law enforcement.

2022: ATG reports **Implemented**

Self-reported August 31, 2022.

2021: Auditor reports Not Implemented

Follow-Up, Report No. 21-09.

Our follow-up report noted: “Although estimated values of property seized and estimated values of property forfeited are included in the program’s most recent annual report, a ready inventory of property pending forfeiture is still not maintained. The department also does not keep complete lists of items that have been destroyed or otherwise disposed of. Without a process to ensure that the department maintains a complete and up-to-date inventory of forfeited property, including property held by the county police departments, the department likely continues to be unable to accurately account for the property that has been forfeited to the State.”

2019: ATG reports Implemented

Self-reported September 4, 2019.

(3.c.) The Department of the Attorney General should strengthen internal controls to provide transparency and accountability for forfeited property and program funds by assigning the periodic and annual reconciliation of and reporting on the Criminal Forfeiture Fund to the department’s fiscal section.

2022: ATG reports **Implemented**

Self-reported August 31, 2022.

2021: Auditor reports Partially Implemented

Follow-Up, Report No. 21-09.

2020: ATG reports Implemented

Self-reported July 13, 2020.

2019: ATG reports Partially Implemented

Self-reported September 4, 2019.

(3.d.) The Department of the Attorney General should strengthen internal controls to provide transparency and accountability for forfeited property and program funds by preparing a short- and long-term forecast of revenues and expenditures of the Criminal Forfeiture Fund to ensure self-sustainability.

2021: Auditor reports **Implemented**

Follow-Up, Report No. 21-09.

2019: ATG reports Implemented

Self-reported September 4, 2019.

Recommendation

Status of Recommendation

(3.e.) The Department of the Attorney General should strengthen internal controls to provide transparency and accountability for forfeited property and program funds by ensuring the department complies with Act 104, Session Laws of Hawai'i 1996, which requires the allocation of 20 percent of moneys deposited into the Criminal Forfeiture Fund be used to support drug abuse education, prevention, and rehabilitation programs.

2022: ATG reports Not Implemented - Disagree

Self-reported August 31, 2022, stating:

“This recommendation is not required under the law and we therefore, have not implemented it. Although one of the original purposes of H.B. 2729, 18th Leg., Reg. Sess. (Haw. 1996) was to require that 20 percent of moneys deposited into Criminal Forfeiture Fund be allocated for drug abuse education, prevention and rehabilitation programs, that requirement was specifically deleted by the legislature.”¹

2021: Auditor reports Not Implemented

Follow-Up, Report No. 21-09.

Our follow-up report noted: “The department said it has not addressed this recommendation and is still exploring options to address the finding. Meanwhile, no disbursements pursuant to Act 104 have occurred.”

2020: ATG reports Partially Implemented

Self-reported July 13, 2020.

2019: ATG reports Partially Implemented

Self-reported September 4, 2019.

¹ As noted in Report No. 18-09, Act 104, SLH 1996 requires that 20 percent of moneys deposited into the Criminal Forfeiture Fund be used to support drug abuse education, prevention, and rehabilitation programs.



PHOTO: ISTOCK.COM

REPORT NO. 18-18
Audit of the Office of Health Care Assurance's Adult Residential Care Homes Program

Number of Recommendations: 9	<div style="display: flex; justify-content: space-between;"> <div style="width: 80%;"> <h3 style="margin: 0;">Audit Recommendations by Status</h3> <p style="margin: 0;">In Report No. 18-18, we made a total of 9 recommendations to the agency.</p> <div style="display: flex; align-items: center; margin-top: 10px;"> <div style="display: flex; gap: 5px;"> <div style="width: 15px; height: 15px; background-color: #4caf50;"></div> <div style="width: 15px; height: 15px; background-color: #ff9800;"></div> <div style="width: 15px; height: 15px; background-color: #f44336;"></div> </div> </div> <div style="width: 15%; font-size: 0.8em;"> <ul style="list-style-type: none"> ■ Implemented ■ Partially Implemented ■ Not Implemented ■ Not Implemented - N/A ■ Not Implemented - Disagree </div> </div> </div>
Number of Recommendations Partially or Fully Implemented: 8	
Percent Partially or Fully Implemented: 89%	

Source: Office of the Auditor

IN REPORT NO. 18-18, *Audit of the Office of Health Care Assurance's Adult Residential Care Homes Program*, we found that the Office of Health Care Assurance's (OHCA) license renewal process for adult residential care homes was unorganized and undisciplined, and that OHCA did not consistently enforce care homes' compliance with quality of care standards and plans to correct noted deficiencies.

In 2019, we issued a formal request for information to the Department of Health (DOH) on the status of audit recommendations from Report No. 18-18. The agency reported that 8 of our recommendations had been at least partially implemented; a recommendation which the agency disagreed with was not implemented.

In 2020, we issued another formal request for information on the status of audit recommendations that were marked as Partially Implemented in their 2019 written responses. The agency reported that the one applicable recommendation was still partially implemented.

In 2022, we issued another formal request for information on status of the audit recommendation marked as Partially Implemented in their 2020 written responses. The agency reported that the applicable recommendation was still partially implemented.

The following is a list of recommendations made and a chronological summary of our follow-up efforts. Any findings by the Office of the Auditor are highlighted in yellow.

Recommendation	Status of Recommendation
<p>(1.) OHCA should complete its annual inspection process, including OHCA's acceptance of a care home's Plan of Correction and confirmation that deficiencies have been corrected, before renewing a care home's license.</p>	<p>2019: DOH reports Implemented Self-reported December 3, 2019.</p>
<p>(2.) OHCA should use provisional licenses only as stipulated in Chapter 11-100.1, Hawai'i Administrative Rules, including to allow a care home to operate while it addresses and corrects deficiencies identified during a relicensing inspection.</p>	<p>2019: DOH reports Implemented Self-reported December 3, 2019.</p>
<p>(3.) OHCA should discontinue the use of short-term licenses, which are not defined by statute or administrative rules.</p>	<p>2019: DOH reports Not Implemented - Disagree Self-reported December 3, 2019, stating: "Use of short-term licenses, including their purpose, is described in the policy and procedure (P&P) titled 'State Licensing and Renewal Inspection Process and Timelines.' Staff were trained on the policy in December 2018. Use of short-term licenses may be used for non-enforcement reasons to bridge the license to their original license renewal date. Examples of non-enforcement reasons for short-term licenses are described in the policy and procedure. A short term license is not a provisional license."</p>
<p>(4.) OHCA should establish policies and procedures to verify or otherwise confirm that care homes have implemented approved Plans of Correction to correct deficiencies identified during inspections or unannounced visits, including policies and procedures to conduct follow-up visits for certain types of deficiencies.</p>	<p>2019: DOH reports Implemented Self-reported December 3, 2019.</p>

Recommendation

Status of Recommendation

(5.) OHCA should conduct at least one unannounced visit for each care home as required by Section 321-15.6, HRS, not as a substitute for an annual inspection, and should consider conducting more unannounced visits for each care home per year to verify that the care home is implementing its Plan of Correction and/or the care home is adequately providing care for its residents.

