

STATE OF HAWAII
OFFICE OF THE AUDITOR
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LESLIE H. KONDO
State Auditor

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DEPT. COMM. NO. 43

November 13, 2017

VIA HAND DELIVERY

The Honorable Ronald D. Kouchi
Senate President
415 South Beretania Street
State Capitol, Room 409
Honolulu, Hawaii 96813

Re: Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of Human Resources Development, Report No. 17-09

Dear President Kouchi:

We are enclosing a copy of our report, *Review of the Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of Human Resources Development, Report No. 17-09*. This report presents a five-year summary for each special fund and trust fund, evaluates the original intent and purpose of each fund, and determines the degree to which each fund achieves its stated and claimed purpose. The Department of Human Resources Development did not have any revolving funds and trust accounts during the period of our review. We determined that all funds reviewed met criteria and should be continued.

The report is accessible through the Office of the Auditor's website at:
<http://files.hawaii.gov/auditor/Reports/2017/17-09.pdf>

If you have questions about the report, please contact me.

Very truly yours,

Leslie H. Kondo
State Auditor

Enclosure

Auditor's Summary

Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of Human Resources Development

Report No. 17-09

All funds met criteria

OUR REVIEW OF ONE SPECIAL FUND AND TWO TRUST FUNDS of the Department of Human Resources Development (DHRD) determined that the funds met criteria and should be continued.

Section 23-12, Hawai'i Revised Statutes (HRS), requires the Auditor to review all existing special, revolving, and trust funds every five years. Reviews are scheduled so that each department's funds are reviewed once every five years. Although not mandated by statute, we included trust accounts as part of our review. DHRD did not have any revolving funds or trust accounts during our review period. This is our fifth review of DHRD's revolving funds, trust funds, and trust accounts. It is our first review of the special fund of DHRD.

We used criteria developed by the Legislature and by our office based on public finance and accounting literature. For each fund, we present a five-year financial summary, the purpose of the fund, and conclusions about its use. We did not audit the financial data which is provided for informational purposes. We do not present conclusions about the effectiveness of programs or their management, or whether the programs should be continued.

Reporting shortfall

WE ALSO NOTED DHRD did not file statutorily required reports for non-general funds and for administratively created funds. Accurate and complete reporting will greatly improve the Legislature's oversight and control of these funds and provide increased budgetary flexibility.

Agency response

DHRD GENERALLY AGREED WITH OUR FINDINGS, except our conclusion on the reporting requirements for the two trust funds. DHRD asserted that the two trust funds "are not controlled by the legislature, do not play a part in budgetary flexibility and have no 'excess moneys' that can be transferred to the general fund." We disagree with DHRD. The statutory requirements that DHRD report to the Legislature are unambiguous and do not exempt these trust funds. It continues to be our conclusion that DHRD must comply with reporting requirements of the statutes.



FUND TYPES

SPECIAL FUNDS

are used to account for revenues earmarked for particular purposes and from which expenditures are made for those purposes.

REVOLVING FUNDS

such as loan funds, are often established with an appropriation of seed money from the general fund and must demonstrate the capacity to be self-sustaining.

TRUST FUNDS

such as a pension fund, invoke the State's fiduciary responsibility to care for and use the assets held to benefit those with a vested interest in the assets.

TRUST ACCOUNTS

are typically separate holding or clearing accounts and are often used as accounting devices for crediting or charging state agencies or projects for payroll and other costs.



Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of Human Resources Development

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

Report No. 17-09
November 2017



OFFICE OF THE AUDITOR
STATE OF HAWAII



OFFICE OF THE AUDITOR STATE OF HAWAII

Constitutional Mandate

Pursuant to Article VII, Section 10 of the Hawai'i State Constitution, the Office of the Auditor shall conduct post-audits of the transactions, accounts, programs and performance of all departments, offices and agencies of the State and its political subdivisions.

The Auditor's position was established to help eliminate waste and inefficiency in government, provide the Legislature with a check against the powers of the executive branch, and ensure that public funds are expended according to legislative intent.

