PHONE (808) 594-1888 BOARD OF TRUSTEES Colette Y. Machado, Chairperson Dan Ahuna, Vice Chairperson Leina'ala Ahu Isa, At-Large Rowena Akana, Trustee At-Large Keli'i Akina, At-Large Peter Apo, O'ahu Trustee Carmen. Hulu Lindsey, Maui Trustee Robert K. Lindsey, Jr., Hawai'i Trustee John Waihe'e IV. Trustee At-Large



STATE OF HAWAI'I OFFICE OF HAWAIIAN AFFAIRS MEETING OF THE BOARD OF TRUSTEES

DATE: Thursday, October 11, 2018

TIME: 10:00 am

PLACE: OHA Board Room. Nā Lama Kukui 560 N. Nimitz Hwy., Suite 200 Honolulu, HI 96817

AGENDA

- I. Call to Order
- II. Approval of Minutes
 - A. September 19, 2018 (Community Meeting)*
- Public Testimony* III.
- IV. Unfinished Business
 - A. CEO's 15-Minute Update on Ho'oulu Lāhui Aloha and OHA Activities
- V. New Business
 - A. Committee on Resource Management
 - 1. Action Item RM #18-12: Amendments to OHA's Board of Trustees Executive Policy Manual related to budget preparation, budget format and budget reporting requirements, 2nd Reading
 - B. Discussion and deliberations on the findings and recommendations (Report) of the Ad Hoc Committee on Grants and Sponsorships re: Trustee Sponsorship and Annual Allowance Fund *pursuant to HRS* § 92-2.5(*b*)(1)(*C*)
- **Community Concerns** VI.
- VII. Announcements
- VIII. Adjournment

If you require an auxiliary aid or accommodation due to a disability, please contact Albert Tiberi at telephone number: 594-1754 or by email at: albertt a oha.org no later than three (3) business days prior to the date of the meeting.

- *Notice: Persons wishing to provide testimony are requested to submit 13 copies of their testimony to the Chief Executive Officer at 560 N. Nimitz. Suite 200. Honolulu. HI. 96817 or fax to 594-1868. or email BOT meetings a oha.org 48 hours prior to the scheduled meeting.
- Persons wishing to testify orally may do so at the meeting, provided that oral testimony shall be limited to five minutes. * Notice: The 72 Hour rule, pursuant to OHA BOT Operations Manual. Section 49, shall be waived for distribution of new committee materials.

* Notice: This portion of the meeting will be closed pursuant to HRS § 92-5.

Colitte Y. Machado Trustee Colette Y Machado

Chairperson. Board of Trustees

Office of Hawaiian Affairs Board of Trustee Meeting October 11, 2018 10:00 am

II. Approval of MinutesA. September 19, 2018 (Community Meeting)

DRAFT

STATE OF HAWAI'I OFFICE OF HAWAIIAN AFFAIRS University of Hawai'i at Hilo Hale 'Ōlelo 113 Nowelo St. Hilo, HI 96720

Minutes of the Office of Hawaiian Affairs Board of Trustees Hawai'i Island Community Meeting Wednesday, September 19, 2018 6:00 pm

ATTENDANCE:

TRUSTEE COLETTE MACHADO TRUSTEE DAN AHUNA TRUSTEE LEINA'ALA AHU ISA TRUSTEE W. KELI'I AKINA TRUSTEE CARMEN HULU LINDSEY TRUSTEE ROBERT LINDSEY TRUSTEE JOHN WAIHE'E IV

ROBERT G. KLEIN, BOARD COUNSEL

EXCUSED:

TRUSTEE ROWENA AKANA TRUSTEE PETER APO

ADMINISTRATION STAFF:

KAMANA'OPONO CRABBE, CEO JOCELYN DOANE, PP JASON LEES, DPM KAWENA CARVALHO-MATTOS, DPM MISTI PALI-ORIOL, OUTR KAMUELA BANNISTER, OUTR KAMAILE PULUOLE-MITCHELL, OUTR MONICA MORRIS, PP KALENA BLAKEMORE, LA CANDACE WHARTON, STUDENT HELPER

BOT STAFF:

CAROL HOOMANAWANUI CRAYN AKINA LÕPAKA BAPTISTE LADY GARRETT KAMA HOPKINS DAYNA PA KAUIKEAOLANI WAILEHUA CLAUDINE CALPITO KAY WATANABE MARIA CALDERON LEHUA ITOKAZU

<u>GUESTS:</u>

KEPA LUNAKANAWAI HAUANIO JOJO TANIMOTO LOKELANI BRANDT LANI ENGENIO JENO ENOCENCIO KEIKI KEKIPI KALANIAKEA WILSON LILI'UOKALANI ROSS MAXINE KAHAULILIO BOB ERNST

I. CALL TO ORDER

Chair Colette Machado calls the Hawaii Island Community Meeting to order at 6:04 pm. Roll call is taken; Trustees Ahuna, Ahu Isa, Akina, Carmen Hulu Lindsey, Trustee Robert Lindsey, Waihe'e and Machado are present; constituting a quorum of seven (7) trustees. Excuse memos were received from Trustee Rowena Akana and Trustee Peter Apo.

II. INTRODUCTIONS

Chair Colette Machado begins the meeting by sharing that there are four community groups who are on the agenda. She asks the Trustees to introduce themselves and their staff. Each Trustee introduces themselves and their staff that are present and greet the beneficiaries that are present at the meeting.

Kamana'opono Crabbe introduces himself and the staff that has traveled from Oahu. He thanks everyone that has come out to the meeting tonight. He announces some of the rules of the facility.

Chair Colette Machado turns the microphone to Trustee Robert Lindsey who will facilitate the meeting for the evening.

III. COMMUNITY PRESENTATIONS

Trustee Robert Lindsey informs those present that he will begin with community presentations. He clarifies that there were originally had five organizations that asked to be put on the agenda but there will only be four. He calls on Brandee Menino representing HOPE Services Hilo.

A. HOPE Services Hilo - Brandee Menino, CEO

Ms. Brandee Menino, CEO greets the Trustees and shares their work in Puna. She shares with the Trustees and those present a short video regarding the Kilauea eruption and the Sacred Hearts Shelter and the efforts of all the volunteers.

She hopes that the video provides an example of what our Hawaiian community can do in terms of disasters. She clarifies that their normal work is tackling homelessness. She shares the steps they took for the Sacred Hearts Shelter. She provides background on starting the project, different partnerships that they accessed and trying to accommodate the needs of the community and their love of the Puna Area.

(Please see attached PowerPoint presentation)

Trustee Robert Lindsey thanks Brandee and calls Louis Hao to the mic.

B. Hui Mālama Ola Nā 'Ōiwi - Louis Hao, Executive Director

Mr. Louis Hao greets and introduces himself to the Trustees and those present. He presents his PowerPoint presentation for Hui Mālama Ola Nā 'Ōiwi.

(please see attached PowerPoint presentation)

He shares with the Trustees background on their Hawai'i Island Health Care System. He states that fundning came from both Senate appropriations as well as OHA. He shares the different types of programs that are provided to the communities that they serve on Hawai'i Island.

Trustee Robert Linsdsey clarifies that Health is an OHA strategic priority.

Trustee Keli'i Akina asks if the services are free?

Mr. Hao clarifies that yes they are.

Trustee Keli'i Akina inquiries if payments are accepted?

Mr. Hao states that they have not taken payments before.

Trustee Robert Linsdsey thanks Mr. Hao. He calls on Ekekela the Executive Director of 'Āha Pūnana Leo and Ke Kula 'O Nāwahīokalani'ōpu'u Public Charter School.

C. 'Āha Pūnana Leo and Ke Kula 'O Nāwahīokalani'ōpu'u Public Charter Schools, Ekekela Aiona, Executive Director

Ms. Ekekela Aiona Gives a brief background on 'Aha Pūnana Leo. It was formed by a grassroots organzation of educators in 1983. They were seeking to address the dismal state of the Hawaiian Language. She shares that currently there are 12 schools state wide. She also shares the work of of ke Kula 'O Nāwahīokalani'ōpu'u Public Charter Schools.

She shares that the school population consists of 96% Native Hawaiian, they have a 100% graduation rate and 85% enroll in college. Senior, junior and sophomores participate in dual enrollment where some acquire 36+ college credits upon graducation. She also shares that along with Hawaiian student in grades 1-6 learn Japanese, Grades 3-7 learn Chinese and Grades 2-4 learn Latin.

Lastly she shares with Trustees some of the damage that the school suffered due to the recent Hurricane that caused flooding. She also thanks OHA for their initial support to gain a permanent campus and for the continued support.

(Please see attached PowerPoint presentation)

Trustee Robert Linsdsey thanks Ekekela and calls on Susie Osborne from Kua O Ka Lā.

Ms. Jojo Tanimoto states that she comes from the other side of the island, Waimea. The Nāwahī School as well as the Punana Leo in Waimea has grown so much that they need more room. She states that there is problem with finding a high school, currently the school only goes to 8th Grade. She asks for OHA to help expand Nāwahī and Punana Leo because where are they going to go to speak Hawaiian.

D. Kua O Ka Lā New Century Public Charter School, Susie Osborne, Co-Founder & Po'okula

Ms. Susie Osborne introduces herself and thanks the Trustees for coming tonight. She gives a brief update on the current situation the school is facing from the lava flow. She shares how they needed to find a site for this coming school year. They were able to secure the Boys and Girls Club for the middle and High School Students and Nani Mau for the elementary students. They faced many

challenges getting Nani Mau ready but with many donations, orgnazations that volunteered and all the community involvment the school opened only two days late.

She shares that they still need to find permanent site for their school. They need to secure the site, gain permeits and funding. She thanks OHA for their contiued support of Hawaiian Focused Charter Schools and asks for OHA to continue to support legislation. She voices the concerns of many Hawaiian Focused Charter Schools with the inequity in facility, budget per pupil and that there is no diaster relief fudning for Charter Schools or very little support being provided.

(Please see attached PowerPoint presentation)

Mr. Keikiloa Kekipi introduces himself. He states that he is a lifelong learner. He shares with the Trustees his experience with the Lava flow and everything that has happened in his community. He asks the Trustees to help the community and the school. He shares his experience with Kua O Ka Lā. He states that the most important thing is to honor, respect and love each other.

Trustee Leina'ala Ahu Isa ssked if she went to the Board of Education.

Ms. Osborne States that she did go to the Board of Education and the Commission.

Trustee Leina'ala Ahu Isa asks if OHA helped in the legislation?

Ms. Osborne clarifies that OHA always helps with legislation.

Kamana'opono Crabbe shares that administration will be coming before the board with the legislative package and some will address the need for parady for the Native Hawaiian Public Charter Schools.

Jocelyn Doane states that this years package will focus on the facilities working group and get them to put forward some suggestions and provide criteria.

Monica Morris thanks both Ekekela and Susie. She gives and update on the Native Hawaiian Education Council Legislative Summit that occured today. She clarifies that even though bills are not in OHA's package, OHA has helped draft legislation as part of a coordinated advocacy. She states that she will be helping to draft bills that will be used as a coordinated effort to address meals, transportation and facilities for the Charter Schools.

Trustee Robert Linsdsey thanks Susie, Monica, Kamana'o, Ekekla. We will move on with our agenda. He turns the time over to KP.

E. Lili'uokalani Trust, David Hipp, Kīpuka Lili'uonamoku Systems Manager

(Group did not present)

IV. STATUS OF OHA ACTIVITES

A. Ka Pouhana/CEO's 15-Minutes Update on Ho'oulu Lāhui Aloha and OHA Activities

Kamana'opono Crabbe shares a couple of announcements. He states that the Aha Hui Community Grants program deadline is September 21st. The awards are from a couple hundered dollars to \$10,000 and more information can be found online at <u>www.oha.org</u>. The community funding grants that administration will be going before the board for aproval. He clarifies that affordable housing, education, health and economic self sufficiency are focuses. He states that this is for large amount of funding and the announcement will be coming out in a month or so. The third annoucement is that the Board of Trustees will have a Kūlia Initiative Grants. He explains it is really for grassroots community oragnizations. He also updates everyone regarding the funding that OHA has provided for those impacted from the flooding on Kauai and also the funding for those who were impacted from the lava flow. OHA has been working with the City and Counties, the State and having various discussions within the communities.

Trustee Robert Lindsey thanks KP and moves on to Community Concerns.

V. COMMUNITY CONCERNS

Trustee Robert Lindsey asks that everyone to keep their testimony to five minutes so that everyone will be accommodated tonight.

Kepa thanks the Trustees for coming tonight. He asks the Trustees to respond to what he will be presenting tonight. BTC – Beneficiary Trust Council Moku o Keawe are the 50% who are on the waitlist. Hale o Kūlia was put up there for data collection and that is in response to the homeless crisis that has plagued the native Hawaiians. He asks for support as Native Hawaiians, he wants a meeting with OHA so that OHA can support their issues. They have a resolution that they need to move forward and they have a resolution that they want support from OHA. He states that DHHL is going for geothermal on Mauna Kea. He states that these are the kinds of information the Kanaka Rangers are collecting.

Trustee Robert Lindsey calls on Lunakanawai.

Lunakanawai Hauanio thanks Trustees for their time and shares a handout Hawai'i Community Emergency Response Team. He shares that while he was involved with this program it gave participants the insight to what first responder experience and best practices of search and rescue. He is trying to get the curriculum put in to the schools. He states that they are going to have an online course certification. He asks for OHA's support to look at it and is asking to get it in all the schools. He states that this program has been available for 20 years and he has been involved in it.

(Please see attached handout from Lunakanawai Hauanio)

Trustee Robert Lindsey calls on Jojo Tanimoto.

Jojo Tanimoto introduces herself and states that she lives in Kawaihae. She is concerned because the Pohakuloa Programmatic Agreement has already passed comment period. She inquires to OHA being a signatory. She asks the Trustees to consider making amendments to the programmatic agreement. She asks for help for Kawaihae and South Kohala. She shares the history of Kawaihae Harbor and how it got funding and the blasting that took place in the harbor. Trustee Robert Lindsey asks Jojo to more information to get in contact with her.

Ms. Tanimoto agrees and thanks the Trustees.

Trustee Robert Lindsey calls on Lokelani Brandt.

Lokelani Brandt greets the Trustees and thanks them for coming to Hilo. She states that she was asked to prepare a cultural impact report for OCCC expansion project about relocating the prison. She has been in the process of consulting with the people in the community. She asks about the OHA 2010 study, which validated that Native Hawaiian, are sorely represented in our criminal justice system. She inquires where Native Hawaiians inmates represented in OHA's strategic priorities. She urges OHA to give a voice to our native Hawaiians who are in prison. OHA needs to better support those that are in prison.

Kamana'opono Crabbe shares that 4 years ago approved for a Judicial Task Force. He states that there have been a number of meetings with the Chair of the task force. A report will be submitted before Legislation begins in 2019 and comments will go to the recommendations.

Jocelyn Doane states that her staff has been sitting on two task forces that relate to the pretrial process and the incarceration task force.

Mr. Pati Shook asks if anyone experienced in the prison system.

Kamana'opono Crabbe responds that he has worked 10 with pa'ahau.

Mr. Shook states that he has 39 ½ years as a correctional officer. He was injured on the job and can no longer work. He states that Hawaiians are incarcerated for a reason and that is money. He states that he wrote programs out there, that put them to work, got them out in the community and brought them back out. He states that if you don't have that experience look to people who can actually contribute and help and don't make things up or don't understand. He states that he is willing to give \$100 a month for our people, and asks how many other will do it. This is so they can have prison reform, education all of these things that take money. He asks that at the end of this meeting we should move forward and there should be solutions already.

Trustee Robert Lindsey calls on Lani Engenio.

Lani Engenio introduces herself and gives a little background on herself. She has a biology, health, education and preschools backgrounds. She has worked with the Native Americans when they were having reparations. She started a preschool in Kohala. She believes in kids getting an early start. She states that the most important things are parents because children will follow them they are a big influence on the little children. She shares an experience she had with Peter boy and his father. She states that we are Hawaiians we need to teach the parents to raise their children.

Trustee Robert Lindsey calls on Jeno.