2019: DOH reports **Implemented**

Self-reported December 3, 2019.

(6.) OHCA should develop a centralized data management system for management and staff to review and update information as well as monitor inspections and licenses.

2022: DOH reports **Partially Implemented**

Self-reported February 11, 2022.

2020: DOH reports **Partially Implemented**

Self-reported December 14, 2020.

2019: DOH reports **Partially Implemented**

Self-reported December 3, 2019.

(7.) OHCA should develop policies and procedures to guide the relicensing process, including clear deadlines by which staff must, for example, issue Statements of Deficiencies to the licensee, review Plans of Correction, and complete inspections, to ensure timely license renewal.

2019: DOH reports **Implemented**

Self-reported December 3, 2019.

(8.) OHCA should promulgate administrative rules that describe the types of violations for which it may consider assessing a monetary fine or other action, including suspending or revoking a care home's license.

2019: DOH reports **Implemented**

Self-reported December 3, 2019.

(9.) OHCA should implement policies and take all measures necessary to comply with the posting requirements of Section 321-1.8, HRS, including posting all approved Plans of Correction for relicensing inspections. OHCA should also consider posting unanswered Statements of Deficiencies for care homes that do not submit a Plan of Correction within the ten-day deadline and Plans of Correction resulting from unannounced visits that identified deficiencies.

2019: DOH reports **Implemented**

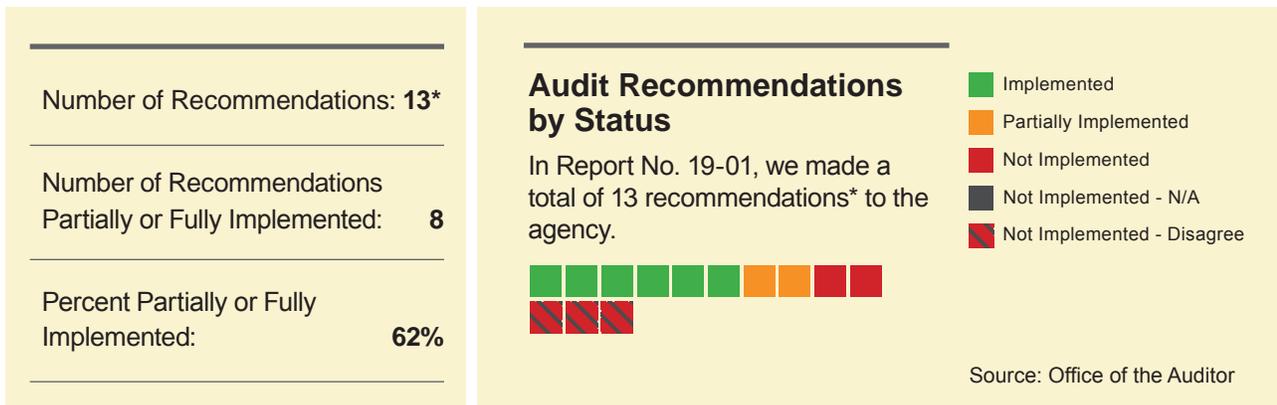
Self-reported December 3, 2019.



COVER PHOTO: DEPARTMENT OF LAND AND NATURAL RESOURCES

REPORT NO. 19-01

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



*In Report No. 19-01, we offered 12 recommendations to the Department of Land and Natural Resources' Legacy Land Conservation Program and Commission, including two separate recommendations that were part of Recommendation No. 3. In Report No. 22-11, we assessed the program's implementation of each part of Recommendation No. 3 separately. For that reason, we are now reporting on 13 recommendations (previously 12).

IN REPORT NO. 19-01, *Audit of the Department of Land and Natural Resources' Land Conservation Fund*, we found that the Department of Land and Natural Resources (DLNR) and its Division of Forestry and Wildlife (DOFAW) have struggled to properly manage the Legacy Land Conservation Program, hampering its effectiveness. 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.

In 2020, we issued a formal request for information to DLNR on the status of audit recommendations from Report No. 19-01. The agency reported that 11 of our recommendations had been at least partially implemented.

In 2021, we issued another formal request for information on the status of audit recommendations that

had been noted as Partially Implemented or Not Implemented in DLNR's 2020 written responses. The agency reported that of the applicable recommendations, one had been fully implemented, two were still partially implemented, and one was still not implemented.

In 2022, we conducted an active follow-up into the implementation of our recommendations and issued Report No. 22-11 entitled, *Follow-Up on Recommendations from Report No. 19-01, Audit of the Department of Land and Natural Resources' Land Conservation Fund*. As a result of that report, we found that 8 out of 13 (62%) of our recommendations had been at least partially implemented.

The following is a list of recommendations made and a chronological summary of our follow-up efforts. Any findings by the Office of the Auditor are highlighted in yellow.

Recommendation

Status of Recommendation

(Program, 1.) The Legacy Land Conservation Program should prepare and implement a Resource Land Acquisition Plan to comply with Section 173A-3, HRS.

2022: Auditor reports **Partially Implemented**

Follow-Up, Report No. 22-11.

2021: DLNR reports **Partially Implemented**

Self-reported March 1, 2021.

2020: DLNR reports **Partially Implemented**

Self-reported February 28, 2020.

(Program, 2.) The Legacy Land Conservation Program should develop and implement written policies and procedures – including internal controls – governing the grant award and blanket encumbrance processes to ensure that project contracts are executed on time and blanket encumbered funds do not lapse.

2022: Auditor reports **Implemented**

Follow-Up, Report No. 22-11.

2020: DLNR reports **Implemented**

Self-reported February 28, 2020.

(Program, 3, Part 1.) The Legacy Land Conservation Program should develop clear and well-defined policies and procedures between the Legacy Land Conservation Program and DOFAW regarding distribution of Land Conservation Fund moneys.

2022: Auditor reports **Implemented**

Follow-Up, Report No. 22-11.

2020: DLNR reports **Implemented**

Self-reported February 28, 2020.

Recommendation	Status of Recommendation
<p>(Program, 3, Part 2.) DOFAW should follow Section 173A-5, HRS, and submit a grant application to receive funding rather than submit a budgetary request.</p>	<p>2022: Auditor reports Not Implemented - Disagree Follow-Up, Report No. 22-11.</p> <p>Our follow-up report noted: “The Legacy Land Conservation Program stated its belief that the department, on behalf of DOFAW, is allowed to submit budgetary requests for the acquisition of land and that it therefore disagrees with this part of Recommendation 3. The program further argues that the Legislature has shown support for the department by appropriating moneys through budgetary requests from the Land Conservation Fund for acquisitions.”</p> <p>2020: DLNR reports Not Implemented - Disagree Self-reported February 28, 2020, stating:</p> <p>“...the Department—like many other State agencies—is authorized to submit a budgetary request for the acquisition of interests in land. As further evidence of legislative support for a State agency to submit a budgetary request for an appropriation from the Land Conservation Fund for resource land acquisition, the 2019 Legislature appropriated a total of \$1,100,000 from the Land Conservation Fund for two Department land acquisitions, as requested by the Department through the Executive Budget Request Process.”</p>
<p>(Program, 4.) The Legacy Land Conservation Program should work with the DLNR fiscal office to request the Department of Accounting and General Services to return the \$684,526 in administrative fees erroneously paid to it in FY2016 and FY2017.</p>	<p>2022: Auditor reports Implemented Follow-Up, Report No. 22-11.</p> <p>2020: DLNR reports Implemented Self-reported February 28, 2020.</p>
<p>(Program, 5.) The Legacy Land Conservation Program should maintain a record of the transfer of funds to and from the DLNR trust account and report these transactions to the Governor and the Legislature in the program’s annual report as required by Section 173A-5(1)(2), HRS.</p>	<p>2022: Auditor reports Implemented Follow-Up, Report No. 22-11.</p> <p>2020: DLNR reports Implemented Self-reported February 28, 2020.</p>