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

Our Mission

To improve government through independent and objective analyses.

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

Our Work

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

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

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

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

Foreword

This is a report of our review of the special fund and trust funds of the Department of Human Resources Development.

Section 23-12, Hawai‘i Revised Statutes (HRS), requires the Auditor to review all existing special, revolving, and trust funds once every five years. Although not mandated by statute, we included trust accounts as part of our review. This is our fifth review of the revolving funds, trust funds, and trust accounts of the Department of Human Resources Development. It is our first review of its special funds since Section 23-12, HRS, was amended by Act 130, Session Laws of Hawai‘i 2013, to include reviews of special funds.

We wish to express our appreciation for the cooperation and assistance extended to us by the officials and staff of the Department of Human Resources Development.

Leslie H. Kondo
State Auditor

Table of Contents

Auditor’s Summary	1
Chapter 1 Introduction	3
Description of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts.....	4
Criteria for Reviewing Special Funds, Revolving Funds, Trust Funds, and Trust Accounts	5
Objectives of the Review	6
Scope and Methodology	6
Chapter 2 Department of Human Resources Development	9
Chapter 3 The Department of Human Resources Development Did Not Report Non-General Funds As Required by Law	13
Office of the Auditor’s Comments on the Affected Agency Response	15
Attachment 1 Department of Human Resources Development Response.....	16

List of Exhibits

Exhibit 2.1 Cash Balances for DHRD Non-General Funds, FY2013–FY2017 (in millions).....	9
Exhibit 2.2 DHRD Fund Totals by Type, FY2017.....	10
Exhibit 3.1 DHRD Trust Funds Not Reported to the Legislature	14
Exhibit 3.2 DHRD Administratively Created Trust Funds Not Reported to the Legislature	14



Auditor's Summary

Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of Human Resources Development

Report No. 17-09

All funds met criteria

OUR REVIEW OF ONE SPECIAL FUND AND TWO TRUST FUNDS of the Department of Human Resources Development (DHRD) determined that the funds met criteria and should be continued.

Section 23-12, Hawai'i Revised Statutes (HRS), requires the Auditor to review all existing special, revolving, and trust funds every five years. Reviews are scheduled so that each department's funds are reviewed once every five years. Although not mandated by statute, we included trust accounts as part of our review. DHRD did not have any revolving funds or trust accounts during our review period. This is our fifth review of DHRD's revolving funds, trust funds, and trust accounts. It is our first review of the special fund of DHRD.

We used criteria developed by the Legislature and by our office based on public finance and accounting literature. For each fund, we present a five-year financial summary, the purpose of the fund, and conclusions about its use. We did not audit the financial data which is provided for informational purposes. We do not present conclusions about the effectiveness of programs or their management, or whether the programs should be continued.

Reporting shortfall

WE ALSO NOTED DHRD did not file statutorily required reports for non-general funds and for administratively created funds. Accurate and complete reporting will greatly improve the Legislature's oversight and control of these funds and provide increased budgetary flexibility.

Agency response

DHRD GENERALLY AGREED WITH OUR FINDINGS, except our conclusion on the reporting requirements for the two trust funds. DHRD asserted that the two trust funds "are not controlled by the legislature, do not play a part in budgetary flexibility and have no 'excess moneys' that can be transferred to the general fund." We disagree with DHRD. The statutory requirements that DHRD report to the Legislature are unambiguous and do not exempt these trust funds. It continues to be our conclusion that DHRD must comply with reporting requirements of the statutes.



FUND TYPES

SPECIAL FUNDS

are used to account for revenues earmarked for particular purposes and from which expenditures are made for those purposes.

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such as loan funds, are often established with an appropriation of seed money from the general fund and must demonstrate the capacity to be self-sustaining.

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such as a pension fund, invoke the State's fiduciary responsibility to care for and use the assets held to benefit those with a vested interest in the assets.

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are typically separate holding or clearing accounts and are often used as accounting devices for crediting or charging state agencies or projects for payroll and other costs.