Jeno Enocencio introduces himself and he teaches kids about agriculture and aqua sciences. He states that they leased from Kamehameha land for the last 18 years and teaching kids how to survive in the islands. They have developed projects that range from water usage; building structures, maintain roadways and such. To make the land a viable place for the youth and teaching them to survive. Kamehameha Schools evicted them from the land and they are currently going through the courts. He states that they asked Native Hawaiian Legal Corp. He asks OHA to take a copy to Corp Counsel and have them review and say what OHA can do. He states that he writes everything. He asks to also give Native Hawaiian Legal Corp a copy.

Trustee Robert Lindsey states that Kamana'o or staff will get back to you. He calls on Kalaniakea Wilson.

Kalaniakea Wilson introduces himself. He asks what is just? He talks of cultural and political genocide. He states that he would rather wait on the land; he doesn't want to wait on a list. He asks if they knew about a letter from the United Nations letter. He states that when the lava came it took Uncle Keiki's house. Uncle Keiki gave his life to the school and he lost everything. Right now DHHL is tearing his home. He states that we cannot allow the Department of Hawaiian Home Lands to tear down homes of Hawaiians who have been waiting and who have lost everything in the lava. He also demands for a forensic audit of DHHL immediately for not fulfilling the constitutional obligation embedded in the Hawaii State Constitution as a condition to continue to operation because we need all the Hawaiians on the land.

Trustee Robert Lindsey calls on Lili'u Ross and Aunty Maxine.

Ms. Lili'uokalani Ross introduces herself. She voices concern about the water and the storage of water for Pu'u Kapu Pastoral. She states that a lot of money has been wasted. She states that water flows into these tanks that are about a 100 years old now they are decayed. She states that the Department tell those on that are on that water system to shut their mouth when they bathe. She states that there are toxins flying from the top of the mountain all the way down to the sea and undetonated ordinances.

Trustee Robert Lindsey calls on Maxine Kahaulilio

Ms. Maxine Kahaulilio states that they have met with Senator Kai Kahele asks for the land to be given back to the people. She states that she lives in Waimea. She states that they have 7 water tanks. In 2013, Department of Hawaiian Homes built 7 tank in Pu'u Kapu area. She shares that through the construction of those tanks the contaminated dirt got into the grass that the cows and horses were eating. She lost a horse because of that. She did testify at Hawaiian Home Lands and they did nothing. 7 Tanks were built, 5 for the fire, 2 for drinking and the others are non-potable. She confirms what Lili'u said that at a meeting they were told not to open their mouth when they bathe because they water is only good for the animals. She states that you need to go up to Pu'u Kapu and see what is happening to our people. She voices many problems that she has had with the Department of Hawaiian Home Lands with lost applications and not everyone getting awarded. She asks if OHA can check, the families at Pu'u Kapu are paying \$128 a month for non-drinking water. She states that the military gets all the water and not the homestead.

(Please see attached information regarding both Lili'uokalani and Maxine's concerns; it was received on October 1, 2018)

Trustee Robert Lindsey announces that Aunty Maxine will be 80 years young on Friday. He calls Bob Ernst as the last community speaker.

Bob Ernst greets the Trustees. He voices his concern about the tour helicopters. They create a lot of problems. They have asked the elected officials for help but no one was willing to help.

Trustee Robert Lindsey thanks everyone for coming and turns it back to the Chair.

Trustee Carmen Hulu Lindsey asks what part of the island they are impacting.

Mr. Ernst states that the entire island is impacted.

Jocelyn Doane shares that Senator Kahele did introduce a reso and the DOT is adopting a working group. It is something that the Hilo Senator is aware of and is working on.

Mr. Ernst states that Kai helped in the beginning but he didn't follow through.

VI. ANNOUNCEMENTS/FYI

None

IX. ADJOURNMENT

Chair Colette Machado thanks everyone for attending and all the families.

The meeting was adjourned at 9:17 pm.

Respectfully submitted,

Dayna Pa, Board Secretary

As approved by the Board of Trustees on _____

Colette Y. Machado, Chairperson Board of Trustees

Attachment:

- 1. Trustee Rowena Akana Excuse Memo
- 2. Trustee Peter Apo Excuse Memo
- 3. PowerPoint Presentation from HOPE Services Hilo



- 4. PowerPoint presentation from Hui Mālama Ola Nā 'Ōiwi
- 5. PowerPoint Presentation from 'Aha Pūnana Leo and Ke Kula 'O Nāwahīokalani'ōpu'u Charter Public Charter Schools
- 6. PowerPoint Presentation from Kua O Ka Lā New Century Public Charter School
- 7. Handout from Luanakanawai Hauanio Hawai'i Community Emergency Response Team, Inc.
- 8. Information provided by Lili'uokalani Ross, Maxine Kahaulilio, Mahana Gomes and Dianna Kalamau regarding follow up action items for Pu'u Kapu Pastoral Steering Committee for Pu'u Kapu Hybrid Water System.



INTEROFFICE MEMORANDUM

TO: Trustee Colette Machado, BOT Chair Trustee Dan Ahuna, BOT Vice-Chair

FROM: Trustee Peter Apo

DATE: September 4, 2018

RE: BOT Community Meeting Absence on September 19, 2018

I am unable to attend the BOT Community Meeting on Wednesday, September 19, 2018 to be held on Hawai'i Island at 6 p.m. Please excuse my absence and extend my apologies to the members of the Board.

If you have any questions, please call my office at 594-1879.

Mahalo.

few less



OFFICE OF HAWAIIAN AFFAIRS MEMORANDUM Mea ho'omana'o a ke Ke'ena Kuleana Hawai'i

To:	Chairperson Colette Y. Machado Board of Trustees
Cc:	Trustee Robert K. Lindsey, Jr.
From:	Trustee Rowena Akana
Date:	September 18, 2018
Re:	Excused Absence for September 19th Community Meeting

I am unable to attend tomorrow evening's Community Meeting in Hilo, but my Aide, Kay Watanabe will be present on my behalf.

Mahalo nui loa.























Hui Mālama Ola Nā 'Ōiwi

Hawai'i Island Health Care System





Native Hawaiian Health Care Improvement Act

- Research in the 1980s across the State of Hawai'i to identify health issues and needs
- Found that Hawai'i had high rates of diabetes and hypertension, among other health concerns
- Led to the Native Hawaiian Health Care Act of 1988
 - Later renewed in 1992 as the Native Hawaiian Health Care Improvement Act
- Establishment of Native Hawaiian Health Care Systems across the state





Health Education and Medical Services

Hui Mālama Ola Nā Ōiwi

Health Education Classes

- Diabetes Management
- Hypertension

NutritionHealthy at Any Size





Community Health Education

Health education presentations in schools, businesses, and community groups

Health education & screenings at community events















Support Groups

Cancer Support Group Diabetes Support Group



Exercise & Fitness

Basic Stretch & Strengthening



Healthy Hāpai Prenatal Program









Traditional Health Program

Ancient Native Hawaiian Healing Practices Lāʿau Lapaʿau • Hoʿoponopono • Lomilomi Ha Ha • Lāʿau Kahea

One-on-one Consultations

La'au Lapa'au Workshops and Classes



Grow Your Own Lā'au









Immunization Program















Mālama Nā Keiki Festival prenatal, keiki, and family health

























Medical Services

Ikaika Moreno, MSN, FNP-C Family Practitioner

Donna Dennerlein, LCSW Licensed Clinical Social Worker

Dr. Stacy Haumea, DBH, RDN, CDE Nutritionist & Diabetes Educator





Sustainability

- Most funding is federal through Health Resources & Services Administration
- Annual requirement to meet federal match, \$1 for every \$5 federal
- Native Hawaiian Health Care Improvement Act is up for reauthorization in 2019

• Currently in year 1 of 3-year term ending 2021





While life expectancy in the State of Hawai'i shows a steady increase, a recent study of 60-years of data for five ethnic groups (Caucasian, Chinese, Filipino, Japanese, and Native Hawaiian) shows that there remains a 10-year longevity gap between the shortest-lived and the longest-lived groups, Native Hawaiians and Chinese, respectively. The lower life expectancy of Native Hawaiians, as compared to other ethnic groups, can be contributed to a variety of Social Determinants of Health.



Source: Life Expectancies in Hawai'i: A Multi-ethnic Analysis of 2010 Life Tables Yanyan Wu PhD; Kathryn Braun DrPH; Alvin T. Onaka PhD; Brian Y. Horiuchi MPH; Caryn J. Tottori MA; Lynne Wilkens DrPH

Health Indicator	County of Hawai'i Native Hawalian or Other Pacific Islander	County of Hawaiʻi All	State of Hawai'i All
Diabetes, 18+ years of age	14.7%	11.5%	10.5%
High Blood Pressure, 18 + years of age	37.3%	31.6%	32.0%
Mothers who received Late or No Prenatal Care	28.5%	30.0%	14.1%
7-vaccine Series coverage among children 19-35 mo.**	59%	-	75.1%
Teens with a healthy body weight	65.1%	69.7%	71.6%
Adults with a healthy body weight	15.9%	35.6%	39.1%
Adults who are obese	49.4%	26.9%	23.8%

Data from Hawai'i Department of Health Pregnancy Risk Assessment Monitoring System, U.S. Census, American Community Survey, and Behavioral Risk Factor Surveillance System via Hawai'i Health Matters; **Native Hawaiian statewide, National Immunization Survey-Child (NIS-Child), 2016.

In the County of Hawai'i, the result of the determinants of health on the Native Hawaiian population is most evident in the percentage of Adults who are obese at 49.4% which is double the state average.



Health Indicator	County of Hawai'i Native Hawaiian or Other Pacific Islander	County of Hawai'i All	State of Hawai' All
Mammogram History among Women Aged 40+	85.0%	75.0%	76.6%
Mammogram History: Ages 50-74	92.5%	77.4%	83.7%
Breast Cancer Incidence Rate per 100,000 females	128.1	127.5	136.0
Breast Cancer Death Rate per 100,000 females	57.1	20.1	18.7
Colon Cancer Screenings	62.1%	68.1%	71.3%
Colon Cancer Death Rate per 100,000	38.1	12.5	10.6
Prostate Cancer Incidence Rate per 100,000 males	51.9	54.8	90.1
Prostate Cancer Death Rate per 100,000 males	29.8	14.4	15.4
Lung and Bronchus Cancer Incidence Rate per 100,000*	42.5	43.9	46.4
Lung Cancer Death Rate per 100,000	95.8	30.1	31.3
Diabetes Death Rate per 100,000	69.0	14.8	14.4
Congestive Heart Failure Death Rate per 100,000	44.4	13.7	14.4
Coronary Heart Disease Death Rate per 100,000	269.8	76.9	66.1
Stroke Death Rate per 100,000	113.0	43.7	37.4
Suicide Death Rate per 100,000 (15+ years of age)	59.0	20.4	12.9
Cancer Death Rate per 100,000	405.0	140.1	131.4
All-Cause Mortality Rate per 100,000	1,873.7	645.2	571.3



National Cancer Institute (2010-2014) via Hawai'i Health Matters *National Cancer Institute grouping of Asian/Pacific Islander which includes Native Hawaiians

Screening and Death Rates

Please refer to table on slide 21.

The County of Hawai'i Native Hawaiian overall cancer mortality rate is three times greater than the State.

Coronary Heart Disease Death rate is four times as great.

Suicide Death rate and Diabetes Death rate are almost five times the rate of the State.

What does this indicate?

These high death rates are evidence that there is a delay in County of Hawai'i Native Hawaiians receiving either an initial diagnosis or in seeking treatment. Or, the County of Hawai'i Native Hawaiians are not receiving adequate or appropriate care. Perhaps, the high death rate is due to all four factors.

These statistics are a call to action — these medical disparities must be rectified.



Physician Shortage

Health Indicators, Medical Professionals, 2018							
Health Indicator	County of Hawai'i Number of Positions	County of Hawai'i Ratio of Population to Provider	State of Hawai'i Ratio of Population to Provider	United States Ratio of Population to Provider			
Primary Care Physicians	144	1364:1	1,150:1	1,320:1			
Dentists	128	1550:1	1,170:1	1,480:1			
Mental health providers	562	353:1	440:1	470:1			
2018 County Health Rankings National Data County Health Rankings, Robert Wood Johnson Foundation and the							

2018 County Health Rankings National Data County Health Rankings, Robert Wood Johnson Foundation and the University of Wisconsin Population Health Institute.

According to the 2018 County Health Rankings there are 144 Primary Care Physicians, 128 Dentists, and 562 Mental Health providers in the County of Hawai'i. An analysis of 2016 data shows State of Hawai'i has a current physician shortage of 707 Full-time Equivalent (FTE) with a physician retirement rate of 50 per year. This study also estimates the County of Hawai'i physician shortage as 187 positions.



OHA Haumea Report

OHA Haumea report identifies chapters of focus for wāhine health.

- 1. Mental and Emotional Well-Being
- 2. Physical Health
- 3. Motherhood
- 4. Intimate Partner Violence and Incarceration
- 5. Economic Well-Being
- 6. Leadership and Civic Engagement



OHA releases report on the health of Native Hawaiian women



Ho'iho'i

Replenishment, Restoration, and Reformation





"I hear a lot of people in the community thanking us. They don't see us as just helping them be healthy, but they see us as more supportive and the end result is that they become healthy. The name itself: hui (a body of people) mālama (care for) ola nā 'ōiwi (to help to care for and keep our people a healthy people). That is what we aim to do each day."

-Aunty Edna Baldado





Mahalo nui loa.

🛱 (808) 969-9220 • HMONO.org 🚺 hui_malama_





E Ola Ka 'Ōlelo Hawai'i



'Aha Pūnana Leo

- 12 Kula Kamali'i sites statewide
- 2 Hi'ipēpē
- Niuolahiki
- Critical role in growing the population of highly proficient Hawaiian speakers to 5,000, under the age of 18, who are also proficient in English.

No 'Ane'i Ko Kākou Ola

Nāwahīokalani'õpu'u

Designed for families, teachers and staff who have chosen to speak Hawaiian as the first and main language of the home, and also those who are in the process of establishing Hawaiian as the dominant language of the home.

In 1995, the Office of Hawaiian Affairs provided a grant to the 'Aha Pūnana Leo to purchase a permanent site to house Nāwahīokalani`õpu'u.






Ke Kahe o ka Pele

Nāwahīokalani'ōpu'u:

• Air Quality

Large Room Air Purifier

Face Respirator

- Organic Vapor Cartridge
- Fans for classrooms

Masks & Safety Glasses Total: \$4.364

Pūnana Leo o Hilo:

• Air Conditioner for main classroom

Makani Pāhili 'o Lane

Hale 'Õhi'a

Flooding to the entire ground floor Loss of Equipment: \$11,111.33
Cleanup continues



10/8/2018

Step One in Recovery Complete The Miracle at Nani Mau Gardens

• With gratitude from Kua O Ka La NCPCS for all the community support we have received so that we can move forward with ease and aloha on behalf of our keiki, the next generation! Our values and mission/vision stabilize and guide us. Our community supports us- mahalo!



Pu`ala`a - Devastating community loss... 600 acres. Ancient Hawaiian fishing village, low land rainforest, anchilline ponds, true place based learning laboratory!



Student produced murals of our place and our guiding values...



One of our large greenhouses









It was no easy feat to find a place for 120 elementary haumana, and at least 8 adequate size rooms. Nani Mau Gardens...Project inspection..What are we dealing with here?



Yes, termite infested.. The Rotary Club jumped in, raised \$60,000.00 and gathered a large labor force.







Can we really do this in 10 days before school starts? (including weekends)



Now we are talking... a little paint...



Moving an entire wall to make enough classrooms



Principal Kapoula Thompson power washing the roof





Getting the fresh gravel down... getting close







Gratitude to all...school opened only 2 days late



Settling in...Happy K students with Ikaika Marzo!



Community donations keep rolling in - mahalo for the hydro flasks...



Grade 3 here .. Mahalo to EVERYONE inluding but not limited to: County of Hawai`i, Kamehameha Schools, OHA, Boys and Girls Club, Liko Lehua Café, Café Pesto, Pacific Quest, etc



Especially to Rotary Ron.. MAHALO! So, we have successfully mitigated first phase of recovery, now the big work begins to find a permanent home..and all that is entailed with that



We need HELP!

- We have the Boys and Girls Club for this year ONLY... housing middle and high school
- We need to locate a site, secure the site, permits, funding etc. We have a drafted plan and are ready..