Recommendation

Status of Recommendation

(Program, 6.) The Legacy Land Conservation Program should review personnel spending and position assignments and implement changes as needed to ensure that Land Conservation Fund moneys are used only for administrative and other costs directly related to the Legacy Land Conservation Program.

2022: Auditor reports **Not Implemented - Disagree**

Follow-Up, Report No. 22-11.

Our follow-up report noted: “The program entertained three different alternatives to address Recommendation 6.

The program justified rejecting these scenarios in favor of the status quo in which the Land Conservation Fund Program Development Specialist is 100% funded from the Land Conservation Fund. The program based its determination on the fact that several individuals within the Land Division whose positions are funded through sources other than the Land Conservation Fund work on Legacy Land Conservation Program activities, resulting in ‘well over 1.0 FTE of staff services that directly benefit the Legacy Land Conservation Program.’”

2021: DLNR reports Implemented

Self-reported March 1, 2021.

2020: DLNR reports Partially Implemented

Self-reported February 28, 2020.

(Program, 7.) The Legacy Land Conservation Program should maintain a centralized file system and establish a records retention policy for all awarded projects, including pending, completed, and discontinued projects.

2022: Auditor reports **Partially Implemented**

Follow-Up, Report No. 22-11.

2021: DLNR reports Partially Implemented

Self-reported March 1, 2021.

2020: DLNR reports Partially Implemented

Self-reported February 28, 2020.

(Program, 8.) The Legacy Land Conservation Program should implement a policy that places a reasonable limit on the time a project, whether proposed by State, county, or nonprofit organization, can remain pending.

2022: Auditor reports **Not Implemented - Disagree**

Follow-Up, Report No. 22-11.

Our follow-up report noted: “Although the program requires board approval for projects that have not been completed after five years and requires appropriate justification for delays, projects can remain active indefinitely.”

2020: DLNR reports Implemented

Self-reported February 28, 2020.

Recommendation

Status of Recommendation

(Program, 9.) The Legacy Land Conservation Program should provide commissioners with background information and history on each applicant, including how many grants they have received from the Legacy Land Conservation Program, how long it has taken them to complete projects, and any outstanding or discontinued projects – a practice employed by the Federal Forest Legacy Program to help its panelists make final decisions on project recommendations.

2022: Auditor reports **Implemented**

Follow-Up, Report No. 22-11.

2020: DLNR reports **Implemented**

Self-reported February 28, 2020.

(Program, 10.) The Legacy Land Conservation Program should post Commission meeting minutes in compliance with the Sunshine Law.

2022: Auditor reports **Not Implemented**

Follow-Up, Report No. 22-11.

Our follow-up report noted: “Because the Commission is continuing to struggle with posting meeting minutes within 40 days after the meeting as required by the Sunshine Law, we deem this recommendation to be not implemented.

2020: DLNR reports **Implemented**

Self-reported February 28, 2020.

Recommendation

Status of Recommendation

(Program, 11.) The Legacy Land Conservation Program should promulgate administrative rules to implement the above recommendations.

2022: Auditor reports Not Implemented

Follow-Up, Report No. 22-11.

Our follow-up report noted: “As the program has not yet implemented administrative rules, we deem this recommendation to be not implemented.”

2021: DLNR reports Not Implemented

Self-reported March 1, 2021, stating:

“If certain legislative measures introduced during the 2021 session are enacted, then it may be necessary to initiate rulemaking soon thereafter to conform with new statutory requirements.”

2020: DLNR reports Not Implemented

Self-reported February 28, 2020, stating:

“We anticipate that after completing our implementation of other audit recommendations, the Program will vet a conceptual rulemaking proposal with Division administrators, the Department Chairperson, the Department of the Attorney General, and the Legacy Land Conservation Commission to help decide a future course of action.”

(Commission, 1.) The Legacy Land Conservation Commission should limit the amount of the grants that it recommends be funded from the Land Conservation Fund to the anticipated balance of the amount appropriated by the Legislature for the fiscal year. The Commission should not recommend awards that exceed the anticipated balance of the current fiscal year appropriation.

2022: Auditor reports Implemented

Follow-Up, Report No. 22-11.

2020: DLNR reports Implemented

Self-reported February 28, 2020.



PHOTO: THINKSTOCK.COM

REPORT NO. 19-12

Audit of the Department of Land and Natural Resources’ Special Land and Development Fund

Number of Recommendations: 17	<h3 style="margin: 0;">Audit Recommendations by Status</h3> <p style="margin: 0;">In Report No. 19-12, we made a total of 17 recommendations to the agency.</p> <div style="display: flex; align-items: center; margin: 10px 0;"> <div style="flex: 1;"> </div> <div style="flex: 1; font-size: 0.9em; margin-left: 10px;"> <ul style="list-style-type: none"> Implemented Partially Implemented Not Implemented Not Implemented - N/A Not Implemented - Disagree </div> </div> <p style="margin: 0; font-size: 0.8em;">Source: Office of the Auditor</p>
Number of Recommendations Partially or Fully Implemented: 16	
Percent Partially or Fully Implemented: 94%	

IN REPORT NO. 19-12, *Audit of the Department of Land and Natural Resources’ Special Land and Development Fund*, we found that the Department of Land and Natural Resources’ (DLNR) Land Division is lacking in both its management of public lands and its administration of the Special Land and Development Fund (SLDF). We found the Land Division does not have a strategic plan for the long-term management of its public lands, an asset management plan, nor clear and coherent policies or procedures to guide day-to-day operations and that the absence of long-range planning left staff without expertise, resources, and options to actively and effectively manage its land portfolio. We noted DLNR does not accurately account for moneys in the SLDF and underreported cash balances to the 2018 Legislature by more than \$1.5 million. We also reported it has allowed more than \$1.5 million to sit idle in the SLDF for more than five years.

In 2020, we issued a formal request for information to DLNR on the status of audit recommendations from

Report No. 19-12. The agency reported that 16 of our recommendations had been at least partially implemented, and the one recommendation not implemented they disagreed with.

In 2021, we issued another formal request for information on the status of audit recommendations that had been noted as Partially Implemented in DLNR’s 2020 written responses. The agency reported that of the applicable recommendations, seven were still partially implemented.