Chapter 1

Introduction

This review encompasses the special funds and trust funds administered by the Department of Human Resources Development (DHRD). Section 23-12, Hawai‘i Revised Statutes (HRS), requires the Auditor to review each state department’s special, revolving, and trust funds every five years. Specifically, the Auditor’s review must include:

1. An evaluation of the original intent and purpose of each fund, both as expressed by the Legislature and as understood by the expending agency;
2. The degree to which each fund achieves its stated and claimed purposes;
3. An evaluation of the fund’s performance standards as established by the agency; and
4. A summary statement reflecting total fund transactions in the preceding five fiscal years, including the fund balance at the beginning of each fiscal year, total deposits and withdrawals, amount of interest earned, total expenditures made from the fund, and the ending balance for each fiscal year.

Although not mandated by Section 23-12, HRS, we have included trust accounts as part of our review. Trust accounts, like special, revolving, and trust funds, are subject to minimal legislative scrutiny.

This is our fifth review of DHRD’s trust funds and our first review of special funds held by DHRD.¹ We last examined DHRD’s trust funds in 2012.

In this report, we reviewed three funds administered by DHRD — specifically, one special fund and two trust funds.

¹ Prior to 2013, Section 23-12, HRS, did not require reviews of departments’ special funds.

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

Special funds

Section 37-62, HRS, defines a special fund as one that is “dedicated or set aside by law for a specified object or purpose, but excluding revolving funds and trust funds.” According to the State’s *Accounting Manual*, special funds are funds used to account for revenues earmarked for particular purposes and from which expenditures are made for those purposes. Examples of special funds include the Captive Insurance Administrative Fund, which is funded by fees paid by insurers that support the State’s Captive Insurance Program, and the Wireless Enhanced 911 Fund. The Wireless Enhanced 911 Fund receives surcharges from wireless phone users for the upgrade of the 911 emergency system.

Revolving funds

Section 37-62, HRS, defines a revolving fund as one “from which is paid the cost of goods and services rendered or furnished to or by a state agency and which is replenished through charges made for the goods or services or through transfers from other accounts or funds.” Activities commonly financed through revolving funds include loan programs, which are initially established by general fund seed moneys and are then replenished through the repayment of loans. An example of a revolving fund is the State Motor Pool Revolving Fund, which is used to purchase and maintain the State’s fleet of motor vehicles and is replenished by charges to state agencies for the use of the vehicles.

Trust funds

Section 37-62, HRS, defines a trust fund as one in which “designated persons or classes of persons have a vested beneficial interest or equitable ownership, or which was created or established by a gift, grant, contribution, devise or bequest that limits the use of the fund to designated objects or purposes.” Trust funds invoke a fiduciary responsibility of state government to care for and use only for those designated to benefit from the funds. A pension fund is an example of a trust fund. Contributions and payments are to be held for the beneficiaries of the pension fund. Another example is tenants’ security deposits, which are held in trust for the future benefit of tenants and landlords. Until forfeited or returned, deposits are the property of the tenants and should be accounted for accordingly.

Trust accounts

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

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

Special and revolving fund criteria

In 2002, the Legislature set the requirements for establishing and continuing special and revolving funds. Sections 37-52.3 and 37-52.4, HRS, state that special and revolving funds may only be established by statute. The criteria used to review special and revolving funds are the extent to which each fund:

- Serves a need, as demonstrated by: (1) the purpose of the program to be supported by the fund; (2) the scope of the program, including financial information on fees to be charged, sources of projected revenue, and costs; and (3) an explanation of why the program cannot be implemented successfully under the general fund appropriation process;
- Reflects a clear nexus between the benefits sought and charges made upon the program users or beneficiaries, or a clear link between the program and the sources of revenue — as opposed to serving primarily as a means to provide the program or users with an automatic means of support, removed from the normal budget and appropriation process;
- Provides an appropriate means of financing for the program or activity that is used only when essential to the successful operation of the program or activity; and
- Demonstrates the capacity to be financially self-sustaining.