Charter Systems

- Mahalo to OHA for your continued funding to the HFCS.
- Please continue to support legislation for facilities, transportation, meals
- No disaster relief funding in Charter budget
- Very little state support through this disaster
- Absolute system failure





NATIONAL PREPARTIMESS MONTH 2018

PREPARE NOW LEARN HOW

HAWAI'I COMMUNITY EMERGENCY RESPONSE TEAM, INC Lunakanawai Hauanio, SCETL P O Box 2202 Kamuela, HI 96743 (808) 990-7232 <u>Hawaii_CERT@Yahoo.com</u> <u>www.Hawaii-CERT.com</u>

Wednesday, 19th September 2018



BOARD OF TRUSTEES AND CHIEF EXECUTIVE OFFICER Kamuela Wailua Plaza CDE 399 Hualani St #20 Hilo, HI 96720 (808) 933-3106

HOOMANALOA

(Individual Empowerment through remedies of Hawaiiana)

Hawai'i Community Emergency Response Team, Inc (HI-CERT), is an association of multi-cultural experienced and expertise of Readiness, Response & Recovery. Our focus is to identify, collaborate and support Hawaii's island resources utilized during crisis, like man-made/natural disasters.

On the 9th of this month we emailed each of our Trustees and our Chief Executive Officer the attached communication seeking letter of support between HI-CERT and Pohakuloa Training Area (PTA) under its new leadership, LTC Loreto V Borce, Jr., (JR).

By supporting this collaborative effort, our outcome touches on the following OHA Goals:

AINA-CULTURE-ECONOMIC-EDUCATION-HEALTH

AINA – CERT training is virtual and hands on. Participants get to observe People's interaction with regards to responding to emergencies, and the difficulties first responders encounter when called upon to rescue lives and in some cases save properties. It is at this point participants gain a different perspective with regards to readiness. Those being CERT certified trained begin to understand Rescuer's views and with more knowledge shared between People who don't know the culture can maneuver around recognize sacred sites significant to Hawaiians and Native Hawaiians.

CULTURE – Likewise in the Aina category, the culture becomes more visual when community planning for new or expansion of existing developments are up for public viewing, more communities are able to recognize sites and details that affect Hawaii's Culture and her values. Our culture has played a more Hawaiiana effect and affect on the State. The example is when the culture was met with law enforcement on top Mauna O Wakea, and the kamalii placed leis upon each officer that had come to remove and even arrest Mauna Protectors.

ECONOMIC SELF-SUFFICIENCY – Many skills are developed in these trainings. Archeologist, Anthropology, Astrology, Biologist, Engineering, Scientist, Mathematician, Geologist, Chemist, Planner, Adjuster, Parks Ranger, Recreation Director, EMT, Fire Fighter, Police, Conservation Enforcement, Boat Captain, Marine Patrol, Pilot, Air Rescue, Heavy Equipment Operator, Nurse, Doctor, in other words, the many hands that come and participate in Readiness Rescue & Recovery work, like CERT, reveals a diverse professions and businesses, its exposures raises our economic options to Hawaiians and Native Hawaiians.

EDUCATION – These trainings gives the trainee an opportunity to become a trainer. Perpetual learning that connects our pass with the future technology in a way that aids in inspiring our youths with more options for their future choices.

GOVERNANCE – The immense magnitude of relief that comes pouring into disasters, now, requires a governing structure for its accountability. Having the right governance system ensures longevity in readiness for future generation.

HEALTH – Reduce Anxiety

For these reasons, and many more, we seek your positive support, by letter, and future needs our initiative for readiness Hawaiians and Native Hawaiian communities.

E ke Akua hopomaikai oukou-

Lunakanar ai Hahan o - A perpetual business embraces excellence. Excellence is true freedom. Alena Kamakakama Kaiokekoa (Ho'ona 2007) 9/24/18





2018 OCT - 1 A 10: 17

Re: Follow up action items for Puu Kapu Pastoral Steering Committee for Puu Kapu Hybrid Water System

As a result of no change in response from the Department of Hawaiian Home Lands (DHHL) after receiving our letter and all Exhibits (included here with), their response being is that the Puu Kapu Hybrid System will not ever be a Potable System, combined with the Department of Health Safe Drinking Water Branch (DOH SDWB) response received, stating that the Puu Kapu system is not considered a PWS nor shall it be regulated as such (included here with), the following are items and areas of concern that have been discussed and expressed at community discussions:

- Hire Independent Consultant or solicit qualified volunteers/partners to Conduct fire flow testing and capacity of the Puu Kapu Hybrid Water System in an effort to support current Community Firewise Initiatives
 - -There are no records (since the startup of the water system back in 2014) of the current capacity of the 4 fire tanks, what order the tanks would be pulled from in the even of a fire, how long to re-fill each tank in the event of a fire, overall system capacity during a fire event
 - Establish a Community Water Use and Communication Plan during a fire event: Notification Process, protocol and guidelines for possible Moratorium, create communication process with Fire Dept and local authorities
- Install our own sampling and monitoring stations in order to collect routine Bacti and Chlorine Residual samples
- Hire or solicit qualified volunteers/partners to collect such samples on our behalf
- Solicit an approved Lab to submit samples to for processing and results
- Provide community educational materials on cross-connection and proper backflow prevention as well as sample results
- Hire legal counsel (if necessary) to communicate with the DHHL regarding proposed community improvements as listed above
- Hire Independent Consultant to investigate current system components to confirm if materials within system meet drinking water standards, i.e. type of HDPE pipe used, tank materials, valves

The above list of items can be done by our community with or without the requirements of regulation, to ensure adequate fire protection and safe water for our community (even if deemed non-potable), but they require adequate funding. As a Community we continue to look at funding sources and potential partners that could assist us with our process and progression.

Mahalo

Lili uokalani Boss

Mahana Gomes

Markle Maxine Lani Soares Andrade Kahaulilia Dianna Alohalani Kalamau

1 2 3 4 5 6 7 8 9	Safe Drinking Water Branch Environmental Management Division Hawaii State Department of Health Compliance and Enforcement Attn: Ann Zane, Section Supervisor 919 Ala Moana Blvd., Room 308 Honolulu, HI 96814-4920
10 11 12	March, 7 2017 SDWB DOH Tracking No.: 7505 5704 0192 7046094861 EPA Region IX Tracking No. <u>950551040192706</u> 6094878
13 14	Re: Pu'u Kapu Hyrbid Water System
15 16	Dear Ms. Zane,
16 17 18 19 20 21 22 23	We the Pu'u Kapu Pastoral Steering Council (PPSC) comprised of concerned residential, pastoral and agricultural lease holders are exercising our right to contact you directly regarding an existing water system based on the Safe Drinking Water Act of 1974 and the Federal Safe Drinking Water Standards. The system is called the Pu'u Kapu Hybrid Water System, Waimea South Kohala Hawaii , and encompasses Tax Map Keys (3) 6-4-01:32-38, 41-45,51,53, and 54, with a project identification: IFB-09-HHL-008 .
24 25 26 27 28 29 30	This system was brought to the attention of the Department of Health by the Department of Hawaiian Home Lands (DHHL) through emailed correspondence beginning: February 23, 2010 with the latest correspondence dated: December 30, 2014. The correspondence was regarding whether or not the system would be regulated as a public water system. The last correspondence between the two departments ended with the understanding that the water system need not be regulated because end-users would be charged on a non-volumetric bases. (Attached Exhibit A)
31 32 33 34 35 36 37	We the PPCS lack the confidence and trust in the DHHL in fulfilling their duty created by the 1920 Act by Prince Jonah Kuhio Kalanianaole, of protecting our public health and wellbeing. As beneficiaries of this TRUST we have the authority to dictate to the Department of Hawaiian Home Lands our needs. In this case our needs have fallen on deaf ears and we are seeking your expertise to correct this situation and find that our needs require more then what has been provided.
37 38 39 40 41 42 43 44 45 46 47	 We are writing to direct your focus on our immediate concerns regarding the current use of this system and its potential impacts on our community's health and safety. As a result we would like from you the following: Make our concern your FIRST PRIORITY; Acknowledge our need for this system to be regulated as a Public Water System Take immediate action to conduct a system site visit; Investigate, review and report your physical findings of this non-potable system as it relates to HAR Title: 11 Chapter 20 Rules Relating to Public Water Systems. A correspondence addressed to the PPSC, address aforementioned, from you, Ann Zane, and agency's commitment to this end.
48	Lane, and ageney 5 communent to this end.

а П

1	MAP: (Attached Exhibit B)
2	The following is a description of our community for which this water system serves:
3	*The 1986 accelerated Pu'u Kapu Pastoral Project awarded its first land leases in 1991.
4	*The land leases were awarded in increments of 10, 15 and 20 acre parcels. The project
5	currently host approximately 20 homes/residences+/- with a full potential built out of 184
6	residences/connections. Pastoral leases are designated for residential and livestock use.
7	*The current water system is the only system within this area. This area is adjacent to
8	Agricultural Leases where both Potable and Agriculture Water Systems are provided.
- 9	Agricantara Deases where boar i otable and Agricantare water bystems are provided.
10	September 27, 2010: (Attached Exhibit C)
10	Letter: "Department of Hawaiian Home Lands Pu'u Kapu Pastoral Sudivision Water System
	Construction, Requesting for Improvement Process and Assignment of Tax Map Keys"
12	
13	Page 1, Paragraph 2, 4 th line beginning with "the project is expected to take
14	about 1 year to complete. Each lot will have their own individual water meters
15	when the construction is finished. The system is intended to deliver potable water
16	however, the system will not conform to County Design Standards, therefore, the
17	system cannot be considered a Potable System."
18	
19	January 22, 2013: (Attached Exhibit D)
20	Letter: "Pu'u Kapu Hybrid Water System Non-Potable vs. Potable Water" Three Years Later:
21	Page 1, Paragraph 1: "The DHHL requests your feedback on Operating the
22	recently constructed Pu'u Kapu Hybrid Water System using Non-Potable or
23	Potable Water".
24	Page 1, Paragraph 4: "Potable Water requires chlorination, extra testing and
25	operational requirements and possibly extra costs to the homeowners compared
26	to non-potable water. Because of these extra requirements potable water may also
27	take more time to place into operation compared to non-potable water. Non-
28	potable water should not be used for human consumption," (drinking, bathing,
29	cooking) "as it could cause possible health and safety concerns."
30	Page 1, Paragraph 5: Included with the letter was a survey and self-addressed
31	stamped envelope. The survey was based on each lessees vote to have potable vs.
32	non-potable water.
33	Page 1, Paragraph 6: The letter also spoke to a "Internal Elevation Agreement"
34	that would have to be signed in the future (included herewith, dated February 11
35	2013). This agreement was provided later and not at the same time as the
36	January 22, 2013 letter and survey.
37	
38	
39	January 22, 2013: (Attached Exhibit E);
40	Survey
41	At the time of meter purchases, Puu Kapu lessees are also required to purchase a
42	backflow assembly (Specifically and Reduced pressure Principle Backflow Assembly).
43	These fees equaled and still equate for those not yet connected to the system, roughly, a
44	cost of \$789.00. In September of 2014 the system was deemed non-potable by the
45	DHHL. Water meters were and are being issued to Pu'ukapu Pastoral Lesses who apply,
46	qualified and paid the fees for the meter. We are including a copy of a lesses signed
40	application, and another lessees water bill.
47	approation, and another respects water one.
+0	

1	February 11, 2013: (Attached Exhibit F)
2	Letter: "Department Of Hawaiian Home Lands Pu'u Kapu Hybrid Water System"
3	This letter is a document form called the Internal Elevation Agreement that is provided at the time
4	a meter and backflow are issued. Please review the requirements and expectations the DHHL
5	placed on us, the individual Lessees, as well as the declaration that the water is not safe for
6	Human Consumption.
7	*You must be aware at this point in the letter, that many lessees are afraid to come forth
8	with these documents or copies of their water bill, in fear of the consequences that they
9	may face from DHHL. Many of us have become dependent on this water system, potable
10	or not. To lose it would be detrimental.
	of not. To tose it would be delimental.
11	*We the Durin Kenn Dectoral Storing Council are empowered to make this Durin Kann
12	*We the Pu'u Kapu Pastoral Sterring Council are empowered to make this Pu'u Kapu
13	Water System right for our communities health and wellbeing, for our keiki (children),
14	our kupuna (elders), and our Makua (parents). It is our responsibility and our right.
15	
16	We do not believe DHHL recognizes the hazards of hauling water from DHHL extension office,
17	in Waimea, to various Pastoral sites: passing DHHL residential village and DHHL Agriculture
18	lots both having county potable water and agriculture lots with ag/non-potable water. Pastoral
19	Lessees must haul potable water for their own human consumption, and also use the same water
20	for their livestock, if not willing to connect to the current Pu'u Kapu Hybrid Water System.
21	Though this is a huge inconvenience and not very practical, many of us have become dependent
22	on this option as well. To lose it without a properly regulated water system within our
23	Community would also be detrimental.
24	
25	We are directing this letter to you, Ann Zane, Section Supervisor of the Safe Drinking Water
26	Branch, Environmental Management Division, Hawaii State Department of Health Compliance
27	and Enforcement, agency, under HAR title 11 chapter 20 and the Federal Drinking Water
28	Regulations to enforce these laws to hold the Department of Hawaiian Home Lands accountable
29	and protect our Community's health and well being.
30	
31	As you can gather, from the facts in this letter, our reasons are concerning the Department of
32	Hawaiian Home Lands inability to manage and maintain our Community's health and wellbeing
33	with regard to our Hybrid Pu'u Kapu water System. Our Community has gone far too long
34	without water and long enough without properly maintained and regulated drinking water.
35	Pu'ukapu Pastoral Steering Council will appreciate a response from you, by March 21, 2017, with
36	your commitment to this end. Pu'ukapu Pastoral Steering Council is available for site visits and
37	meetings.
38	
39	Our mailing address is PPSC P.O. Box 437142, Kamuela, HI 96743.
40	
41	
42	Thank you in advance for your time taken to review our letter.
43	Thank you in advance for your time taken to review our letter.
44	
45	Signed,
45 46	orgina,
40	
48	
49	

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19

1 2 3 Lili'uokalani Ross anto Mah 4 5 Roberta Lehuanani Banks 6 7 8 Joe Pacheco Dianna Alohalani Kalamau 9 10

Taren Mary Maxine Lani Soares Andrade Kahaulilio

2

Mahana Moana Gomes

a aco

11 CC: EPA Region 9, ANNA YEN 12

DATE	5 23/16	EXHIBIT A 23 pages
то:	Michael Miyahava	
FRON	MAGL GUAG CONTE	······································
	Name or Allas 208-731-6045 Cell or	808-747-4356 More cell
	PO BOX 437142 Kamue	lar H1 96743
allow t is unal	gh you are not required to provide any personal info the agency to contact you about this request. The pro- ble to contact you. Therefore, please provide any in or alias, telephone or fax number, mailing address, e-m	cessing of this request may be stopped if the agency formation that will allow the agency to contact you
wou	JLD LIKE THE FOLLOWING GOVERNMENT RE	CORD
name, informa	be the government record as specifically as possible subject matter, date, location, purpose, or names ation that could help the agency identify the record ment record you request will prevent delays in locating Kapu Hybrid Wate System U espondance between the Dept. DOH SDWB veganding the com pertim process approval by JLD LIKE: (please check one or more of the optic	of persons to whom the record refers, or othe rd. A complete and accurate description of the
wou	JLD LIKE: Pofable of won-pofable (please check one or more of the optic	le <i>ău Jiem.</i> ons below)
	A copy of the government record: (Please check of for information about fees that you may be required request. Note: Copying and transmission charges ma	to pay for agency services to process your record
	Pick up at agency (date and time): Mail Mail M Fax (toll free and only if available) Other, if available (please specify):	Mahana @ hawaii rwa
	If the agency maintains the records in a form other that format you would prefer to have the record.	
	Electronic 🗌 Audio 🔲 Other (please	e specify):
	Check this box if you are attaching a request for waive (see waiver information on back).	er of fees in the public interest
	SEE BACK FOR IMPORTA	

FEES FOR PROCESSING RECORD REQUESTS

You may be charged fees for the services that the agency must perform when processing your record request, including fees for making photocopies and other lawful fees. The first \$30 of fees charged for searching for a record, reviewing, and segregating will not be charged to you. Any amount over \$30 will be charged to you. Fees are as follows:

Search for a Record Review and Segregation of a Record \$2.50 for 15 minutes \$5.00 for 15 minutes

WAIVER OF FEES IN THE PUBLIC INTEREST

Up to \$60 of fees for searching for, segregating and reviewing records may be waived when the waiver would serve the public interest as described in section 2-71-32, Hawaii Administrative Rules. If you wish to apply for a waiver of fees in the public interest, you must attach to this request a statement of facts, including your identity as the requester, to show how the waiver of fees would serve the public interest. The criteria for this waiver, found at section 2-71-32, Hawaii Administrative Rules, are:

- (1) The requested record pertains to the operations or activities of an agency;
- (2) The record is not readily available in the public domain; and
- (3) The requester has the primary intention and the actual ability to widely disseminate information from the government record to the public at large.