In 2022, we issued another formal request for information on the status of audit recommendations that had been noted as Partially Implemented in DLNR’s 2021 written responses. The agency reported that of the applicable recommendations, five had been fully implemented, and two were still partially implemented.

The following is a list of recommendations made and a chronological summary of our follow-up efforts. Any findings by the Office of the Auditor are highlighted in yellow.

Recommendation

Status of Recommendation

(Land Board, 1.) The Land Board should provide training for Land Board members about fiduciary responsibilities and obligations as trustees, including responsibilities related to the management and holding of state lands for the benefit of the State and promoting the development and utilization of public trust lands to their highest economic and social benefits. See In Re Water Use Permit Applications, 94 Haw. 97 (2000).

2022: DLNR reports **Implemented**

Self-reported July 27, 2022.

2021: DLNR reports **Partially Implemented**

Self-reported July 27, 2021.

2020: DLNR reports **Partially Implemented**

Self-reported July 30, 2020.

(Land Board, 2.) The Land Board should require DLNR and the Land Division to develop a long-range asset management/strategic plan that provides direction to the department and the Land Division as to the management of all leases, RPs, and public lands managed by the division.

2022: DLNR reports **Partially Implemented**

Self-reported July 27, 2022.

2021: DLNR reports **Partially Implemented**

Self-reported July 27, 2021.

2020: DLNR reports **Partially Implemented**

Self-reported July 30, 2020.

(Land Board, 3.) The Land Board should reconsider caps on annual rent adjustments for all rents below fair-market rates. Instead, the Land Board should review rent readjustments on a case-by-case basis.

2021: DLNR reports **Implemented**

Self-reported July 27, 2021.

2020: DLNR reports **Implemented**

Self-reported July 30, 2020.

(Land Division, 1.) The Land Division should prepare a long-range asset management/strategic plan that includes criteria for assessment based on benchmarks and other measurable objectives. The plan should address all leases, RPs, and public lands managed by the Land Division.

2022: DLNR reports **Partially Implemented**

Self-reported July 27, 2022.

2021: DLNR reports **Partially Implemented**

Self-reported July 27, 2021.

2020: DLNR reports **Partially Implemented**

Self-reported July 30, 2020.

(Land Division, 2.a.) The Land Division should develop and document policies and procedures for monitoring of leases and RPs.

2022: DLNR reports **Implemented**

Self-reported July 27, 2022.

2021: DLNR reports **Partially Implemented**

Self-reported July 27, 2021.

2020: DLNR reports **Partially Implemented**

Self-reported July 30, 2020.

Recommendation	Status of Recommendation
<p>(Land Division, 2.b.) The Land Division should develop and document policies and procedures for periodic and regular reviews of RP rents.</p>	<ul style="list-style-type: none"> <li data-bbox="764 369 1232 436">● 2021: DLNR reports Implemented Self-reported July 27, 2021. <li data-bbox="764 474 1232 533">● 2020: DLNR reports Implemented Self-reported July 30, 2020.
<p>(Land Division, 2.c.) The Land Division should develop and document policies and procedures for verification of required receipts to validate substantial property improvements required for 10-year lease extensions.</p>	<ul style="list-style-type: none"> <li data-bbox="764 594 1232 661">● 2022: DLNR reports Implemented Self-reported July 27, 2022. <li data-bbox="764 699 1328 766">● 2021: DLNR reports Partially Implemented Self-reported July 27, 2021. <li data-bbox="764 804 1328 852">● 2020: DLNR reports Partially Implemented Self-reported July 30, 2020.
<p>(Land Division, 2.d.) The Land Division should develop and document policies and procedures for timely and effective collection of lease and RP rents.</p>	<ul style="list-style-type: none"> <li data-bbox="764 915 1232 982">● 2021: DLNR reports Implemented Self-reported July 27, 2021. <li data-bbox="764 1020 1232 1079">● 2020: DLNR reports Implemented Self-reported July 30, 2020.
<p>(Land Division, 3.) The Land Division should establish guidelines and requirements for periodic and regular inspections of leases and RPs to ensure that lessees are adequately maintaining improvements on the properties. If additional staff is needed to reasonably carry out these duties, a workload analysis should be performed to justify more positions.</p>	<ul style="list-style-type: none"> <li data-bbox="764 1152 1232 1220">● 2022: DLNR reports Implemented Self-reported July 27, 2022. <li data-bbox="764 1257 1328 1325">● 2021: DLNR reports Partially Implemented Self-reported July 27, 2021. <li data-bbox="764 1362 1328 1411">● 2020: DLNR reports Partially Implemented Self-reported July 30, 2020.
<p>(Land Division, 4.) The Land Division should perform close-out inspections for leases and RPs upon termination of leases or RPs based on updates to the Land Division guidelines. Inspections should include looking for specific issues such as the presence of hazardous materials, as well as documenting any unauthorized dismantling or removal of property that should revert to the State.</p>	<ul style="list-style-type: none"> <li data-bbox="764 1516 1232 1583">● 2021: DLNR reports Implemented Self-reported July 27, 2021. <li data-bbox="764 1621 1232 1680">● 2020: DLNR reports Implemented Self-reported July 30, 2020.

Recommendation

(Land Division, 5.) The Land Division should explore strategies to better market and manage its properties, which may include contracting private-sector brokers and property managers. We suggest the division consult with the State Procurement Office and other state agencies, such as the Hawai'i Public Housing Authority, which contract for similar services. The division should also seek legislative assistance through statutory amendments if necessary, for example, to assess rent premiums when the Land Board decides to extend leases.

(Land Division, 6.) The Land Division should seek to hire people with professional expertise or develop and implement a training program to prepare land agents for the transition from ground leases to space leases, perform property management functions, and conduct in-house evaluations whenever external appraisals are not cost-effective.

Status of Recommendation

• **2021: DLNR reports** **Implemented**

Self-reported July 27, 2021.

• **2020: DLNR reports** **Implemented**

Self-reported July 30, 2020.

• **2021: DLNR reports** **Not Implemented - Disagree**

Self-reported July 27, 2021.

“Land Division presently manages only one multi-tenanted building under space leases (revocable permits), and the Land Board has approved the public auction of that property to a master lessee who will then manage the spaces. Land Division would need a much larger budget and ceiling to assume the cost of maintaining and directly managing improved properties in its portfolio, many of which are more than 50 years old. Directly managing such buildings increases the State’s exposure to liability for tort claims commonly associated with property management (e.g., slip-and-fall claims). In recent years, Land Division has been unsuccessful in its requests to the Legislature for capital improvement funds and even for ceiling increases in the expenditure of SLDF monies to invest in State properties. Prospects for obtaining such funds in the future are not good. In addition, the State accounting system does not easily accommodate holding accounts required for deposit of common area charges from tenants to be paid to public utility companies such as for water sewer, electrical and telecommunications. For these reasons, DLNR disagrees that transforming Land Division into a space leasing agency is desirable or economically feasible.”

• **2020: DLNR reports** **Not Implemented - Disagree**

Self-reported July 30, 2020, stating: See above.