Trust fund and trust account criteria

Unlike the requirements for special and revolving funds, the law is silent on whether a trust fund or trust account must be established by statute. The criteria used to review trust funds and trust accounts are the extent to which each fund and account:

- Continues to serve the purpose and intent for which it was originally created; and
- Meets the definition of a trust fund or trust account, respectively.

The first criterion is derived from the objectives of Section 23-12, HRS, which requires the Auditor to evaluate the original intent of each fund and account and the degree to which each fund and account achieves its stated purpose. The second criterion assesses whether a fund is held by the State only for the benefit of those with a vested interest in the assets or an account is held as a separate or clearing account.

Objectives of the Review

1. Identify and review all special funds, revolving funds, trust funds, and trust accounts of DHRD.
2. For each special fund, revolving fund, trust fund, and trust account, determine whether the fund or account meets the respective criteria.
3. Provide a five-year (FY2013–FY2017) unaudited financial summary for each fund and account reviewed.

Scope and Methodology

We reviewed all special funds and trust funds directly administered by DHRD during the five-year period under review (FY2013–FY2017). Funds and accounts included those established by statute as well as by administrative authority. DHRD did not have any revolving funds or trust accounts during our review period.

To identify funds subject to this review, we used a variety of sources, including our prior reviews, accounting reports from DAGS, non-general fund reports, legislative budget briefing documents, and other records. To gain an understanding of fund operations, we reviewed applicable agency administrative rules and interviewed key fiscal and program personnel, as necessary.

We obtained a summary statement for each fund that reflects total fund transactions in the preceding five fiscal years (July 1, 2012 to

June 30, 2017), including beginning fund balances, total revenues, amount of interest earned, total expenditures, transfers, and ending fund balances for each fiscal year. We requested explanations for discrepancies between ending balances for FY2012 reported in our last review, Report No. 12-10, and opening balances reported for FY2013. We did not audit DHRD's financial data, which are provided for informational purposes only.

Procedures were performed on each fund using relevant criteria as stated above. We reviewed fund information for consistency with the intent of each fund's use and to ascertain the relationship between charges on users and expenditures. We reviewed and compared fund balances to financial activity and projected program needs and standards. We reviewed information on performance standards established for the funds or accounts and performed other procedures as necessary.

Where appropriate, we relied on our prior reports, including Report Nos. 97-20, *Review of Revolving and Trust Funds of the Department of Human Resources Development, Department of Labor and Industrial Relations, Department of Public Safety, and Department of Taxation*; 02-15, *Report on the Revolving Funds, Trust Funds, and Trust Accounts of the Department of Human Resources Development, Department of Labor and Industrial Relations, Department of Public Safety, and Department of Taxation*; 07-07, *Review of Revolving Funds, Trust Funds, and Trust Accounts of the Departments of Human Resources Development, Labor and Industrial Relations, Public Safety, and Taxation*; 12-10, *Review of Revolving Funds, Trust Funds, and Trust Accounts of the Departments of Human Resources Development, Labor and Industrial Relations, Public Safety, and Taxation*; and 12-04, *Study of the Transfer of Non-general Funds to the General Fund*.

Our review was conducted from July to September 2017. Recommendations were made where applicable.

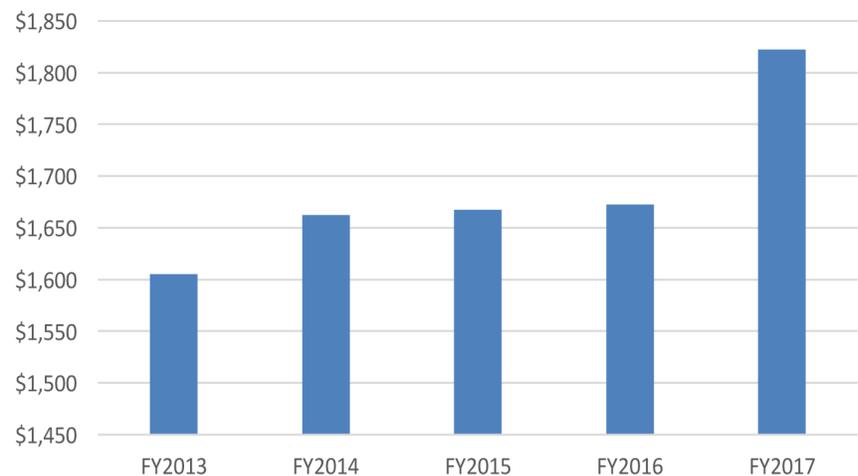
Chapter 2

Department of Human Resources Development

This chapter presents the results of our review of one special fund and two trust funds. Fund fiscal year-end balances amounted to at least \$1.6 billion per year during the period reviewed.