AGENCY RESPONSE TO YOUR REQUEST FOR ACCESS

The agency to which you addressed your request must respond within a set time period. The agency will normally respond to you within 10 business days from the date it receives your request; however, in *extenuating circumstances* the agency must respond within 20 business days from the date of your request. If you have questions about the response time, you may contact the agency's UIPA contact person. If you are not satisfied with the agency's response, you may call the Office of Information Practices at 808-586-1400.

REQUESTER'S RESPONSIBILITIES

You have certain responsibilities under §2-71-16, Hawaii Administrative Rules. You may obtain a copy of these rules from the Lieutenant Governor's Office or from the Office of Information Practices. These responsibilities include making arrangements to inspect and copy records, providing further clarification or description of the requested record as instructed by the agency's notice, and making a prepayment of fees, if assessed.

oto"
\$

Aloha Sal,

2

The Puukapu Hybrid Water System is not a regulated public water system under the jurisdiction of the Safe Drinking Water Branch (SDWB). Therefore, a sanitary survey is not required.

There is no such designation as a "registered" water system under the SDWB or any other branch of the Department of Health.

Michael Miyahira, P.E. Engineering Section Supervisor Safe Drinking Water Branch Hawaii Department of Health Ph: 808-586-4258 Fax: 808-586-4351

From: Salvador M. Quitoriano [mailto:smq@akinaka.com] Sent: Tuesday, December 30, 2014 9:59 AM To: Miyahira, Michael M Cc: Jeffrey.Y.Fujimoto@hawaii.gov; kck@akinaka.com; 'Joni C. Tanimoto' Subject: FW: Puukapu Hybrid Water System

Mike

As per telecom, this email message is forwarded to you for your response to Jeffrey Fujimoto at DHHL. If there are any questions, please do not hesitate to contact us.

Thank you and Wishing you A Happy & Prosperous New Year

Sal

Confidential & Privileged Email Communication

Salvador M. Quitoriano, Sr. V.P. Akinaka & Associates, Ltd. 3375 Koapaka Street, Suite B-206 Honolulu, Hawaii 96819 Ph. No.: 836-1900 ext 658 FAX No.: 836-8852 Cc: kck@akinaka.com Subject: Fw: Puukapu Hybrid Water System

Hi Sal,

Just want to double check. For the Puukapu Hybrid Water System, please confirm that the system is not "registered" with DOH and a sanitation survey is not required. I noted that the system is not "regulated" by the DOH Safe Drinking Water Branch, but I wanted to be sure the system is not "registered" with DOH and that a sanitation survey is not required.

Thanks.

Jeffrey Y. Fujimoto Department of Hawaiian Home Lands Land Development Division 91-5420 Kapolei Parkway, Room 124 I Kapolei, Hawaii 96707 Phone: 808-620-9274, Fax: 808-620-9299 E-mail: jeffrey.y.fujimoto@hawaii.goy

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E-mail: jeffrey.v.fujimoto@hawaji.gov

---- Forwarded by Jeffrey Y Fujimoto/DHHL/StateHiUS on 12/29/2014 03 01 PM -----

 From
 Kaleo L Manuel/DHHL/StateHiUS

 To
 Lance Fukumoto

 Cc
 Jeffrey Y Fujimoto/DHHL/StateHiUS@StateHiUS, jgannon@rcac.org

 Date
 12/29/2014 02:47 PM

 Subject
 Re: Puukapu Hybrid Water System

Sorry Forgot to copy Jeff and Joy.

M. Kaleo Manuel Acting Planning Program Manager Department of Hawaiian Home Lands P.O. Box 1879, Honolulu, Hawaii 96805 fax: (808) 620-9559 direct: (808) 620-9485

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From Kaleo L Manuel/DHHL/StateHiUS To Lance Fukumoto <<u>(fukumoto@fukunagaengineers.com</u>>, Date 12/29/2014 02:47 PM Subject Re; Puukapu Hybrid Water System

Aloha Lance,

The Hybrid Water System is a non-potable water system. I'm copying Jeffrey Fujimoto, our LDD engineer, and Joy Gannon with RCAC who's provided Technical Assistance to the Department of this system. They may be able to more thoroughly answer your questions.

Mahalo nui,

M. Kaleo Manuel Acting Planning Program Manager Department of Hawaiian Home Lands P.O. Box 1879, Honolulu, Hawaii 96805 fax: (808) 620-9559 direct: (808) 620-9485

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From Lance Fukumoto <<u>lfukumoto@fukunagaengineers.com</u>> To "Kaleo.L.Manuel@hawaii.gov" <<u>Kaleo.L.Manuel@hawaii.gov</u>>, Date 12/29/2014 10:30 AM Subject Puukapu Hybrid Water System

Kaleo,

Could you let me know what is the status of the Puukapu Hybrid Water System? Has it been registered with DOH, and if so, was a sanitary survey completed?

Thanks,

Lance Fukumoto, P.E.

Fukunaga & Associates, Inc. 1357 Kapiolani Blvd., Suite 1530 Honolulu, HI 96814 Tel: (808) 944-1821 Fax: (808) 946-9339

Miyahira, Michael M
Nikaido, Jennifer; Zane, Ann T
Seto. Joanna L
FW: Puukapu Hybrid Water System Meeting
Friday, September 27, 2013 2:18:00 PM

fyi

From: Jeffrey.Y.Fujimoto@hawaii.gov [mailto:Jeffrey.Y.Fujimoto@hawaii.gov]
Sent: Friday, September 27, 2013 2:15 PM
To: Miyahira, Michael M
Cc: kck@akinaka.com; smq@akinaka.com; JGannon@rcac.org; Sandra.S.Pfund@hawaii.gov; Jim.W.DuPont@hawaii.gov
Subject: Puukapu Hybrid Water System Meeting

Hi Michael,

As per our telephone discussion, I'll work with our design engineer Akinaka & Associates, Ltd., Joy Gannon and our DHHL Land Development Administrator Sandra Pfund to develop detailed options to charge water users on a <u>non-volumetric basis</u>. We will try to provide as much detailed information on each of these options. I can then e-mail you the draft options in preparation for our DOH-DHHL meeting.

Thank you for your help!

Jeffrey Y. Fujimoto Department of Hawaiian Home Lands Land Development Division 91-5420 Kapolei Parkway, Room 124 I Kapolei, Hawaii 96707 Phone: 808-620-9274, Fax: 808-620-9299 E-mail: jeffrey.y.fujimoto@hawaii.gov

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E-mail: jeffrey.y.fujimoto@hawaii.gov

From "Miyahira, Michael M" <michael.miyahira@doh.hawaii.gov>

To: <Jeffrey.Y.Fujimoto@hawaii.gov>

Date 09/27/2013 01:52 PM Subject test

Michael Miyahira, P.E.

Engineering Section Supervisor Safe Drinking Water Branch Hawaii Department of Health Ph: 808-586-4258 Fax: 808-586-4351
 From:
 Joy Gannon

 To:
 Nikaido, Jennifer

 Cc:
 Zane, Ann T; Miyahira, Michael M

 Subject:
 Re: Pu*ukapu Water System Discussion

 Date:
 Thursday, March 28, 2013 8:29:47 AM

Thank you all so much for taking a look at this again. I really appreciate it.

Joy Gannon Phone: 808.345.1246 Sent from my iPhone

On Mar 28, 2013, at 8:27 AM, "Nikaido, Jennifer" < jennifer.nikaido@doh.hawaii.gov> wrote:

Thanks, Ann.

Joy-There's your answer.

-Jen

-----Original Message----From: Zane, Ann T Sent: Wed 3/27/2013 1:51 PM To: Nikaido, Jennifer; Joy Gannon Cc: Miyahira, Michael M Subject: RE: Pu'ukapu Water System Discussion

Hi Jen:

Yes, it is my opinion that if water is charged on a volumetric basis, it is selling the water and the system should be regulated. You can tell people to not drink the water, and you can tell people to only drink bottled water, but how would they enforce that?

Thanks,

Ann

-----Original Message-----From: Nikaido, Jennifer Sent: Wednesday, March 27, 2013 1:19 PM To: Joy Gannon; Zane, Ann T Cc: Miyahira, Michael M Subject: RE: Pu'ukapu Water System Discussion

Ann-

Puukapu would be connected by a master meter and backflow preventer to the Hawaii DWS South Kohala water system. They will not have their own source. SDWB met with DHHL and their consultant, Akinaka & Associates, a year or two ago and they provided us a letter stating that they would not charge based on volume and we concluded that they would not be a regulated PWS...with the caveat that if their situation changed, they were to notify us and it may change their regulatory status. It appears that they are having trouble with setting up rates for this water system on a non-volumetric basis and are looking at alternatives, like inserting bylaws that the water will be used for only non-potable uses. Is it your opinion that if water is charged on a volumetric basis, regardless of

use (i.e. drinking water vs. non-potable), that they would be regulated by our office?

Thanks, Jen

----Original Message-----From: Joy Gannon [mailto:JGannon@rcac.org] Sent: Fri 3/22/2013 11:55 AM To: Zane, Ann T; Nikaido, Jennifer Cc: Miyahira, Michael M Subject: RE: Pu'ukapu Water System Discussion

Aloha Ann,

This is a separate project from the circuit rider program and DHHL asked me to explore this since in my opinion they really don't have any good options.

Pu'ukapu is located just outside the town of Waimea (Kamuela) on the Big Island. The subdivision infrastructure consists of dirt roads and high speed internet accessibility and they recently put in what they are calling a "hybrid water system." Due to the costs of construction, the water system was not built to county water standards and they were advised by DOH that they could not charge on volumetric rates otherwise they would be considered a regulated PWS. The Pu'ukapu water system will or is (I'm not sure if its connected at this time) separated by the County of Hawaii's public water system by a cross connection control device. They then have three storage tanks of varying sizes and small diameter distribution lines going to all 188 pastoral lots in the subdivision. There are homes out there, but I would have a difficult time guessing how many there are - well over a dozen right now. They recently held some community meetings in the area to discuss the water system and to say it's a controversial issue is an understatement. I was actually on the agenda and was copresenting on water system operations on Tuesday in front of the Hawaiian Homelands Commission and everything I was going to talk about was on the Hoolehua system, but the transition slide to me mentioned Pu'ukapu and 1 got about 3 minutes into the discussion of their water systems in general before the AG recommended going into Executive Session and I suspect it was because of Pu'ukapu and an attorney being in the audience. I could be misinterpreting this since I had to leave the room, but that's my guess.

DHHL asked me to explore if there were any options where they could charge volumetric rates.

-----Original Message-----

From: Zane, Ann T [mailto:ann.zane@doh.hawaii.gov] Sent: Friday, March 22, 2013 11:27 AM To: Nikaido, Jennifer; Joy Gannon Cc: Miyahira, Michael M Subject: RE: Pu'ukapu Water System Discussion

Hi Jen & Joy:

Do they have their own source? If they have their own source, they are a regulated PWS whether they charge or not. If they do not have their own source, but they charge, they are a PWS. I don't think signed agreements are good enough. Maybe I'm missing some details.

Thanks, Ann

-----Original Message-----From: Nikaido, Jennifer Sent: Friday, March 22, 2013 11:15 AM To: Joy Gannon Cc: Miyahira, Michael M; Zane, Ann T Subject: RE: Pu'ukapu Water System Discussion

To be consistent with other developments, we'd need a letter in writing from DHHL stating that the water will not be used for consumptive purposes (i.e. drinking water) and a sample copy of the signed agreement. As usual, if anything changes, they are to inform us and may be subject to regulation based on those changes.

I am still a little hesitant with the volumetric rates, and am forwarding this to Ann Zane for her interpretation Ann, would this be an acceptable solution (see below e-mails for description)? Thanks,

-Jen

PS Yes, checking e-mails from home a toddler and newborn only offer limited brain stimulation

-----Original Message-----From: Joy Gannon [mailto:JGannon@rcac.org] Sent: Wed 3 20 2013 2:50 PM To: Nikaido, Jennifer Cc: Miyahira, Michael M Subject: Re: Pu'ukapu Water System Discussion

So if the customers signed agreements that they would not use the water for consumptive purposes then it may not be a regulated PWS if they charged volumetric rates?

Thanks Jen! Checking emails from home? Hope all is well.

Joy Gannon Phone: 808 345.1246 Sent from my iPhone

On Mar 20, 2013, at 2:44 PM, "Nikaido, Jennifer" <u>iennifer.nikaido@doh.hawaii.gov</u> mailto;jennifer.nikaido@doh.hawaii.gov wrote:

Joy-

Mike is on Maui through tomorrow on a sanitary survey. We do not use the terms "potable" or "nonpotable", but rather the term "drinking water". EPA defines drinking water as used for consumptive purposes, i.e. drinking, bathing, brushing teeth, food preparation, washing hands, etc. If DHHL plans on using the water for any of these purposes, then per our previous conversations, they should not be charging on a volumetric basis unless they want to be regulated by us...and based on everything we've seen to date, they would not be approved to operate the system based on technical capacity (i.e. the water system does not meet County DWS Water System Standards).

Mike may want to add more info when he returns.

-Jen

----Original Message-----From: Joy Gannon [mailto.JGannon@rcac.org] Sent: Wed 3 20 2013 2:01 PM To: Nikaido, Jennifer: Miyahira, Michael M Subject: Pu'ukapu Water System Discussion

Hi Mike,

This is a separate project than the circuit rider program and I know Jennifer has communicated on this system with DHHL several times.

Something is failing to connect so I thought I'd try a different format - see attached. The first comment back was - "If we go non-potable (SDWA does not apply) can we charge volumetric?"

While I'm not an attorney and won't give legal advice I wanted to double (triple?) check my understanding. Going back to there being no federal or state definition of "potable" and the SDWB only declares a water system a "regulated PWS" which must "meet all State and Federal drinking water standards" and the only thing that is preventing them from meeting coverage by Title 11 Chapter 20 is the fact that they are not charging for water. So my interpretation is that no, they cannot unless they want to go back and meet all standards. Is that your interpretation?

The one thing that is tickling the back of my mind of my mind but may not have done properly is one of the Counties DWS supplying water to customers and making them sign an agreement that it can only be used for irrigation purposes and advising them that if they were ever caught using for non-irrigation purposes that they'd disconnect them.

I think I'm on track with my original understanding, but since the AG's office got involved, I want to double check. Joy

Joy Gannon Phone: 808.345.1246 Sent from my iPhone

Begin forwarded message:

From: "Joy Gannon"

<IGannon@rcac.org<mailto:JGannon@rcac.org><mailto:JGannon@rcac.org>> To:

"Jeffrey.Y.Fujimoto@hawaii.gov<mailto:Jeffrey.Y.Fujimoto@hawaii.gov><mai lto:Jeffrey.Y.Fujimoto@hawaii.gov>"

Leffrey.Y.Fujimoto@hawaii.gov<mailto:Jeffrey.Y.Fujimoto@hawaii.gov<mailto:Jeffrey.Y.Fujimoto@hawaii.gov>>

Cc: "

(Sandra.S.Pfund@hawaii.gov<mailto:Sandra.S.Pfund@hawaii.gov>mailto:Sandra.S.Pfund@hawaii.gov>)"

<<u>Sandra.S.Pfund@hawaii.gov</u><<u>mailto:Sandra.S.Pfund@hawaii.gov</u>><mailto:Sand <u>ra.S.Pfund@hawaii.gov</u>>>,

"Kaleo.L.Manuel@hawaii.gov<mailto:Kaleo.L.Manuel@hawaii.gov><mailto:Kale o.L.Manuel@hawaii.gov>"

<<u>Kaleo.L.Manuel@hawaii.gov</u><<u>mailto:Kaleo.L.Manuel@hawaii.gov</u>><mailto:Kale

From:	Miyahira, Michael M
To:	"Sheldon T. Yamasato"
Cc:	<u>Jeffrey, Y.Fujimoto@hawaii.gov; Diane, K.Taira@hawaii.gov; Sandra, S.Pfund@hawaii.gov;</u> Loida, G.Chun@hawaii.gov; kck@akinaka.com; smg@akinaka.com; JGannon@rcac.org; Jm.W.DuPont@hawaii.gov
Bcc:	Nikaldo, Jennifer, McGeehan-Taklue, Theresa, JGannon@rcac.org
Subject:	RE: Puukapu Hybird W.S.
Date:	Monday, May 07, 2012 9:49:00 AM

My answers to SDWB jurisdiction related questions below.