Recommendation	Status of Recommendation
<p>(DLNR, 1.) The Department of Land and Natural Resources should establish policies and procedures to accurately account for and report the activities of the SLDF to the Legislature.</p>	<ul style="list-style-type: none"> <li data-bbox="761 365 1232 438">● 2021: DLNR reports Implemented Self-reported July 27, 2021. <li data-bbox="761 470 1232 533">● 2020: DLNR reports Implemented Self-reported July 30, 2020.
<p>(DLNR, 2.) The Department of Land and Natural Resources should review the 400-series special fund accounts to determine whether the unexpended and unencumbered balances remaining in these accounts should be transferred to other SLDF accounts or transferred back to the origination fund. Considering the amount of SLDF cash disbursements and transfers to other DLNR special fund accounts, we further recommend that DLNR review each of the SLDF accounts to ascertain whether these accounts continue to meet the criteria of a special fund. Specifically, there should be a clear link between the programs and the sources of revenue. If not, these accounts should be subject to the State’s general fund budget and appropriation process.</p>	<ul style="list-style-type: none"> <li data-bbox="761 590 1232 663">● 2021: DLNR reports Implemented Self-reported July 27, 2021. <li data-bbox="761 695 1232 758">● 2020: DLNR reports Implemented Self-reported July 30, 2020.
<p>(DLNR, 3.) The Department of Land and Natural Resources should reconcile cash receipts recorded in SLIMS to FAMIS on a monthly basis.</p>	<ul style="list-style-type: none"> <li data-bbox="761 1239 1232 1312">● 2021: DLNR reports Implemented Self-reported July 27, 2021. <li data-bbox="761 1344 1232 1407">● 2020: DLNR reports Implemented Self-reported July 30, 2020.
<p>(DLNR, 4.) The Department of Land and Natural Resources should determine with the Department of Budget and Finance whether revenues from ceded lands, net of amounts remitted to OHA, should be transferred to the State’s general fund on a regular basis.</p>	<ul style="list-style-type: none"> <li data-bbox="761 1463 1232 1537">● 2021: DLNR reports Implemented Self-reported July 27, 2021. <li data-bbox="761 1568 1232 1631">● 2020: DLNR reports Implemented Self-reported July 30, 2020.

Recommendation

(DLNR, 5.) The Department of Land and Natural Resources should establish and adhere to formal written procedures for the collection of all percentage rent due from lessees. These procedures should address the timely receipt of sales audit reports or certified statements of gross receipts and percentage rent payments for all leases with percentage rent clauses, as well as appropriate actions to be taken for lessees failing to submit required sales audit reports or certified statement of gross receipts, and if applicable, percentage rent payments. In addition, these procedures should involve documentation requirements for DLNR’s review and approval of certified statement of gross receipts provided by lessees.

Status of Recommendation

2022: DLNR reports **Implemented**

Self-reported July 27, 2022.

2021: DLNR reports **Partially Implemented**

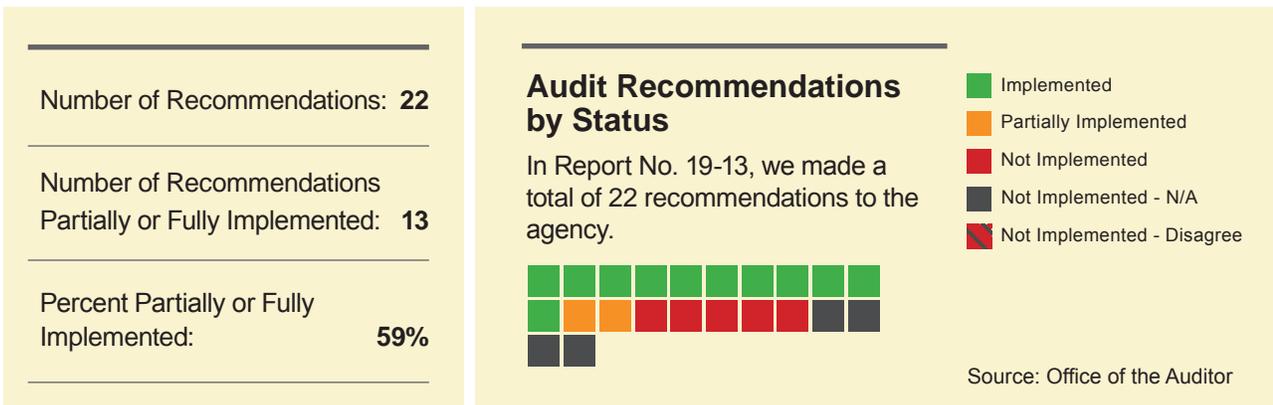
Self-reported July 27, 2021.

2020: DLNR reports **Partially Implemented**

Self-reported July 30, 2020.



REPORT NO. 19-13
Audit of the Department of Education’s Administration of School Impact Fees



IN REPORT NO. 19-13, *Audit of the Department of Education’s Administration of School Impact Fees*, we examined the administration of the school impact fee law, which applies to all builders of new residential units in designated school impact districts. The report found that the Department of Education (DOE) has no written policies and procedures for the selection of potential school impact districts, the factors that should be considered in determining the size of potential districts, or oversight and review of the process. We reported DOE does not begin assessing school impact fees immediately upon the Board of Education’s designation of a school impact district, sometimes waiting months before beginning collection. We noted DOE has not promulgated administrative rules to proscribe the process it intends the counties to

follow before issuing building permits for new residential construction in an impact fee district.

In 2020, 2021, and 2022, we issued formal requests for information to DOE on the status of audit recommendations from Report No. 19-13. The agency initially reported that five recommendations had been at least partially implemented, 13 recommendations had not been implemented, and four recommendations were considered moot by the Board of Education and would not be implemented. By their 2022 response, DOE had at least partially implemented 13 recommendations, with five still not implemented.

The following is a list of recommendations made and a chronological summary of our follow-up efforts. Any findings by the Office of the Auditor are highlighted in yellow.

Recommendation

(DOE, 1.) The Department of Education should undertake a comprehensive evaluation of its implementation and administration of the school impact fee law, including an assessment of the appropriate staffing and other resources necessary to implement and administer the law.

Status of Recommendation

2021: DOE reports Implemented

Self-reported October 28, 2021.

2020: DOE reports Not Implemented

Self-reported October 30, 2020, stating:

“A comprehensive evaluation of the school impact fee program commenced in February 2020, with the hiring of a new Assistant Superintendent for the Office of Facilities and Operations. A preliminary evaluation and situation analysis by the planning department of the Office of Facilities and Operations (OFO) were made available to the Assistant Superintendent in October 2020.

Effective November 30, 2020, the OFO will initiate the development of a comprehensive plan for the school impact fee program.”