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

Exhibit 2.1
Cash Balances for DHRD Non-General Funds, FY2013–FY2017 (in millions)



Source: Office of the Auditor

Substantial amounts were also collected and expended by the funds annually. In FY2017, the special fund and trust funds collected more than \$330 million and spent or transferred more than \$180 million.

Exhibit 2.2 presents totals for the combined revenue and interest, expenses and transfers, and ending fund balances for the different fund types for FY2017.

Exhibit 2.2
DHRD Fund Totals by Type, FY2017

Fund Type	Revenue and Interest	Expenses and Transfers	Year-End Cash Balance
Special Fund	\$230,000	\$63,000	\$1,791,000
Trust Funds	330,124,000	180,203,000	1,820,726,000
Total	\$330,354,000	\$180,266,000	\$1,822,517,000

Source: Office of the Auditor

For each fund, we present a five-year financial summary, the purpose of the fund, and conclusions about its use and whether it meets the criteria for continuance of a special or revolving fund or the definition of a trust fund or account. We do not assess the effectiveness of programs and their management. The funds are presented in alphabetical order.

**Human Resources
Development Special
Fund**
(special fund)

Section 26-5(f), HRS

Financial Data for FY2013–2017 (in thousands)

	FY2013	FY2014	FY2015	FY2016	FY2017
Beginning Balance	\$1,140	\$1,285	\$1,375	\$1,392	\$1,624
Revenues	231	227	207	324	230
Interest	0	0	0	0	0
Expenditures	(86)	(137)	(190)	(92)	(63)
Transfers	0	0	0	0	0
Ending Balance	\$1,285	\$1,375	\$1,392	\$1,624	\$1,791
Encumbrances	\$0	\$97	\$19	\$0	\$0

This fund continues to serve the purpose for which it was created and meets the criteria for a special fund. Created in 2001, the purpose of the fund is to support the department's entrepreneurial initiatives, training activities, and programs. Revenues come from fees assessed for services provided under entrepreneurial initiatives, participant fees for in-service training programs, and moneys directed to the department from other sources such as gifts, grants, and awards. Expenditures consist of the administrative and operating costs associated with the entrepreneurial

initiatives, training activities, and programs, including open enrollment, administrative rule changes, subscriptions, office supplies and equipment, and staff training.

**State Deferred
Compensation Plan for
Part-Time, Temporary,
and Seasonal/Casual
Employees Trust Fund
(trust fund)**

**Administratively
established**

Financial Data for FY2013–2017 (in thousands)

	FY2013	FY2014	FY2015	FY2016	FY2017
Beginning Balance	\$87,923	\$96,895	\$103,035	\$107,532	\$112,626
Revenues	15,222	12,262	9,229	12,689	12,864
Interest	0	0	0	0	0
Expenditures	(6,250)	(6,122)	(4,732)	(7,595)	(6,544)
Transfers	0	0	0	0	0
Ending Balance	\$96,895	\$103,035	\$107,532	\$112,626	\$118,946
Encumbrances	\$0	\$0	\$0	\$0	\$0

This fund continues to serve the purpose for which it was created and meets the criteria for a trust fund. Created in 1997, the fund is used to hold sums deferred and any interest earned under the State Deferred Compensation Plan for part-time, temporary, and seasonal/casual employees. The Plan is an eligible deferred compensation plan under Sections 457 and 3121 of the United States Internal Revenue Code of 1986, as amended, and a tax deferred alternative retirement program for part-time, temporary, and seasonal/casual employees of the State (and participating counties) who are not eligible for membership in the Employees' Retirement System. Participation in the Plan is mandatory, and there is a mandatory payroll deduction of seven and five-tenths per cent (7.5%) of the employee's gross monthly wages (in lieu of social security contributions) that are contributed to the Plan. Revenues come from participant contributions and interest earned. Expenditures consist of distributions taken by participants and their designated beneficiaries, as well as the administrative fees associated with the Plan.