From: Sheldon T. Yamasato [mailto:sty@akinaka.com]
Sent: Monday, May 07, 2012 8:32 AM
To: Miyahira, Michael M
Cc: Jeffrey.Y.Fujimoto@hawaii.gov; Diane.K.Taira@hawaii.gov; Sandra.S.Pfund@hawaii.gov; Loida.G.Chun@hawaii.gov; kck@akinaka.com; smq@akinaka.com; JGannon@rcac.org; Jim.W.DuPont@hawaii.gov
Subject: RE: Puukapu Hybird W.S.
Importance: High

Mike:

Please read the questions/concerns of Eric Okazaki's e-mail below and provide DOH's clarification where required. Thanks for your assistance on this matter.

Sheldon

From: Jeffrey.Y.Fujimoto@hawaii.gov [mailto:Jeffrey.Y.Fujimoto@hawaii.gov] Sent: Friday, May 04, 2012 4:11 PM To: kck@akinaka.com; sty@akinaka.com; smg@akinaka.com; JGannon@rcac.org; Jim.W.DuPont@hawaii.gov Cc: Diane.K.Taira@hawaii.gov; Sandra.S.Pfund@hawaii.gov; Loida.G.Chun@hawaii.gov Subject: Fw: Puukapu Hybird W.S.

To All:

Based on the number of questions and concerns on the Puukapu Pastoral Lots Water System Operation and Maintenance Services IFB No. IFB-12-HHL-003, are you available to meet in the afternoon of May 11, 2012 (say at around 2:00 p.m.), to go over the concerns? Please see the two e-mails below with questions from Pural. We picked this date and time because Jim Du Pont will be here in Kapolei. I'm also inviting our DHHL Dep-AG. (Diane: Would you know if a Dep-AG can attend this meeting? We want to make sure we address any legal concerns.) If needed, we can set up a teleconference.

I will be posting an addendum to postpone bid opening from May 9, 2012 to May 23, 2012, to give us time to address these concerns. We are also trying to set up a teleconference with State Department of Health just to be sure they are acceptable with the proposed services.

Please let me know if you are available for the May 11, 2012, (possibly 2:00 p.m.) meeting.

Thank you,

Jeffrey Y. Fujimoto Department of Hawaiian Home Lands Land Development Division
Subject: Pu'ukapu Water System Hi Jeff,

Before I continued on with this, I wanted to check with you to see if this format is acceptable or if you'd like it some other way. I thought it might be easier and quicker to understand in this format than in a memo or report, but I can write it however you'd like. Please advise.

Thanks Joy 91-5420 Kapolei Parkway, Room 124 I Kapolei, Hawaii 96707 Phone: 808-620-9274, Fax: 808-620-9299 E-mail: jeffrey.y.fujimoto@hawaii.gov

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E-mail: jeffrey.y.fujimoto@hawaii.gov

---- Forwarded by Jeffrey Y Fujimoto/DHHL/StateHiUS on 05/04/2012 01 59 PM

"Enc Okazakı" <<u>enc.okazakı@puralwater.com</u>> <<mark>Jeffrey.Y.Euµmoto@hawaµ.goy</mark>> 05/01/2012/03/33/PM Puukapu Hybird W.S

Jeffrey,

These are the questions we have for you and the engineering contractor to answer before we can bid on this project.

Please call me at anytime on (808)870-1647. Thanks

Eric Okazaki VP Operations

Pural Water Specialty Co., inc. 1955 Vineyard Street Walluku, HI 96793

"Eric Okazaki" <enc.okazaki@puralwater.com>

<Jeffrey.Y.Fuilmoto@hawaii.gov>

05/02/2012 09:54 AM RE: Notice of DHHL Posting: IFB-12-HHL-003. Addendum No. 2

Jeffrey,

Got some questions from the questions and answers posed in Addendum 2:

10(a) What type of water system is Puukapu if not a Consecutive Water System? Is it a public water system? See next question. Based on responses provided last week by DHHL Puukapu does not currently qualify as a regulated PWS. The SDWB will not be assuming jurisdiction at this time.

10(b) – Puukapu Water System exceeds the 15-25 service connection regulation. This is a regulation that cannot be circumvented by anyone. With this being the case, who is the responsible party or person for not complying? SDWB's understanding is that DHHL will not be charging individual lots for water based on individual volumetric use. Therefore, the SDWB does not consider the Puukapu subdivision as a regulated PWS even if it exceeds the 15 svc conn/25 svc customers thresholds.

10(c) - Will Puukapu become a regulated PWS under DOH in the future? If not, is DHHL the responsible party for non-compliance? Can the Contractor submit any design build drawing and submittals to DOH for referencing?

10(g) – DHHL is requiring a Grade I DSO, what will the requirement be if a chloramine system and a pH system needs to be installed after the chlorination system is installed and operational? What ramifications will the installation of a chlorination system have on the present chloramines system balance? Has any studies been done on what may occur? Who will be the responsible party or person? The SDWB does not plan to assume jurisdiction, thus there is no certified operator requirement by us. The requirement for a Grade I DSO is DHHL's requirement and responsibility.

10(h) – Designed and operated as a potable water system does not make it a potable water system. That declaration has to come from the DOH. Who is declaring Puukapu as a potable water system? To be more technically correct, we do not approve a "potable" water system nor do we determine "potability" of a systems water or water source. There is no Federal or State definition of the word "potable". The SDWB declares water systems a "regulated PWS" which must "meet all State and Federal drinking water standards".

10(p) – Who is responsible for backflow assemblies being installed, tested, repaired when needed? Who is making the assessment of whether a backflow assembly can be installed on a low pressure lateral?

10(g) - Who is responsible for collecting if bills are not paid? Why is the Contractor responsible for collecting water billings?

Will the Contractor be held harmless if and when DOH decides to step in and regulate the water system?

The other questions submitted yesterday have not all been answered, though some have been on Addendum 2. When can we expect answers to the questions?

Will the bid opening date be moved up to accommodate for pertinent questions needing to be answered prior to submitting a bid?

Any questions, please contact me at 870-1647. Thanks.

Eric Okazaki

From: Jeffrey.Y.Fujimoto@hawaii.gov [mailto:Jeffrey.Y.Fujimoto@hawaii.gov] Sent: Tuesday, May 01, 2012 3:50 PM To: duke@sandwichisles.net; jarkahua@aol.com; alakaiconsult@yahoo.com; harold.hart@puralwater.com; travis.gomes@puralwater.com; eric.okazaki@puralwater.com;

From:	Miyahira, Michael M
To:	"Jeffrey, Y. Fuiimoto@hawaii.gov"; Joy Gannon
Cc:	Nikaido, Jennifer; Seto, Joanna L; Sandra.S.Pfund@hawaii.gov; Jim.W.DuPont@hawaii.gov
Subject:	RE: Puukapu
Date:	Friday, May 04, 2012 2:14:00 PM

Understood. Our determination in our March 17, 2010 letter to Akinaka & Associates stands.

Thanks you for the clarification.

Michael Miyahira, P.E. Engineering Section Supervisor Safe Drinking Water Branch Hawaii Department of Health Ph: 808-586-4258 Fax: 808-586-4351

From: Jeffrey.Y.Fujimoto@hawaii.gov [mailto:Jeffrey.Y.Fujimoto@hawaii.gov]
Sent: Friday, May 04, 2012 2:11 PM
To: Joy Gannon
Cc: Nikaido, Jennifer; Seto, Joanna L; Miyahira, Michael M; Sandra.S.Pfund@hawaii.gov; Jim.W.DuPont@hawaii.gov
Subject: RE: Puukapu

Hi Joy,

Your understanding is correct that DHHL is not planning to base the billing off the metered (volumetric) usage. DHHL is looking at developing possibly some type of flat rate billing process.

Jeffrey Y. Fujimoto Department of Hawaiian Home Lands Land Development Division 91-5420 Kapolei Parkway, Room 124 I Kapolei, Hawaii 96707 Phone: 808-620-9274, Fax: 808-620-9299 E-mail: jeffrey.y.fujimoto@hawaii.gov

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E-mail: jeffrey.y.fujimoto@hawail.gov

From Joy Gannon <JGannon@rcac.org>

To "Miyahira, Michael M" <michael.miyahira@doh.hawaii.oov>

Cc "Nikaido, Jennifer" < jennifer.nikaido@doh.hawaii.gov>, "Seto, Joanna L" < joanna.seto@doh.hawaii.gov>,

h281dad@aol.com

Cc: info@bidservicedaily.com; norma@gcahawaii.org; Jim.W.DuPont@hawaii.gov; mac.mccoy@us.rlb.com; kck@akinaka.com; sty@akinaka.com; smg@akinaka.com; JGannon@rcac.org; Alapaki.Nahale-a@hawaii.gov; Michelle.K.Kauhane@hawaii.gov; Crystal.L.Kua@hawaii.gov; Blaine.C.Fergerstrom@hawaii.gov; Sandra.S.Pfund@hawaii.gov; Darrell.H.Ing@hawaii.gov Subject: Notice of DHHL Posting: IFB-12-HHL-003, Addendum No. 2

To All

For your information and appropriate attention.

Addendum 2 to IFB-12-HHL-003 Puukapu Pastoral Lots Water System Operation and Maintenance Services has been posted to the DHHL website. Procurement page:

http://www.hawaiianhomelands.org/procurement/2012-2/ifb-12-hhl-003/

Addendum No. 2 includes minutes from the Mandatory Pre-Bid Conference, held on April 23, 2012, 10:00 a.m., at the Department of Hawaiian Home Lands West Hawaii District Office.

Jeffrey Y. Fujimoto Department of Hawaiian Home Lands Land Development Division 91-5420 Kapolei Parkway, Room 124 I Kapolei, Hawaii 96707 Phone: 808-620-9274, Fax: 808-620-9299 E-mail: jeffrey.y.fujimoto@hawaii.gov

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"Jeffrey Y Fujimoto@hawai: gov" ≤Jeffrey Y Fujimoto@hawai gov> Date 05/03/2012 02:27 PM Subject RE: Puukapu

Hi Mike,

My understanding is that they are metering, but that the purpose of the meters is to track for unaccounted for water and keep usage in check since they only have a certain allocation for each lot (not nearly enough given the parcel size). My understanding is that they are not basing the billing off the metered usage and would be taking the monthly charges from the county and doing some type of flat rate billing. I just met with DHHL yesterday and we discussed it again, so I don't think that's changed. I'm copying Jeff with DHHL on this email, but I think I have the correct understanding.

From: Miyahira, Michael M [mailto:michael.miyahira@doh.hawaii.gov] Sent: Thursday, May 03, 2012 2:22 PM To: Joy Gannon Cc: Nikaido, Jennifer; Seto, Joanna L Subject: RE: Puukapu

Aloha Joy,

As you know, the SDWB has been quite clear in letter and email correspondence over the last few years about the line that defines our jurisdiction over this subdivision. Our understanding was that DHHL would replace the volumetric water billing of individual lots with a catch-all maintenance fee or assessment to avoid being regulated by us as a public water system. From what I've been made aware of, the DHHL has apparently changed its mind and now plans to bill individual customers based on volume used. This makes them a regulated PWS under us, and therefore Pural's concerns and questions are valid and merit a clear response from DHHL.

My concern at this point is the fact that the water system infrastructure is apparently already constructed and in use without approvals from any potential jurisdictional agencies like the Hawaii County Department of Water Supply (if licensed over *a la* Makuu Offsite system) or, in the new PWS scenario, the SDWB. Given the DHHL's early admission that meeting County water system design standards was cost prohibitive, I am not confident that this system could pass our technical capacity analysis. I envision financial capacity being a problem too. Under HAR 11 20 30(d), a new PWS under our jurisdiction cannot be constructed in the first place or operated legally without TMF.

Michael Miyahira, P.E. Engineering Section Supervisor Safe Drinking Water Branch Hawaii Department of Health Ph: 808 586-4258 Fax: 808-586 4351

From: Joy Gannon [mailto:]Gannon@rcac.org]

Sent: Thursday, May 03, 2012 11:38 AM To: Nikaido, Jennifer; Miyahira, Michael M; Watanabe, Craig K. Cc: Jeffrey.Y.Fujimoto@hawaii.gov Subject: Puukapu

Hi Jennifer,

Jeffrey Fujimoto with DHHL is bidding out the operation of the Puukapu water system. Sandra Pfund is talking to the AG's office to dot some I's and cross some t's and make sure they are in a good position since the Homesteaders have sued the department in the past. Eric with Pural is very concerned about putting a bid in on the project. Based on the questions that they submitted, they are concerned about it becoming a regulated system and/or getting into trouble for operating it. Eric said he had been speaking with Craig about it.

DHHL staff are planning on delaying the bid opening so that they can make sure that all the ducks are in a row and that they have answered all the questions adequately. Jeff was wondering if it might be possible to schedule a conference call with you all to go over some of the responses to Eric's questions and make sure that DHHL has the correct understanding moving forward?

Joy Gannon 808.345.1246

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From:	Sheldon T. Yamasato		
To:	Miyahira, Michael M, Royden, I. Ishii@hawaii.goy		
Cc:	"RKI": "RYA": "SMO"		
Subject:	RE: Puukapu Hybrid System plans		
Date:	Wednesday, March 03, 2010 7:18:27 AM		

Mike/Royden:

Let's meet on March 9, 2010 at 10:00 am at DOH Thanks.

Sheldon

From: Miyahira, Michael M [mailto:michael.miyahira@doh.hawaii.gov] Sent: Tuesday, March 02, 2010 2:41 PM To: Royden.I.Ishii@hawaii.gov; Sheldon T. Yamasato Cc: RKI; RYA; SMQ Subject: RE: Puukapu Hybrid System plans

I'm free.

Mike

From: Royden.I.Ishii@hawaii.gov [mailto:Royden.I.Ishii@hawaii.gov]
Sent: Tuesday, March 02, 2010 2:23 PM
To: Sheldon T. Yamasato
Cc: Miyahira, Michael M; RKI; RYA; SMQ
Subject: RE: Puukapu Hybrid System plans

Next week Tuesday, March 9, is open (all day) Please advise on time and place. Thanks, Royden

"Sheldon T. Yamasato" <sty@akinaka.com>

03/02/2010 01 13 PM

To "Miyahira Michael M" <michael.miyahira@doh.hawali.gov> cc "SMQ" <smq@aklnaka.com>, "RKI" <rki@aklnaka.com>, "Royden Ishii" <royden Lishii@hawaii.gov>, "RYA" <rya@aklnaka.com> Subject RE Puukapu Hybrid System plans

Mike:

Thanks for your input. I'm including the DHHL project manager (via this e-mail) for his reply on the matter.

This project is unique and I don't think will be used as a model for other DHHL projects. The fact of the matter is that the a system conforming to the County DWS standards is cost prohibitive as determined by a prior study. Also, I think you're correct about DHHL's anticipation of being a regulated public water system. Appreciate your help to navigate DHHL though this as their lessees have long awaited this project's completion

Royden:

Please let me know when you or other DHHL representative(s)can meet by "Reply to All" for expediency. Thanks.

Sheldon

From: Miyahira, Michael M [mailto:michael.miyahira@doh.hawaii.gov]
Sent: Tuesday, March 02, 2010 1:01 PM
To: Sheldon T. Yamasato
Cc: Yamada, Stuart H; Zane, Ann T; Nikaido, Jennifer
Subject: RE: Puukapu Hybrid System plans

Aloha Sheldon,

This subdivision would qualify as a new regulated public water system. It would fall under the *community water system* (CWS) category and be considered *consecutive* to the existing DWS South Kohala (PWS #130) system. The system will have to go through our capacity process.

Please pass this on to your client and let them know that we are available if they would like to discuss this determination before proceeding further on this project. If this was the model that they intended to use for future projects, I don't think they had anticipated operating it as a regulated public water system.