(DOE, 2.a.) The Department of Education should create written policies and procedures to guide and direct staff’s and management’s implementation and administration of the school impact fee law. Documented policies and procedures are some of the controls necessary for the DOE to ensure effective and efficient implementation and administration of the law in accordance with the statute, legislative intent, and constitutional requirements. At minimum, policies and procedures should address the stage in the development process at which a proposed new residential project should be included in the DOE’s consideration of classroom capacity requirements. We found the decision to recommend designation of a school impact district (and its boundaries) was left to the discretion of a land use planner who relied heavily on the City and County of Honolulu’s vision of transit-oriented residential development projects that were purely conceptual, without specific developers, development plans, or even land commitments for those projects. The policies and procedures should include criteria and other objective factors to be considered in evaluating when designation of a school impact district is appropriate.

2021: DOE reports Implemented

Self-reported October 28, 2021.

2020: DOE reports Not Implemented

Self-reported October 30, 2020, stating:

“As of October 2020, written policies and procedures have not been drafted. Based on the evaluation noted in Recommendation No. 1, the Department will draft written policies and procedures to guide and direct Department personnel in the implementation and administration of the school impact fee law.

Subject to concurrence by the appropriate offices and agencies and approval of the Superintendent, OFO intended to implement said policies and procedures by March 1, 2021.”

Recommendation

(DOE, 2.b.) The Department of Education should create written policies and procedures to guide and direct staff’s and management’s implementation and administration of the school impact fee law. Documented policies and procedures are some of the controls necessary for the DOE to ensure effective and efficient implementation and administration of the law in accordance with the statute, legislative intent, and constitutional requirements. At minimum, policies and procedures should address the factors that determine the size and composition of a proposed impact fee district. Without a consistent process or documented framework, some of the department’s district designations appear questionable or even arbitrary: For instance, the expansive and diverse Leeward O’ahu district encompasses five school complexes (41 schools) with varying rates of past and projected student enrollment growth. Meanwhile, the KAM district boundaries are based on smaller elementary school service areas; as a result, the impact fee district includes only 10 of the 15 elementary schools in the Farrington and McKinley complexes.

Status of Recommendation

- **2021: DOE reports Implemented**
Self-reported October 28, 2021.
- **2020: DOE reports Not Implemented**
Self-reported October 30, 2020, stating:

“As of October 2020, written policies and procedures have not yet been created.

Based on the evaluation noted in Recommendation No. 1, the OFO will draft written policies and procedures to guide Department personnel in the implementation and administration of school impact fee law. These policies and procedures will be measured against the findings and recommendations in existing school impact fee districts (Central and West Maui, Leeward O’ahu, and Kalihi to Ala Moana) to maintain consistency in the implementation and management of the program.

Subject to concurrence of the appropriate offices and agencies and approval of the Superintendent, the Department intends to implement said policies and procedures by May 3, 2021.”

(DOE, 2.c.) The Department of Education should create written policies and procedures to guide and direct staff’s and management’s implementation and administration of the school impact fee law. Documented policies and procedures are some of the controls necessary for the DOE to ensure effective and efficient implementation and administration of the law in accordance with the statute, legislative intent, and constitutional requirements. At minimum, policies and procedures should address the collection, tracking, and accounting of lands dedicated to or that will be dedicated to the DOE under the school impact fee law, fees in lieu of land dedication, and construction component fees.

- **2021: DOE reports Implemented**
Self-reported October 28, 2021.
- **2020: DOE reports Partially Implemented**
Self-reported October 30, 2020.

Recommendation

(DOE, 2.d.) The Department of Education should create written policies and procedures to guide and direct staff's and management's implementation and administration of the school impact fee law. Documented policies and procedures are some of the controls necessary for the DOE to ensure effective and efficient implementation and administration of the law in accordance with the statute, legislative intent, and constitutional requirements. At minimum, policies and procedures should address the tracking and accounting of transfers and expenditures of lands and moneys paid under Fair Share agreements and the school impact fee law.

(DOE, 2.e.) The Department of Education should create written policies and procedures to guide and direct staff's and management's implementation and administration of the school impact fee law. Documented policies and procedures are some of the controls necessary for the DOE to ensure effective and efficient implementation and administration of the law in accordance with the statute, legislative intent, and constitutional requirements. At minimum, policies and procedures should address the use of moneys received by the DOE under Fair Share agreements and the school impact fee law. Under the school impact fee law, fees collected within an impact fee district can be spent only within the same district. We found that, with only one exception, the impact fee districts designated by the Board of Education encompass multiple school complexes. We raised concerns about whether the DOE can use school impact fees from a specific development in a school complex within the same impact fee district that is unaffected by the additional public school students created by the development.

Status of Recommendation

2021: DOE reports **Implemented**

Self-reported October 28, 2021.

2020: DOE reports **Partially Implemented**

Self-reported October 30, 2020.

2021: DOE reports **Implemented**

Self-reported October 28, 2021.

2020: DOE reports **Not Implemented**

Self-reported October 30, 2020, stating:

“As of October 2020, written policies and procedures have not been created. Based on the evaluation noted in Recommendation No. 1, the OFO will draft written policies and procedures to guide and direct the Department on the use of money received under the fair share agreements and the school impact fee program. The Department agrees that the current policy regarding the use of school impact fees may not serve its intended purpose as currently structured and needs to be adjusted.

Subject to concurrence by the appropriate offices and agencies and with Superintendent's approval, the Department intends to implement said policies and procedures by May 3, 2021.”

Recommendation

(DOE, 2.f.) The Department of Education should create written policies and procedures to guide and direct staff’s and management’s implementation and administration of the school impact fee law. Documented policies and procedures are some of the controls necessary for the DOE to ensure effective and efficient implementation and administration of the law in accordance with the statute, legislative intent, and constitutional requirements. At minimum, policies and procedures should address the use and updating of cost factors (including “recent conditions”) in school impact fee calculations.

Status of Recommendation

- **2021: DOE reports Implemented**
Self-reported October 28, 2021.
- **2020: DOE reports Not Implemented**
Self-reported October 30, 2020, stating:

“As of October 2020, written policies and procedures have not yet been created. Based on the evaluation noted in Recommendation No. 1, the OFO will draft written policies and procedures on the use and updating of cost factors (including recent conditions and land appraisals) in school impact fee calculations. The OFO is currently undergoing a transition in leadership for this work in progress.

Subject to concurrence by the appropriate offices and agencies and with Superintendent’s approval, the Department intends to implement said policies and procedures by May 3, 2021.”

(DOE, 2.g.) The Department of Education should create written policies and procedures to guide and direct staff’s and management’s implementation and administration of the school impact fee law. Documented policies and procedures are some of the controls necessary for the DOE to ensure effective and efficient implementation and administration of the law in accordance with the statute, legislative intent, and constitutional requirements. At minimum, policies and procedures should address management’s responsibilities in overseeing and approving staff’s implementation and administration of the school impact fee law.

- **2021: DOE reports Implemented**
Self-reported October 28, 2021.
- **2020: DOE reports Not Implemented**
Self-reported October 30, 2020, stating:

“As of October 2020, written policies and procedures have not been created. Based on the evaluation noted in Recommendation No. 1, the OFO will draft written policies and procedures detailing the Department’s responsibilities in overseeing and approving staff recommendations and the effective implementation and administration of the school impact fee law.