**State Deferred
Compensation Plan
Trust Fund
(trust fund)**

**Administratively
established**

Financial Data for FY2013–2017 (in thousands)

	FY2013	FY2014	FY2015	FY2016	FY2017
Beginning Balance	\$1,336,448	\$1,506,842	\$1,558,179	\$1,558,179	\$1,558,179
Revenues	257,414	73,016	0	0	317,260
Interest	0	0	0	0	0
Expenditures	(87,020)	(21,679)	0	0	(173,659)
Transfers	0	0	0	0	0
Ending Balance	\$1,506,842	\$1,558,179	\$1,558,179	\$1,558,179	\$1,701,780
Encumbrances	\$0	\$0	\$0	\$0	\$0

This fund continues to serve the purpose for which it was created and meets the criteria for a trust fund. Created in 1983, this fund is used to hold employee contributions to and any investment earnings from the Deferred Compensation Plan. The Plan is overseen by a board of trustees, which contracts with Prudential Retirement to serve as the Plan's third-party administrator. Prudential Bank & Trust serves as the Plan's trustee, and State Street Bank provides sub-custodial services to Prudential Bank & Trust on behalf of the Plan. The Plan is open to all employees who are members of the Employees' Retirement System and employed by either the State, County of Hawai'i, County of Maui, or County of Kaua'i. All contributions and investment earnings are held for the exclusive benefit of the participants and their beneficiaries. Revenues come from participant contributions and changes in the value of the plan's investment product options. Expenditures consist of administrative fees and distributions taken by participants and their designated beneficiaries.

Chapter 3

The Department of Human Resources

Development Did Not Report Non-General Funds As Required by Law

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

Section 37-47, HRS, requires departments to submit to the Legislature an annual report of each non-general fund account including information such as the intended purpose of the fund, current program activities supported by the fund, and financial data. The Director of Finance annually issues a memorandum requesting all departments to complete and submit Form 37-47, *Report on Non-General Fund Information*, to the Department of Budget and Finance for each of their non-general funds. The Department of Budget and Finance compiles a report of all non-general fund accounts and submits it to the Legislature prior to the start of each legislative session.

Section 37-52.5, HRS, requires the Judiciary and any department that administratively establishes a new fund or account to submit a report to the Legislature. The report must be filed within 30 working days of a fund or account's creation and should include a justification for the fund or account and identification of its sources of revenue. In addition, prior to the start of each legislative session, the law also requires each department to submit to the Legislature a listing of all administratively established funds or accounts along with a statement of their revenues, expenditures, encumbrances, and ending balances for each fund or account.

During our review of DHRD’s non-general funds, we noted non-compliance with statutory requirements to report financial activity and balances, as required by Section 37-47, HRS, as well as fund information for administratively established funds under Section 37-52.5, HRS. DHRD did not report to the 2017 Legislature all non-general funds with balances totaling almost \$1.7 billion at the end of FY2016, as shown in Exhibit 3.1. As shown in Exhibit 3.2, DHRD had administratively created non-general funds with balances totaling almost \$1.7 billion that were not reported to the Legislature, as required by Section 37-52.5, HRS.