Mike

From: Sheldon T. Yamasato [mailto:sty@akinaka.com] Sent: Monday, March 01, 2010 7:06 AM To: Miyahira, Michael M Cc: Zane, Ann T; RKI; SMQ; Royden Ishii Subject: RE: Puukapu Hybrid System plans

Mike:

DHHL's reply to your inquiry is as follows.

The department was instructed by the Hawaiian Homes Commission to offer and charge lessees the existing County water rates as set by the respective Water System. I would assume that the same would be applied to the hybrid system unless there's another recommendation to apply different fees other than the County rate.

All lessees will have their own meters and be expected to pay for their consumption. There may also be a stand-by fee assessed similar to the Department of Water Supply of Hawaii County.

The department is leaning towards putting the operations and maintenance of the hybrid system out to bid for an operator to do all work including reading meters and possibly billing. The only water system presently in West Hawaii is at Kawaihae. That system is secondary to the supplier, Kohala Ranch Water Company. DHHL pays KRWC rates for water but only charges lessees county rates including stand-by fees.

Pural Water Specialties, Inc. has the contract to operate and maintain this system. The O&M contract was recently put out to bid and the results of the bids have not been announced. This contract expires this coming Sunday, 2/28/10.

Please let me know if you need any further information. Thank you for your assistance on this project.

Sheldon

From: Miyahira, Michael M [mailto:michael.miyahira@doh.hawaii.gov]
Sent: Tuesday, February 23, 2010 8:24 AM
To: Sheldon T. Yamasato
Cc: Zane, Ann T
Subject: Puukapu Hybrid System plans

Aloha Sheldon,

We'll need the following clarifications from DHHL on the subject project's operations:

• Assuming the subdivision will be sub-metered, will individual service meter owners be charged for water usage?

• If they are being charged, on what basis will they be billed? Gallons used? Flat rate? Rolled into a maintenance fee?

Will DHHL be setting the rates, doing the billing and collecting the fees?

Mike



EXHIBIT C 3 pages

GOVERNOR STATE OF HAWAII

KAULANA H. R. PARK CHAIRMAN HAWAILAN HOMES COMMISSION

ANITA S. WONG DEPUTY TO THE CHAIRMAN

ROBERT J. HALL EXECUTIVE ASSISTANT

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

P.O. BOX 125 KAMUELA, HAWAII 96743

Dear Lessee:

September 27, 2010

SUBJECT: DEPARTMENT OF HAWAIIAN HOME LANDS PU'UKAPU PASTORAL SUBDIVISION - WATER SYSTEM CONSTRUCTION, REQUEST FOR IMPROVEMENT PROCESS AND ASSIGNMENT OF TAX MAP NUMBERS

Aloha. The department is writing to advise you that permits for the Pu'ukapu Pastoral Hybrid Water System have been approved by the county. The department has issued a Notice to Proceed (NTP) to the contractor for October 4, 2010. The project is expected to take about a year to complete. Each lot will have their own individual water meter when the construction is finished. The system is intended to deliver potable water however, the system will not conform to County design standards so cannot be considered a potable system.

Construction Related Information

The contractor for the Hybrid Water System is Isemoto Contracting Company, Ltd. (ICC). The department's project manager will be Rider Levett Bucknall (RLB). The contractor met with a representative from the Pu'ukapu Pastoral Water Group (PPWG) and other individual water system users to identify and locate their water lines prior to ICC beginning potholing. This took place on Monday, September 20, 2010.

ICC plans to place two (2) information boards at the security gates on Poliahu Alanui and Mana Road. The boards will contain scheduling and construction related information for homesteaders. The schedule will be updated every 3-4 weeks or as needed. A copy of the initial schedule for September-October is enclosed for your review.

Both ICC and the department are asking for your assistance and cooperation during the construction period. Safety is the number one priority for everyone involved. There will be ICC staff and equipment on the roads from 0700-1530 hrs. each working day. ICC will post signs identifying their work areas and alternate routes or detours for homesteaders to use during the day. This may mean periodic road closures with Mana Road being the alternate route. **Please adhere to the 25 mph speed limit for everyone's safety and construction related signs.**

Any inquiries, questions or concerns before and during construction should be directed to the West Hawaii District Office in Waimea and not to ICC or RLB. The telephone number is 887-6053.

Request for Improvement Process

Improvements to homesteads require prior approval by the department as stated in your pastoral lease. Examples of improvements include fencelines and Pu'ukapu Pastoral Subdivision Hybrid Water System Page 2

structures (containers, tool shed, storage shed, warehouse, barn, dwelling, etc.). If they are 6-feet in height or more a building permit is required.

The process begins with the submittal of plans/blueprints/drawings along with a Request for Improvement (RFI) form from DHHL identifying the type of improvement(s) to be made. Once the department approves the RFI and plans, a letter will be written asking you to apply for a building permit (if necessary) with the county. When the permit is issued and the county stamps your plans bring these items to the district office. Copies will be made for your files and a second letter written granting you permission to begun construction.

For those of you who have already built on your lot without department approval, submittal of plans and building permits the process will be more involved. You have two options. The first is to remove the unpermitted structure. The second will require hiring an architect or engineer to assist with plans.

As-builts, those structures without building permits, will require an architect or engineer licensed in the State of Hawaii. This individual will have to prepare drawings of the structure(s). They will then have to apply for building, electrical and plumbing permits. The architect or engineer is responsible for all inspections up to the final. The county will do the final inspection. Permit fees will be doubled for all permits.

The structure needs to comply with the 2010 building code. A decision will have to be made whether the time, cost and effort to bring the existing building up to code is worth it to you. If not, the building will have to be removed from your homestead. There is no grandfather clause to allow existing structures to be waived from the RFI process.

Water Service

The water system construction is expected to be completed in about one year from the notice to proceed date. Individual water meters, one for each lease, along with water service, will become available to each lot after completion of construction. The department and the Hawaiian Homes Commission will need to establish rules and procedures for the new water system including the application process for meters and service along with water useage related fees. In addition, the department will advertise for Request for Proposals (RFP) for a vendor to operate the water system to include repairs, maintenance and billing.

Anticipating that water service will be available to each individual lot the department is encouraging people to work with the West Hawaii District Office to address any existing lease violations. Should these issues not be corrected by the time the hybrid water system is finished water service may be affected until your lease is in compliance. The terms of your lease have been in effect since you signed the lease document. Those lease conditions still remain as guidelines for lessees to follow.

Pu'ukapu Hybrid Water System Page 3

Tax Map Numbers (TMK)

The county has revised the plat maps for the Pu'ukapu Pastoral Lot Subdivision. The Planning Department has issued individual tax map numbers for each lot. You'll need the tax number for your homestead should you decide to build or if you've already built without a building permit. The Building Division and Planning Department will have your lot of record and TMK on file. You can contact the district office for your respective TMK.

Lease Commencement Dates

Lease commencement dates will be amended for all Pu'ukapu leases from the original commencement date of 1991. The department will determine the new commencement date at some time in the future. The first seven (7) years of your homestead lease is exempted from real property taxes. After that time you will be taxed on the assessed value of improvements, which doesn't include the land. The minimum tax at this time is \$100.00 per year.

Please contact the West Hawaii District Office in Waimea if you have any questions. The telephone number is 808-887-6053.

Singerely, James WJ DuPont, Supervisor West Hawaii District Office

Enclosure

Cc: Lessee File (WHDO/ODO)

EXHIBIT D 2 pages



NEIL ABERCROMBIE GOVERNOR STATE OF HAWALL

JOBIE M. K. MASAGATANI CHAIRMAN DESIGNATE HAWAIIAN HOMES COMMISSION

STATE OF HAWAI'I DEPARTMENT OF HAWAIIAN HOME LANDS

HONOLULU, HAWATI 96805

January 22, 2013

MAHANA M GOMES PO BOX 437142 KAMUELA, HI 96743

Aloha,

Subject: Puukapu Hybrid Water System Non-Potable versus Potable Water

The Department of Hawaiian Home Lands (DHHL) requests your feedback on operating the recently constructed Puukapu Hybrid Water System using Non-Potable or Potable Water.

DHHL received a number of inquiries from Puukapu homeowners requesting water for cattle and irrigation purposes, and recommending the system be operated using non-potable water.

DHHL received its water allocation from the Department of Water Supply based on potable water for residential use of no more than 600 gallons per day, per lot.

Potable water requires chlorination, extra testing and operational requirements, and possibly extra costs to the homeowners compared to nonpotable water. Because of these extra requirements, potable water may also take more time to place into operation compared to non-potable water. Non-potable water should not be used for human consumption, as it could cause possible health and safety concerns.

Enclosed is a survey and a self addressed stamped envelope. Please indicate on the survey your preference on using non-potable or potable water. Please mail back the survey postmarked by **February 8, 2013.**

DHHL would also like to notify you that the Puukapu Hybrid Water System may not have adequate water pressure or volume to serve the entire Puukapu Pastoral Subdivision. DHHL will require each lessee to sign an "Internal Elevation Agreement" to acknowledge that there may not be adequate water pressure to service the entire lot depending on the lot elevations. Puukapu Hybrid Water System Non-Potable versus Potable Water Page 2

DHHL is inviting you to our Community Information Meeting to discuss the outcome of this survey, discuss in more detail the Internal Elevation Agreement, and further coordinate the water system operations with you. The meeting will be held on **Thursday, February 21, 2013, 5:30 p.m. to 7:00 p.m.**, at the DHHL West Hawaii District Office, 64-756 Mamalahoa Highway, in Kamuela. Please indicate on the Survey if you will be attending the meeting.

If you have any questions, please contact Jeffrey Fujimoto of our Land Development Division at (808) 620-9274.

Mahalo,

Some Thid

Sandra S. Pfund, Administrator Land Development Division

Enclosure

EXHIBIT E 8 pages



NEIL ABERCROMBIE GOVERNOR STATE OF HAWAII

JOBIE M. K. MASAGATANI OHAIRMAN DESIONATE HAWAIAN HOMES COMMISSION

STATE OF HAWAI'I DEPARTMENT OF HAWAIIAN HOME LANDS P 0 BOX 1879

HONOLULU HAWAI'I 96805

January 22, 2013

Name of Lessee:	 Lot #:
Signature:	
Address:	 Phone #:

Subject: Puukapu Hybrid Water System

1. Non-Potable Versus Potable Water.

Please check option you prefer:

_____ Operating the Puukapu Hybrid Water System using <u>Non-</u> Potable Water

Operating the Puukapu Hybrid Water System using <u>Potable</u> Water

- 2. Do you currently have a residence on your lot? Yes_____ No_____
- 3. If you currently do not have a residence on your lot, do you intend to build a residence on your lot in the next five (5) years?

Yes_____No____

4. Community Information Meeting

Thursday, February 21, 2013, 5:30 p.m. to 7:00 p.m. Department of Hawaiian Home Lands West Hawaii District Office 64-756 Mamalahoa Highway Kamuela, HI 96743

Attending: Yes_____ No_____

Please return this response in the enclosed, stamped envelope by February 8, 2013. Mahalo.

13			
ul'	DEPART	MENT OF HAWAIIAN HOME LANDS	
		UKAPU HYBRID WATER SYSTEM	PY 0.2.5 10-2-13 1
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	INSTALLATION COST:		
	MAKE CHECK PAYABLE TO:	DEPARTMENT OF HAWAIIAN HOME LANDS	
	MAIL OR DELIVER TO:	DEPARTMENT OF HAWAIIAN HOME LANDS PO BOX 125 KAMUELA, HI 96743	
	PHONE: 887-6053		
		LEDGES THAT THE WATER IS NON-POTABLE AND UNSAFE DRINKING OR OTHERWISE INGESTING THE WATER CAN ND DEATH.	- -
		IN Richard DATE: DUDT. 210.15	
	DHHL APPROVAL:		
	service at the above location. F service, the undersigned agrees and to abide by all rules, regula the Department of Hawaiian Ho	by applies to the Department of Hawaiian Home Lands for water Pending approval, and in consideration of commencement of such is to pay all charges incurred upon such location for such service tions, ordinances, codes, provisions, and policies prescribed by me Lands, relating to water rates. The undersigned understands epartment of Hawaiian Home Lands for water service.	
	***PLEASE BE AWARE THAT WHETHER OR NOT YOU USE	YOU WILL BE ACCESSED THE MONTHLY SERVICE CHARGE	

*

STATE OF HAWAII DEPARTMENT OF HAWAIIAN HOME LANDS INFORMATION CHANGE NOTIFICATION FORM HHL Form 00061 (rev 6/2008)

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Please print in black point pen

PLEASE CHECK WHERE APPI	ROPRIATE.	Lease No.(s):	
Please make changes to my:		Homestead Area:	
Mailing address Date effective:		**Social Security No. Date effective:	
*Submit Marriage Certificate, I **Submit Photocopy of ID	Name Change Decree or Divor	ce Decree	
My current homestead status v	vith DHHL Is: Applicant	Lessee Applicant & Le	8889
- ALF			and the second se
*	OLD INFORMATION	4	
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Name: <u>Hamahano</u> Last Name			
Mailing Address: <u>Q.o.P</u> P.O. Box	Street Apt. No.	Homokaa H; 9 City State	6727 Zlp code
₩.	NEW INFORMATION	4	
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Social Security No.:			
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Home: 000 247 2090			406
Name: <u>Kishida</u>	Tribha) First Name	NA	
Mailing Address: 45-45	3 Hoener Pl.	Kanadhar IVi A	1.700
P.O. Box /	Street Apt. No.	City State	Zip code
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Applicant/Lessee signs:	oha) Kishida	<u> </u>	21.26,15
Staff acknowledges:		1	Date
Signatu	rð	ð	Date
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Dàhu: call for Department's Delivé DHHL, Homestead Services Division	ry Address of Mail Orlainal Fo , P. O. Box 1879, Honolulu, HI 9	6805 Application Branch:	Telephone No 620-9220
Velatibe Islands, call for Departm	ent's Delivert Address or Mall	Ochu Distr. Office:	620-9250
DHHL, Eest Hawali District Office. 16	O Baker Ave., Hilo, HI 96720		974-4250
DHHL, Kauai District Office, 3060 Eh DHHL, Maui District Office, 655 Kaur	nualii St., Suite 1, Wailuku, HI 9	6793	274-3131. 760-5120
OHHL, Molokal District Office, P.O. E	lox 2009, Kaunakakai, HI 96748 .O. Box 125, Kamusia, HI 96748		560-6104

LEASE ADDENDUM INTERNAL ELEVATION AGREEMENT

Puukapu Pastoral Lots Subdivision Non-Potable Water, Low Water Pressure and Limited Water Supply

Lessor State of Hawaii, by its Department of Hawaiian Home Lands ("Lessor" and/or "DHHL") has developed that certain water system known as the Puukapu Hybrid Water System to service lots in the Puukapu Pastoral Lots Subdivision. In consideration of and as a condition to Lessee's use of the System, Lessee agrees as follows:

1. <u>Low Water Pressure/ Non-Potable Water</u>, Lessee acknowledges that the water pressure from the Puukapu Hybrid Water System may not be adequate to serve the entire subdivision. Lessee understands and agrees that real property that is the subject of this agreement may be situated at such an elevation that it cannot be assured of a dependable supply of water from Lessor, or of adequate water service from Lessor's Puukapu Hybrid Water System. Lots at higher elevations may be more affected by low water pressure, below the County of Hawaii 40 psi water pressure standard. Lessee is advised not to build their residence above the 3,500-foot elevation. Lessee agrees to accept the available water pressure from the Puukapu Hybrid Water System.

Lessee accepts such water service and such water pressure as Lessor is able to provide from its Puukapu Hybrid Water System. If Lessee requires more pressure, they will be responsible for installing facilities (booster pumps, etc.) required to meet their needs, however, the Puukapu Subdivision currently does not have the electrical power available to support additional facilities. Lessor shall have no obligation to provide additional power or to develop additional facilities, or to provide potable water to Lessee.

Lessee further acknowledges that the water is non-potable and is not suitable for human consumption.