Subject to concurrence by the appropriate offices and agencies and with Superintendent’s approval, the Department intends to implement said policies and procedures by May 3, 2021.”

Recommendation

(DOE, 3.) The Department of Education should obtain written legal guidance from the Department of the Attorney General as to the constitutional restrictions associated with impact fees, including nexus and rough proportionality requirements. The legal guidance should specifically consider whether impact fee districts encompassing multiple school complexes satisfy constitutional requirements, considering Section 302A-1608(a), HRS, allows the department to use school impact fees anywhere within the impact fee district and does not restrict the department's use of school impact fees collected from a residential developer to the school complex in which the development is situated.

Status of Recommendation

- 2022: DOE reports **Implemented**
Self-reported October 27, 2022.
- 2021: DOE reports **Partially Implemented**
Self-reported October 28, 2021.
- 2020: DOE reports **Partially Implemented**
Self-reported October 30, 2020.

(DOE, 4.) The Department of Education should work with the Department of the Attorney General to establish the legal basis and the resultant policies for the collection of school impact fees from builders of new residential construction effective upon designation of the impact fee district.

- 2022: DOE reports **Implemented**
Self-reported October 27, 2022.
 - 2021: DOE reports **Partially Implemented**
Self-reported October 28, 2021.
 - 2020: DOE reports **Partially Implemented**
Self-reported October 30, 2020.
-

Recommendation

(DOE, 5.) The Department of Education should assess whether certain provisions in the school impact fee law, for example the land valuation procedures, are applicable to the constraints and requirements of district designation and district-wide fee setting, particularly in the urban setting. If needed, pursue amendment of the statute.

Status of Recommendation

• **2022: DOE reports** **Partially Implemented**

Self-reported October 27, 2022.

• **2021: DOE reports Not Implemented**

Self-reported October 28, 2021, stating:

“To date, an assessment on land valuation procedures has not been initiated. As part of the Department’s ongoing assessment of the Program, an analysis will be done to identify whether the land valuation procedures are applicable to the constraints and requirements of district designation and district wide fee setting, particularly in the urban setting.

The Department intends to complete this analysis and make a determination whether an amendment to the statutes is required by January 15, 2022.”

• **2020: DOE reports Not Implemented**

Self-reported October 30, 2020, stating:

“As of October 2020, a comprehensive assessment on land valuation procedures and other methodologies to determine applicable fees across existing districts has not been initiated. This specific review will be addressed as part of the OFO’s comprehensive review of the program.

Subject to concurrence by the appropriate offices and agencies and with Superintendent’s approval, the Department intends to implement said policies and procedures by May 3, 2021.”

Recommendation

(DOE, 6.) The Department of Education should assess whether the “urban exceptions” made for the KAM district ensure fees collected for urban schools are relevant to that district and equitable to those collected for suburban schools. If needed, pursue amendment of the statute.

Status of Recommendation

2022: DOE reports **Partially Implemented**

Self-reported October 27, 2022.

2021: DOE reports **Not Implemented**

Self-reported October 28, 2021, stating:

“To date, an assessment of the ‘urban exception’ has not been initiated. As part of the Department’s ongoing assessment of the Program, an analysis will be done to ensure whether fees collected for urban schools are equitable to fees collected for suburban schools.

The Department intends to complete this analysis and make a determination whether an amendment to the statutes is required by July 1, 2022.”

2020: DOE reports **Not Implemented**

Self-reported October 30, 2020, stating:

“As of October 2020, an assessment of the ‘urban exceptions’ has not been initiated. As part of its comprehensive assessment of the school impact fee program, the Department will include an analysis of the differences, if any, between urban and suburban districts.

Subject to concurrence by the appropriate offices and agencies and with Superintendent’s approval, the Department intends to determine whether an amendment to the law is necessary.”

(DOE, 7.) The Department of Education should develop an expenditure plan for existing funds, including documented policies and procedures for ensuring that expenditures are made in accordance with existing Fair Share Agreements and the school impact fee law.

2021: DOE reports **Implemented**

Self-reported October 28, 2021.

2020: DOE reports **Partially Implemented**

Self-reported October 30, 2020.

Recommendation

(DOE, 8.a.) The Department of Education should ensure proper maintenance of records of land contributions for Fair Share and the school impact fee program. Records should be regularly updated and accessible to both management and the public. Promulgate administrative rules necessary to provide direction to developers, county permitting agencies, and the public as to how the DOE interprets and intends to implement the school impact fee law. At minimum, the administrative rules should address the specific information the DOE expects the county permitting offices to provide to the department regarding the applicants for county subdivision approvals and county building permits, including the form of the information, the timing of delivery of the information, and the method by which the counties should transmit the information.

Status of Recommendation

2022: DOE reports **Not Implemented**

Self-reported October 27, 2022, stating:

“Pursuant to Act 72 (2020), the Department is in consultation and coordination with the School Facilities Authority to establish administrative rules.”

2021: DOE reports **Not Implemented**

Self-reported October 28, 2021, stating:

“The Department will begin to draft administrative rules by the end of this year, with anticipated adoption by December 31, 2022.

The approved policies and procedures to implement and administer the Program and fair share contributions will provide the basis in the drafting of administrative rules.

The approved policies and procedures includes the process established between the counties, with school impact districts, and the Department regarding the form of information, the timing of delivery of the information, and the method by which the counties should transmit the information.”

2020: DOE reports **Not Implemented**

Self-reported October 30, 2020, stating:

“The OFO has begun drafting written policies and procedures to guide and direct staff and management’s collection, tracking, and accounting of lands dedicated to the Department under the school impact fee law, fees in lieu of land dedication and construction component fees.

The OFO has drafted basic procedures for processing of building permits and collection of school impact fees for internal use.

However, the Department has not yet promulgated the recommended administrative rules.

Subject to concurrence by the appropriate offices and agencies and with Superintendent’s approval, the Department intends to draft and initiate rule-making by the latter half of 2021.”

Recommendation

(DOE, 8.b.) The Department of Education should ensure proper maintenance of records of land contributions for Fair Share and the school impact fee program. Records should be regularly updated and accessible to both management and the public. Promulgate administrative rules necessary to provide direction to developers, county permitting agencies, and the public as to how the DOE interprets and intends to implement the school impact fee law. At minimum, the administrative rules should address when and how applicants must pay the school impact fees, including the process and procedure by which the department or the county building departments intend to collect the fees.

Status of Recommendation

2022: DOE reports **Not Implemented**

Self-reported October 27, 2022, stating:

“Pursuant to Act 72 (2020), the Department is in consultation and coordination with the School Facilities Authority to establish administrative rules.”

2021: DOE reports **Not Implemented**

Self-reported October 28, 2021, stating:

“The Department will begin to draft administrative rules by the end of this year, with anticipated adoption by December 31, 2022.

The approved policies and procedures to implement and administer the Program and fair share contributions will provide the basis in the drafting of administrative rules.

The approved policies and procedures includes when and how the Department or county building department intends to collect school impact fees.”