**Exhibit 3.1
DHRD Trust Funds Not Reported to the Legislature**

Fund Name	Fund Type	FY2016 Ending Balance (rounded)
State Deferred Compensation Plan for Part-Time, Temporary, and Seasonal/ Casual Employees Trust Fund	Trust	\$112,626,000
State Deferred Compensation Plan Trust Fund	Trust	1,558,179,000
DHRD Total		\$1,670,805,000

Source: Office of the Auditor

**Exhibit 3.2
DHRD Administratively Created Trust Funds Not Reported to the Legislature**

Fund Name	Fund Type	FY2016 Ending Balance (rounded)
State Deferred Compensation Plan for Part-Time, Temporary, and Seasonal/ Casual Employees Trust Fund	Trust	\$112,626,000
State Deferred Compensation Plan Trust Fund	Trust	1,558,179,000
DHRD Total		\$1,670,805,000

Source: Office of the Auditor

Office of the Auditor’s Comments on the Affected Agency Response

Comments on Agency Response

We transmitted a draft of this review to DHRD on October 13, 2017. DHRD subsequently provided its written response to the draft report dated October 19, 2017 (Attachment 1).

DHRD generally agreed with our findings, except our conclusion on the reporting requirements for the two trust funds. The department asserted that the two trust funds “are not controlled by the legislature, do not play a part in budgetary flexibility and have no ‘excess moneys’ that can be transferred to the general fund.” We disagree with the department. The statutory requirements that the department report to the Legislature are unambiguous and do not exempt these two trust funds. It continues to be our conclusion that the department must comply with the reporting requirements of the statutes.

DAVID Y. IGE
GOVERNOR



JAMES K. NISHIMOTO
DIRECTOR

RYKER J. WADA
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

October 19, 2017

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

Re: Review of Special, Revolving, Trust Funds, and Trust Accounts

Dear Mr. Kondo:

This is to acknowledge your letter of October 13, 2017, transmitting the draft report to the Legislature related to the special fund and trust funds of the Department of Human Resources Development (DHRD). The draft report indicates that the DHRD did not report on two of its trust funds: the State Deferred Compensation Plan Trust Fund and the State Deferred Compensation Plan for Part-time, Temporary and Seasonal/Casual Employees Trust Fund.

The purpose of the two trust funds are to hold the money directed by the participants of the two deferred compensation plans, pursuant to chapters 88-E and 88-F, HRS.

In Chapter 3 of the draft report, your office notes “non-compliance with statutory requirements to report financial activity and balances as required by section 37-47, Hawaii Revised Statutes (HRS), as well as fund information for administratively established funds under section 37-52.5, HRS”.

The draft report goes on to state that these statutory reporting requirements aid in improved legislative oversight and control over funds, increased budgetary flexibility and the ability to identify and transfer excess moneys to the general fund. However, it should be noted that as provided for in chapters 88-E and 88-F, HRS, **these two trust funds are not controlled by the legislature, do not play a part in budgetary flexibility and have no “excess moneys” that can be transferred to the general fund.**

The department further offers the following comments on the two trust funds:

- The funds are serving the purpose for which they were created.
- The funds are not subject to legislative appropriations or allotments as set forth in HRS sections 37-31 through 37-47. Section 37-40, HRS, acknowledges that, except as to administrative expenditures, expenditures from trust funds may be “made by any department or establishment without appropriation or allotment”.
- No portions of the two funds can be authorized for transfer by the Legislature.

The Honorable Leslie H. Kondo
October 19, 2017
Page 2

- The funds have their own reporting requirements, independent of the HRS sections cited in the draft report. These reporting requirements fulfill many of the informational goals of section 37-47, HRS.

Given my above comments, I ask for reconsideration of your comments regarding the need to report the trust funds under sections 37-47 and 37-52.5, HRS. For transparency purposes, DHRD will be submitting the information relating to these two deferred compensation plan trust funds to the Department of Budget and Finance (B&F) for its information and dissemination as B&F may deem appropriate. We appreciated the work by Ms. Kristina Andrade, Mr. Ron Shiigi, and Mr. Sean Wong in reviewing and assessing our Special, Revolving, and Trust Funds. Thank you for the opportunity to comment on the draft report.

Sincerely,

James K Nishimoto

JAMES K. NISHIMOTO
Director

c: Brian Moto, Chair, Deferred Compensation Board of Trustees
Deputy Attorney General Krishna Jayaram
Mary Ann Teshima, ASO, DHRD