- 2. <u>Limited Water Volume</u>. Lessee acknowledges the Puukapu Hybrid Water System will provide a limited volume of water to each lot. Maximum daily water usage to each lot is 600 gallons per day (GPD). Lessee agrees not to exceed the maximum volume of 600 GPD, or any other maximum volume as may be determined by Lessor.
- 3. <u>Water and Meter Payments</u>, Lessee acknowledges that rates charged for water usage will be established by the Hawalian Homes Commission. Lessee will be required to pay for water usage rates on a monthly basis. Lessee further acknowledges that Lessee will be required to pay for an individual meter to their lot.
- 4. <u>Water Meter and Signage</u>. Lessor will issue the individual water meters and signage to Lessees. Lessees will be required to sign a separate agreement for the individual water meter and signage at the time of issuance. Signage will indicate that water is non-potable and is not suitable for human consumption.
- 5. <u>Elevation Agreement between the Department of Water Supply of the County of</u> Hawali (DWS) and DHHL. Lessee acknowledges and agrees to be bound by the

stipulations and provisions contained in the attached Elevation Agreement between DWS and DHHL, effective on April 10, 2012.

- 6. <u>Release and Indemnity</u>. Lessee releases and holds Lesser, DWS, their respective officers, agents and employees harmless from and free of all claims and liabilities resulting from, caused by, or arising out of any harm or damages connected with the non-potability, inadequate water service, pressure, or delivery flow rate or volume to and/or from the Puukapu Hybrid Water System, Lessee's use of the system, or any maintenance, repair, or other work that may be performed on the system by Lessor or its contractors.
- 7. <u>Other Conditions</u>. Nothing contained herein shall limit or impair Lessor's authority to transfer, dedicate, license, or dispose of the Puukapu Hybrid Water System, or to make any other decisions whatsoever regarding the system's operation, maintenance, or repair. Lessee further agrees to abide by any other terms and conditions as may be established by Lessor pertaining to the use of the system, including usage fees and other charges.

Acknowledged and Agreed: Signature hishla Print Name Lessee

DEPARMENT OF HAWAIIAN HOME LANDS PU'UKAPU HYBRID WATER SYSTEM

- Lessee understands that the Pu'ukapu Hybrid Water system is a NON-POTABLE system for livestock use only. <u>Water is not safe for human consumption</u>. Drinking or otherwise consuming the water can lead to serious illness and/or death.
- Lessee shall clearly label all lines, fixtures, and containers regularly transmitting or storing the water with the following warning: "WARNING: WATER NOT FIT FOR HUMAN CONSUMPTION. DO NOT DRINK. SERIOUS ILLNESS OR DEATH MAY RESULT."
- 3. Lessee shall not transmit the water to any fixtures inside or attached to any dwelling, including but not limited to hose bibs, faucets, showers, and water closets.
- 4. Lessee agrees to complete a Pu'ukapu Hybrid Water System Meter and Backflow Preventer Application. Only valid lessees of record are eligible applicants.
- 5. Lessee agrees to complete the Pu'ukapu Hybrid Water System Elevation Agreement as a condition of service.
- 6. Lessee agrees to pay the installation costs related to the water meter (\$115.00) and backflow preventer (\$674.00) as a condition of service.
- 7. For those who require a payment plan to comply with #3 the department will accept the following incremental payment option:

First incremental payment equal to 30% down (\$236.70) with six (6) additional monthly payments of \$92.05.

LESSEE UNDERSTANDS THAT IF THE PAYMENT OPTION IS SELECTED AND PAYMENT IS MISSED THAT THE TOTAL AMOUNT REMAINING IS DUE TO CONTINUE SERVICE.

1000

- 8. Lessee agrees to pay a flat rate of \$122.41 per month. Upon installation the first month's usage or the first month's usage plus additional days to the first (1st) day of the following month shall be at no charge. The lessee is hereby notified that the Hawaiian Homes Commission approved the interim water rates for a period of one year beginning May 19, 2014. After the one year anniversary DHHL will report to the commission on its findings to determine if the flat rate should be continued at its present amount, increased or decreased.
- 9. The first full month after the grace period will be assessed at \$122.41. Lessee is responsible for payment on or before the first (1st) day of the next month. The department will not send out invoices and it's the lessee's responsibility to make payment on their own.
- 10. Late payment is any payment made after the first (1st) day of the following month unless the first day is a holiday or weekend.
- 11. Service may be terminated if payment of monthly bill is more than sixty (60) days in arrears. Service will be started after payment in full is received. The lessee will be responsible for a deposit equal to the amount in arrears as a condition of service.
- 12. Lessee understands that the monthly allotment of water is 600 gallons per day (gpd) on average. If average daily usage is in excess of 600 gpd for more than two (2) consecutive months customer will be notified in writing. Should excessive usage continue for a third (3rd) consecutive month service will be terminated. Service will be reinstated only after lessee agrees to pay the flat rate monthly fee for the period in excess.

DEPARTMENT OF HAWAIIAN HOME LANDS PU'UKAPU HYBRID WATER SYSTEM

13. DHHL and their operator are responsible for the maintenance and repair of both the mater meter and backflow preventer. Service responsibility ends at the backflow preventer. Lessee is responsible for their own transmission lines.

- 14. Lessee agrees to notify DHHL and/or operator in the event that a leak is found on the lessee's property. DHHL will make an adjustment to the water bill after three billing cycles. Adjustments will be made only once every two years.
- 15. Should lessee damage or destroy the water meter and/or backflow preventer the lessee is responsible for the replacement costs.
- 16. Should lessee be found illegally tapping into water system they will forfeit their water service and be subject to prosecution.
- 17. Lessee and their assigns agree to abide by all conditions of their Homestead Lease, Administrative Rules and applicable County, State and federal laws pertaining to their homestead including Lease Addendums.
- 18. Service will not be provided to homesteads in violation of any of the terms listed in 16 above.

E.	P.O. Box 125 Kamuela, HI 96743 Phone: (808) 887-605 Fax: (808) 887-605			Office Hours 7:45 a.m. to 4:30 p.m. Monday thru Friday	Payment H 8:00 a.m. to Monday thru	4:00 p.m.
ccount Num		Amount Due \$1,027.46	Amount Paid	Send payment to: State of Hawaii Department of Hawaiian P.O. Box 125 Kamuela, HI 96743	Home Lands	
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30 days:	\$122.41	60 days:	\$122.41	90+ days:	\$660.23

Messages

LEASE ADDENDUM INTERNAL ELEVATION AGREEMENT

Puukapu Pastoral Lots Subdivision Low Water Pressure and Limited Water Supply

Lessor State of Hawaii, by its Department of Hawaiian Home Lands ("Lessor" and/or "DHHL") has developed that certain water system known as the Puukapu Hybrid Water System to service lots in the Puukapu Pastoral Lots Subdivision. In consideration of and as a condition to Lessee's use of the System, Lessee agrees as follows:

1. <u>Low Water Pressure/ Non-Potable Water</u>. Lessee acknowledges that the water pressure from the Puukapu Hybrid Water System may not be adequate to serve the entire subdivision. Lessee further acknowledges that the water may be non-potable. Lots at higher elevations may be more affected by low water pressure, below the County of Hawaii 40 psi water pressure standard. Lessee is advised not to build their residence above the 3,500-foot elevation. Lessee agrees to accept the available water pressure from the Puukapu Hybrid Water System.

If Lessee requires more pressure, they will be responsible for installing facilities (booster pumps, etc.) required to meet their needs, however, the Puukapu Subdivision currently does not have the electrical power available to support additional facilities. Lessor shall have no obligation to provide additional power or to develop additional facilities, or to provide potable water to Lessee.

- 2. <u>Limited Water Volume</u>. Lessee acknowledges the Puukapu Hybrid Water System will provide a limited volume of water to each lot. Maximum daily water usage to each lot is 600 gallons per day (GPD). Lessee agrees not to exceed the maximum volume of 600 GPD, or any other maximum volume as may be determined by Lessor.
- 3. <u>Water and Meter Payments.</u> Lessee acknowledges that rates charged for water usage will be established by the Hawaiian Homes Commission. Lessee will be required to pay for water usage rates on a monthly basis. Lessee further acknowledges that Lessee will be required to pay for an individual meter to their lot.
- 4. <u>Elevation Agreement between the Department of Water Supply of the County of</u> <u>Hawaii (DWS) and DHHL.</u> Lessee acknowledges and agrees to be bound by the stipulations and provisions contained in the attached Elevation Agreement between DWS and DHHL, effective on April 10, 2012.
- 5. <u>Release and Indemnity</u>. Lessee releases and holds Lessor, DWS, their respective officers, agents and employees harmless from and free of all claims and liabilities resulting from, caused by, or arising out of any harm or damages connected with the potability, inadequate water service, pressure, or delivery flow rate or volume to and/or from the Puukapu Hybrid Water System, Lessee's use of the system, or any maintenance, repair, or other work that may be performed on the system by Lessor or its contractors.

6. <u>Other Conditions</u>. Nothing contained herein shall limit or impair Lessor's authority to transfer, dedicate, license, or dispose of the Puukapu Hybrid Water System, or to make any other decisions whatsoever regarding the system's operation, maintenance, or repair. Lessee further agrees to abide by any other terms and conditions as may be established by Lessor pertaining to the use of the system, including usage fees and other charges.

Acknowledged and Agreed:

Signature

`q

Print Name

Date

Lessee

DAVID Y. IGE GOVERNOR OF HAWAU

1



STATE OF HAWAII DEPARTMENT OF HEALTH SAFE DRINKING WATER BRANCH 919 ALA MOANA BLVD., ROOM 308 HONOLULU, HI 96814-4920

in reply, please refer to: File: SDWB

Pu'u Kapu Hybrid01.docx

March 17, 2017

Pu'u Kapu Pastoral Steering Council P.O. Box 437142 Kamuela, Hawaii 96743

Dear Pu'u Kapu Pastoral Steering Council:

SUBJECT: PU'U KAPU HYBRID WATER SYSTEM

Thank you for your correspondence of March 7, 2017, requesting the Department of Health's (DOH's) determination on whether the Pu'u Kapu Hybrid water system should be a regulated public water system. The DOH Safe Drinking Water Branch (SDWB) has determined that the Pu'u Kapu Hybrid water system should not be regulated as a public water system, according to the definition of a regulated public water system as specified in Hawaii Administrative Rules.

Hawaii Administrative Rules, Title 11, Chapter 20, "Rules Relating to Public Water Systems," Section 11-20-2, state that a public water system is "a system which provides water for human consumption, through pipes or other constructed conveyances if the system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days out of the year."

Section 11-20-1 further states that Chapter 20 "applies to each public water system, unless the public water system meets all of the following conditions:

- 1) It consists only of a distribution and storage facilities (and does not have any collection and treatment facilities);
- It obtains all its water from, but is not owned or operated by a public water system to which such rules apply;
- 3) It does not sell water to any person; and
- It is not a carrier which conveys passengers in interstate commerce."

The Pu'u Kapu Hybrid water system:

- 1) Consists only of a distribution system,
- Obtains all of its water from, but is not owned or operated by a public water system (the Hawaii Department of Water Supply, South Kohala water system),

VIRGINIA PRESSLER, M.D.

Pu'u Kapu Pastoral Steering Council March 17, 2017 Page 2

- 3) Does not sell water to any person, but rather charges a flat rate to each lot, and
- 4) Is not a carrier which convey passengers in interstate commerce.

All of the conditions 1) through 4) are met, therefore the SDWB has determined that the Pu'u Kapu Hybrid water system should not be a regulated public water system.

If you have any questions concerning this determination, please call me at 808-586-4258.

Sincerely,

for Apeto

JOANNA L. SETO, P.E., CHIEF Safe Drinking Water Branch

AZ:cb

c: Ms. Anna Yen, EPA Region 9 [via <u>ven.anna@epa.gov</u> only] Office of Hawaiian Affairs Board of Trustee Meeting October 11, 2018 10:00 am

V. New Business

- A. Committee on Resource Management
 - Action Item RM #18-12: Amendments to OHA's Board of Trustees Executive Policy Manual related to budget preparation, budget format and budget reporting requirements, 2nd Reading

Note: Please insert the committee report that was distributed for the September 27, 2018 Board of Trustees Folder..

Office of Hawaiian Affairs

THE COMMITTEE ON RESOURCE MANAGEMENT

COMMITTEE REPORT

Sept 27, 2018

The Honorable Colette Machado, Chairperson Board of Trustees Office of Hawaiian Affairs

Madame Chair Machado,

Your Committee on Resource Management, having met on September 26, 2018 and after full and free discussion, recommends approval of the following action to the Board of Trustees:

To update the budget preparation, format and reporting requirements by approving amendments to the Executive Policy Manual ("Policy Manual") and Board of Trustees Operations Manual ("Operations Manual") as described in Attachments "A" and "B" <u>excluding the amendments on Fiscal Transparency 3.4.k. through 3.4.l. in Attachment</u> "A" and "C".

Relevant attachments are included for your information and reference. Attachment(s):

- 1. Action Item RM#18-12
- 2. RM Roll Call Vote Sheet (1)

Committee on Resource Management for September 26, 2018 Page 1 of 2 Respectfully submitted:

Corner Trustee Carmen Hulu Lindsey,

Trustee Peter Apo, Member

Trustee Leina'ala Ahu Isa, Member

Did Not Concur Trustee Robert Lindsey, Member

Excused Trustee Dan Ahuna, Member

CHUU, Y Machado

Trustee Colette Machado, Member

Excused Trustee Rowena Akana, Member

Hills 14

Trustee John Waihe'e, IV., Member

Trustee Keli'i Akina, Member

Committee on Resource Management for September 26, 2018 Page 1 of 2

OFFICE OF HAWAIIAN AFFAIRS

Action Item

Committee on Resource Management

September 26, 2018

RM # 18-12

Action Item Issue: Amendments to OHA's Board of Trustees Executive Policy Manual related to budget preparation, format and reporting requirements.

Prepared by:	Carmen Swen Lindsey	9/21/2018
	Trustee Carmen Hulu Lindsey Chair, Committee on Resource Management	Date

Reviewed by:

Trustee Keli'i Akina

<u>9/20/2018</u> Date

I. PROPOSED ACTION

To update the budget preparation, format and reporting requirements by approving amendments to the Executive Policy Manual ("Policy Manual") and Board of Trustees Operations Manual ("Operations Manual") as described in Attachments "A" and "B".

II. ISSUE

Whether or not the Board of Trustees should update the budget preparation, format and reporting requirements by approving amendments to the Policy Manual and Operations Manual as described in Attachments "A" and "B".

III. DISCUSSION

Background

1. In 2002, the Board of Trustees implemented a Performance & Program Budgeting (PPB) approach, requiring that all OHA expenditures be linked to OHA's Strategic Plan, and program evaluation be linked to the budgeting process, beginning in FY 2003. The policy established

formal budget preparation instructions for Administration, and required that expenditures be presented and grouped by program as well as by expenditure categories. In addition, the budget preparation instructions required that each program be linked to a strategic plan goal, and required disclosure of program performance measures as part of the budget document.

2. The adoption of the FY 2010-2018 Strategic Plan resulted in a reorganization of OHA and the subsequent amendment of Executive and Board of Trustees policies. In 2010, the Board of Trustees approved ARM #10-06, which removed the requirement for Administration to present OHA's budget pursuant to the "established formal budget preparation instructions" established in 2002.¹ The amended policy required OHA's budget to address "in sufficient detail, planning, programming, and financing to support OHA's Strategic Plan priorities and results and to adequately meet the financial requirements of OHA's programs and operations."² The lack of specificity as to what information would constitute "sufficient detail" has created ambiguity and contributed to reduced levels of financial transparency and accountability at OHA.

3. Executive Policy Manual Section 3.5.b states that "State of Hawaii laws, regulations and rules" apply to the preparation of OHA's budget. Since there are no specific references to the Hawaii Revised Statutes, one could argue that all required disclosures of the State of Hawaii Executive Budget Act also apply to OHA. This interpretation may not be consistent with the intent of the Board of Trustees.

4. Both OHA's budget policy and the State of Hawaii Executive Budget Act require the implementation of a Performance & Program Budgeting (PPB) system. In practice however, OHA's budgets have not been implemented in a manner consistent with the principles of a PPB system since FY 2010. The following shortfalls can be identified for budgets implemented as part of the 2010-2018 Strategic Plan:

- There is no direct link between the Strategic Plan goals and the budgeting process.
- Budget action items do not group expenditures by programs and Lines of Business, which prevents the Board of Trustees from understanding and evaluating the full costs of programs and services offered to beneficiaries.
- Despite the current policy requirements, program plan and performance updates have not been provided on a consistent and comprehensive basis. For example, various variance and budget adjustments reports for FY 2014 and 2015 were provided to the Board of Trustees more than 3 years after the required reporting deadlines, on May 23, 2018.