2020: DOE reports **Not Implemented**

Self-reported October 30, 2020, stating:

“The OFO has drafted basic procedures for processing of building permits and collection of school impact fees for internal use.

However, the Department has not promulgated administrative rules for external entities to track Department involvement in the building permit process, imposition and collection of school impact fees, coordination with respective county building and permitting departments, and appeals.

Subject to concurrence by the appropriate offices and agencies and with Superintendent’s approval, the Department intends to draft and initiate rule-making by the latter half of 2021.”

Recommendation

(DOE, 8.c.) The Department of Education should ensure proper maintenance of records of land contributions for Fair Share and the school impact fee program. Records should be regularly updated and accessible to both management and the public. Promulgate administrative rules necessary to provide direction to developers, county permitting agencies, and the public as to how the DOE interprets and intends to implement the school impact fee law. At minimum, the administrative rules should address if the department intends to allow developers to pay all or portions of the school impact fee subsequent to the issuance of county subdivision approval or county building permits, and the process by which payment shall be made, including the timing of the payment.

Status of Recommendation

2022: DOE reports **Not Implemented**

Self-reported October 27, 2022, stating:

“Pursuant to Act 72 (2020), the Department is in consultation and coordination with the School Facilities Authority to establish administrative rules.”

2021: DOE reports **Not Implemented**

Self-reported October 28, 2021, stating:

“The Department will begin to draft administrative rules by the end of this year, with anticipated adoption by December 31, 2022.

The approved policies and procedures to implement and administer the Program and fair share contributions will provide the basis in the drafting of administrative rules.

The approved policies and procedures includes whether the Department intends to allow developers to pay all or portions of the school impact fees subsequent to the issuance of a county building permit, and the process by which payments shall be made, including timing of payments.”

2020: DOE reports **Not Implemented**

Self-reported October 30, 2020, stating:

“The OFO has drafted basic procedures for processing of building permits and collection of school impact fees for internal use.

However, the Department has not promulgated administrative rules for external entities to track Department involvement in the building permit process, imposition and collection of school impact fees, coordination between the Department and respective county building and permitting departments, and appeals.

Subject to concurrence by the appropriate offices and agencies and with Superintendent’s approval, the Department intends to draft and initiate rule-making by the latter half of 2021.”

Recommendation

(DOE, 8.d.) The Department of Education should ensure proper maintenance of records of land contributions for Fair Share and the school impact fee program. Records should be regularly updated and accessible to both management and the public. Promulgate administrative rules necessary to provide direction to developers, county permitting agencies, and the public as to how the DOE interprets and intends to implement the school impact fee law. At minimum, the administrative rules should address the process and procedures by which a developer can contest or appeal the imposition of school impact fees on the developer's project.

Status of Recommendation

2022: DOE reports Not Implemented

Self-reported October 27, 2022, stating:

“Pursuant to Act 72 (2020), the Department is in consultation and coordination with the School Facilities Authority to establish administrative rules.”

2021: DOE reports Not Implemented

Self-reported October 28, 2021, stating:

“The Department will begin to draft administrative rules by the end of this year, with anticipated adoption by December 31, 2022.

The approved policies and procedures to implement and administer the Program and fair share contributions will provide the basis in the drafting of administrative rules.

The approved policies and procedures includes how a developer can contest or appeal the imposition of school impact fees on a developer's project.”

2020: DOE reports Not Implemented

Self-reported October 30, 2020, stating:

“The OFO has drafted basic procedures for processing of building permits and collection of school impact fees for internal use. The process to establish administrative rules has not been initiated.

Subject to concurrence by the appropriate offices and agencies and with Superintendent's approval, the Department intends to draft and initiate rule-making for the benefit of outside parties by the latter half of 2021.”

Recommendation

(DOE, 8.e.) The Department of Education should ensure proper maintenance of records of land contributions for Fair Share and the school impact fee program. Records should be regularly updated and accessible to both management and the public. Promulgate administrative rules necessary to provide direction to developers, county permitting agencies, and the public as to how the DOE interprets and intends to implement the school impact fee law. At minimum, the administrative rules should address the process and procedures by which the DOE will inform the county building departments that a developer has satisfied the school impact fee requirement.

Status of Recommendation

2022: DOE reports **Not Implemented**

Self-reported October 27, 2022, stating:

“Pursuant to Act 72 (2020), the Department is in consultation and coordination with the School Facilities Authority to establish administrative rules.”

2021: DOE reports **Not Implemented**

Self-reported October 28, 2021, stating:

“The Department will begin to draft administrative rules by the end of this year, with anticipated adoption by December 31, 2022.

The approved policies and procedures to implement and administer the Program and fair share contributions will provide the basis in the drafting of administrative rules.

The approved policies and procedures includes how the Department will inform the county building departments that a developer has satisfied the school impact fee requirement.”

2020: DOE reports **Not Implemented**

Self-reported October 30, 2020, stating:

“Although the OFO has drafted basic procedures for processing of building permits and collection of school impact fees for internal use, the process to establish administrative rules has not been initiated or drafted to provide direction to developers, county permitting agencies, and the public as to how the Department interprets and intends to implement the school impact fee law.

Subject to concurrence by the appropriate offices and agencies and with Superintendent’s approval, the Department intends to draft and initiate rule-making on the process and procedures by which the Department will inform the county building departments that a developer has satisfied the school impact fee requirement by the latter half of 2021.”

Recommendation

Status of Recommendation

(Board, 1.) The Board of Education should require the department to submit a written report that provides a comprehensive evaluation of its implementation and administration of the school impact fee law. This report should include the department’s findings and conclusions, specific actions that the department intends to implement to address our recommendations, other changes the department intends to make, and copies of policies and procedures. The report should also include a timeframe for implementation and note any additional resources the department feels may be necessary for successful implementation.

2020: BOE reports **Not Implemented - N/A**

Self-reported December 9, 2020, stating:

“[I]t is unlikely that the Board will implement any of the report’s recommendations as the governance structure and legal context surrounding school impact fees have changed.”

(Board, 2.) The Board of Education should direct the DOE to implement the recommendations necessary to address and correct the audit findings.

2020: BOE reports **Not Implemented - N/A**

Self-reported December 9, 2020, stating:

“[I]t is unlikely that the Board will implement any of the report’s recommendations as the governance structure and legal context surrounding school impact fees have changed.”

(Board, 3.) The Board of Education should direct the DOE to report at least quarterly on the status of its implementation of the recommendations necessary to address and correct the audit findings.

2020: BOE reports **Not Implemented - N/A**

Self-reported December 9, 2020, stating:

“[I]t is unlikely that the Board will implement any of the report’s recommendations as the governance structure and legal context surrounding school impact fees have changed.”

(Board, 4.) The Board of Education should for each school impact district considered by the board, obtain the Department of the Attorney General’s opinion, in writing, that the school impact district satisfies constitutional requirements, including nexus and proportionality requirements, prior to designation of the district.

2020: BOE reports **Not Implemented - N/A**

Self-reported December 9, 2020, stating:

“[I]t is unlikely that the Board will implement any of the report’s recommendations as the governance structure and legal context surrounding school impact fees have changed.”