¹ ARM #10-06 amended Executive Policy Manual Section 3.5.d by removing the requirement to follow "established formal budget preparation instructions" with the language that the "Biennium Budget shall address, in sufficient detail, planning, programming, and financing to support OHA's Strategic Plan." (See Executive Policy Manual, page 21)

² Executive Policy Manual Section 3.5.d

5. Inconsistent and untimely reporting on program plans and performance prevents the Board of Trustees from considering the past performance of programs in their assessment of whether a budget item should be increased or decreased. This is problematic, because it prevents the Board of Trustees from effectively prioritizing spending across various competing beneficiary needs, which is an essential Board function and fiduciary responsibility. Inconsistent and untimely reporting on program performance also significantly impedes upon accountability and transparency.

6. This action item builds upon the Performance & Program Budgeting (PPB) approach adopted by the Board of Trustees in 2002, by addressing the current budgeting and reporting shortfalls before the new Strategic Plan is adopted. This action item defines a specific set of requirements for (i) budget preparation, (ii) financial planning, (iii) budget implementation and (iv) budget evaluation processes. In addition, this action item also attempts to address specific recommendations made by the State Auditor. This action item proposes the following substantive amendments to existing policies as described in the Policy Manual and Operations Manual:

- Requires Administration to submit a Multi-Year Financial Plan that is consistent with the duration of the Strategic Plan in conjunction with the Biennium Budget.
- Requires Administration to allocate and display proposed expenditures by programs, cost categories and Lines of Business.
- Requires that capital investment costs, debt service, and operating costs be properly distinguished.
- Requires Administration to disclose program objectives, proposed program activities, and actual as well as projected program performance measures in the Biennium Budget and Multi-Year Financial Plan.
- Requires Administration to submit a Variance Report that discloses deviations between planned and actual expenditures as well as between planned and actual performance measures to the Board of Trustees in an agendized meeting no later than 120 days after the conclusion of a fiscal year.
- Requires Administration to develop a Transparency Portal that contains public disclosures of digital data sets of the Biennium Budget, Multi-Year Financial Plan, Variance Report, grant register, investment holdings, and check registers.
- Requires the Board of Trustees approval over all grant funding awards by removing Administration's authority to approve grant request up to \$25,000.
- Reduces the frequency and volume of reporting for Administration, while enhancing the value and utility of reporting to the Board of Trustees.

Proposed Amendments

7. Attachments "A" and "B" provide a list of all proposed amendments to the Executive Policy Manual and Board of Trustees Operations Manual. Attachments "A" and "B" propose to move all amendments into Series 3040 of the Executive Policy Manual, which is currently reserved for future policies. The consolidation of all Executive Policy Manual amendments into this section provides better clarity. Attachment C provides the full text for the proposed Executive Policy Manual Series 3040: Planning, Programming, Budgeting (PPB).

The following provides a summary of the proposed amendments:

Executive Policy Manual (Attachment A):

- 1. Deletes Section 3.2.b., which requires the CEO to submit quarterly program and operation plan reports to the Board of Trustees. Proposed amendments xi, xii and vi require the submission of specific program and performance reports as part of the Biennium Budget and annual Variance Reports, which makes this section redundant.
- 2. Deletes part of Section 3.1.g., which requires the CEO to create an annual schedule to report on program and operational plan implementation. The
- proposed amendments xi, xii and vi require the submission of specific program and performance reports as part of the Biennium Budget and annual Variance Reports, which makes this section redundant.
- 3. Moves Section 3.5.d. to 3.4.b. and adds language to define governing principles for the preparation of the Biennium Budget.
- 4. Moves Section 3.5.e. to 3.4.g.
- 5. Moves Section 3.5.f. and 3.5.f.1. to 3.4.h. and 3.4.i. and changes the budget adjustment authority to the lesser of \$100,000 or 5% from expenditure categories to programs to provide consistency with the reporting requirements of the PPBS. Also changes the quarterly reporting requirement to an annual reporting requirement to reduce the volume of administrative reporting.
- 6. Moves Section 3.5.h. to 3.4.j. and adds specific language to define the presentation requirements of the Variance Report. Also requires that the Variance Report to be submitted to the Board of Trustees no later than 120 days after the closing of each fiscal year.
- 7. Deletes Section 2.2.d. to implement the State Auditor's recommendation 1.e.
- 8. Adds language to provide specific definitions for terms used in other sections.
- 9. Adds language to define the responsibilities of Administration and the Board of Trustees with respect to the preparation of the Biennium Budget.
- 10. Adds language to require that the Biennium Budget be submitted to the Board of Trustees no later than 7 calendar days before formal consideration to ensure that Trustees have enough time to review the budget. Also defines general requirements for budget presentation.
- 11. Adds language to define specific requirements for the presentation of the Biennium Budget.
- 12. Adds language to define the specific requirements for the presentation of a Multi-Year Financial Plan in conjunction with the Biennium Budget.
- 13. Adds language to implement State Auditor's recommendation 1.d.

Board of Trustees Operations Manual (Attachment B):

- 14. Deletes Section 36.a., which requires Administration to submit monthly budget variance reports to the Board of Trustees. Proposed amendment vi requires the submission of an annual Variance Report, which makes this requirement redundant.
- 15. Deletes Section 35.10., which requires that the budget be presented in two parts (Personnel and Operations). Proposed amendments xi and xii already provide specific requirements for the presentation of the Biennium Budget, which are inconsistent with this requirement.
- 16. Deletes Section 27.b. to provide consistency with proposed Executive Policy Manual amendment vii.
- 17. Adds language to Section 35.c. to provide consistency with proposed Executive Policy Manual amendment iii.

Benefits to OHA

- 8. Adoption of the proposed amendments will provide the following benefits to OHA:
 - Reconciliation of current budget policies with Government Finance Officer Association (GFOA) best practices for fiscal management. (Appendix 1)
 - Reconciliation of current budget policies with specific provisions of the State of Hawaii Executive Budget Act. (Appendix 2)
 - Provides for alignment with OHA's current fiscal sustainability efforts by requiring longterm projections of revenues and expenditures.
 - Implements the State Auditor's recommendations 1.d., 1.e. and 1.f., to (i) provide greater transparency into OHA's administration of trust assets, (ii) require board approval of all grants, and (iii) develop a master list of all grant and sponsorship awards.
 - Provides a more sophisticated financial planning framework to better address the future long-term financing and capital investment needs of OHA's commercial real estate portfolio.
 - Reduces the frequency and volume of administrative reporting, while enhancing the timeliness, utility and value of reporting on program activities and performance.
 - Provides a link between strategic planning activities and the biennium budget.
 - Assists the Board of Trustees with complete, consistent and timely information on the objectives, activities, and past and future performance of programs.
 - Allows the Board of Trustees to gain a better understanding of the effectiveness and efficiency of programs.
 - Assists the Board of Trustees and Administration to better communicate and justify funding decisions to beneficiaries and stakeholders.
 - Promotes accountability and transparency by providing a deeper understanding of OHA's programs, activities, past and future performance to the Board of Trustees, beneficiaries, the legislature and the public at large.
IV. ALTERNATIVES

Decline to update the budget preparation, format and reporting requirements by refusing to approve the amendments to the Executive Policy Manual and Board of Trustees Operations Manual as described in Attachments "A" and "B".

V. RECOMMENDED ACTION

To update the budget preparation, format and reporting requirements by approving amendments to the Executive Policy Manual and Board of Trustees Operations Manual as described in Attachments "A" and "B".

VI. TIMEFRAME

The following steps must be taken to effectively implement the additional budget preparation, format, and reporting requirements as described in Attachments "A" and "B":

- Review the current program structure for alignment with the new strategic priorities and present any required amendments to the current program structure to the Board of Trustees for approval.
- Develop templates for the Biennium Budget, Multi-Year Financial Plan, Budget Adjustment Report, and Variance Report.
- Define objectives, program size indicators, and measurements of effectiveness for each respective program.
- Make necessary updates to the accounting system.

To provide enough time for Administration to conduct these steps, the effective date for this action item is deferred until submission of the FY 2022-23 Biennium Budget.

VII. ATTACHMENTS

- A. Proposed Amendments to Executive Policy Manual
- B. Proposed Amendments to Board of Trustees Operations Manual
- C. Executive Policy Manual Series 3040: Program, Planning, Budgeting (PPB)
- D. Budget Policy Flowchart

VIII. APPENDIX

- 1. Reconciliation with Government Finance Officers Association (GFOA) Best Practices
- 2. Reconciliation with State of Hawaii Executive Budget Act
- 3. Action Item PP-17, Committee on Policy and Planning (May 21st, 2002)

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 Action Item, Performance & Program Budgeting, Joint Committee on Policy & Planning and Budget & Finance (March 7th, 2002)

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Action Item

Committee on Resource Management

September 26, 2018

RM # 18-12

ATTACHMENT A

Proposed Amendments to Executive Policy Manual

ATTACHMENT A: Proposed Amendments to Executive Policy Manual

The changes to the policies are displayed as follows:

- New text that has been added is indicated in <u>red underlined</u>.
- Text that has been deleted is indicated in strikethrough.

#	Current: Executive Policy Manual	Revised: Executive Policy Manual	
i	3.2.b. The BOT shall review all program and operational plan reports submitted quarterly by LOB Directors through the CEO at least twice annually in order to assess progress in implementing the Strategic Plan and the need for additional policies.	3.2.b. The BOT shall review all program and operational plan reports submitted quarterly by LOB Directors through the CEO at least twice annually in order to assess progress in implementing the Strategic Plan and the need for additional policies.	
11	3.1.g. Line of Business Directors shall provide reports on the progress of implementation of business plans to the Executive Office periodically, but no less often than on a quarterly basis. Executive Office shall report on program and operational plan implementation to the BOT on the basis of an annual schedule by the Executive Offices.	3.1.g. Line of Business Directors shall provide reports on the progress of implementation of business plans to the Executive Office periodically, but no less often than on a quarterly basis. Executive Office shall report on program and operational plan implementation to the BOT on the basis of an annual schedule by the Executive Offices.	
11	3.5.d. The proposed comprehensive Biennium Budget shall address, in sufficient detail, planning, programming, and financing to support OHA's Strategic Plan priorities and results and to adequately meet the financial requirements of OHA's programs and operations.	 3.5.d. 3.4.b. The proposed comprehensive Biennium Budget shall address, in sufficiend detail, planning, programming, and financing to support OHA's Strategic Plan priorities results, and to adequately meet the financial requirements of OHA's programs and operations. The preparation of the Biennium Budget shall be governed by the following general principles: Planning, programming, budgeting, evaluation, appraisal and reporting she by programs; A program which serves two or more objectives shall be placed in the program structure along with that objective which it primarily serves; Both operating and capital investment costs shall be identified for all programs regardless of the means of financing; The full cost of each program shall be identified; 	
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#	Current: Executive Policy Manual	Revised: Executive Policy Manual
		 vi. <u>Objectives shall be stated for each respective program:</u> vii. <u>The effectiveness of programs in attaining objectives shall be assessed;</u> viii. <u>Planning shall have a long-range view that is consistent with the duration of the strategic plan: and</u> ix. <u>Systematic analysis in terms of problems, objectives, alternatives, costs, effectiveness, benefits, risks and uncertainties shall constitute the core of program planning.</u>
iv	3.5.e. As the biennium budget is prepared and authorized only once every two years, in accordance with the State's biennium, it may be necessary to update and make adjustments to the budget for various changes that may have occurred since the budget was passed. Significant changes to the budget are made through budget realignments. A budget realignment is generally a reforecasting of the total budget. Budget realignments are prepared by the CEO through the CFO and presented to the BOT for approval.	3.5.e. <u>3.4.g.</u> As the b Biennium b Budget is prepared and authorized only once every two years, in accordance with the State's biennium, it may be necessary to update and make adjustments to the budget for various changes that may have occurred since the budget was passed. Significant changes to the budget are made through budget realignments. A budget realignment is generally a reforecasting of the total budget. Budget realignments are prepared by the CEO through the CFO and presented to the BOT for approval.
v	3.5.f. Changes to the budget that are not comprehensive enough to require realignment are to be handled through budget adjustments. Management is delegated the authority to approve budget adjustments that fall within the lesser of \$100,000 or 5% of each expenditure category. Expenditure categories are defined as the Personnel, Program, Contracts, Grants, Travel, Equipment, Overhead, and Debt Service Budgets as included in the approved Total Operating Budget. Budget adjustments in and out of the Grants Budget and between the Core Operating, Fiscal Reserve, Commercial Properties, Legacy Properties, and Special Programs Budgets are prohibited. Any adjustments that exceed management's authorities must be approved by the BOT and shall be presented to the BOT in Action Item format.	 3.5.f. 3.4.h. Changes to the bBiennium bBudget that are not comprehensive enough to require realignment are to be handled through budget adjustments. Administration is delegated the authority to approve budget adjustments that fall within the lesser of \$100,000 or 5% between each program. Budget adjustments in and out of grant and sponsorships appropriations are prohibited. 3.4.i. An annual report of budget adjustments made pursuant to section 3.5.f. shall be submitted to the Board of Trustees no later than 60 days after the closing of each fiscal year. The Budget Adjustment Report shall identify the program that received the transferred transferred, the total amount of funds transferred, the program that received the transferred funds, the total adjustments made for the fiscal year, and a justification that briefly explains the necessity of the adjustments.
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#	Current: Executive Policy Manual	Revised: Executive Policy Manual
	3.5.f.1 A quarterly report of budget adjustments made pursuant to section 3.5.f shall be submitted to the BOT. The report shall identify the expenditure category from which the funds were transferred, the total amount of funds transferred, the expenditure category that received the transferred funds, the total adjustments made for each quarter, and a justification that briefly explains the necessity of the adjustments.	
vi	3.5.h. OHA shall establish a budgetary monitoring process which ensures intra-office and program fiscal accountability.	3.5.h. <u>3.4.j.</u> OHA shall establish a budgetary monitoring process which ensures intra- office and program fiscal accountability. <u>No later than 120 days after the closing of</u>
		a fiscal year, the Administration shall submit to the Board of Trustees in an agendized meeting a Variance Report on program performance for the last completed fiscal year. In format, the Variance Report shall follow the same format as the Biennium Budget. The Variance Report shall include:
		 A comparison of the budgeted expenditures and actual expenditures for the last completed fiscal year: A comparison of the program size anticipated, and the size realized in the last completed fiscal year;
		 A comparison of the level of effectiveness anticipated and the level attained in the last completed fiscal year; and A narrative explanation summarizing the major reasons for the differences in the comparisons made for the last completed fiscal year.
vii	2.2.d. The CEO is granted authority to approve Grants Program funding up to \$25,000. Grant requests \$25,000 and over require the concurrence of a majority (5) of all members to which the BOT is entitled. The exception is for Community Based Economic Development (VBED) Grants, for which the CEO can approve grant requests up to \$50,000.	2.2.d. The CEO is granted authority to approve Grants Program funding up to \$25,000. Grant requests \$25,000 and over require the concurrence of a majority (5) of all members to which the BOT is entitled. The exception is for Community Based Economic Development (VBED) Grants, for which the CEO can approve grant requests up to \$50,000.
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#	Current: Executive Policy Manual	Revised: Executive Policy Manual
viii		3.4.a. If not otherwise clear from the context, the following definitions shall apply to the following sections:
		i. <u>"Capital Investment Costs"</u> reflect the sum of costs related to the
		construction of a capital improvement project beyond the research and
		development phase. Capital investment costs include the costs associated with
		the acquisition and development of land, design and construction of new facilities, and the renovations or additions to existing facilities.
		ii. "Cost Categories" means the major types of operating costs. including the
		research and development costs associated with capital expenditures. "Debt Service" means interest and principal repayments on financing
		<u>"Debt Service" means interest and principal repayments on financing</u> agreements.
		iv. "Effectiveness Measure" means the criterion for measuring the degree to
	1 N	which the objective sought is attained.
		v. "Financing Agreement" means any lease purchase agreement, installment sale agreement, loan agreement, line of credit, or any other instruments of
		indebtedness of which the full faith and credit of OHA are pledged towards the
		payment of the principal and interest.
		vi. <u>"Full Cost" means the total cost of a program and includes both operating</u> and capital costs.
		vii. "Means of Financing" means the various sources from which funds are
		available. "Objective" means a statement of the end result product or condition desired
		iii. "Objective" means a statement of the end result, product, or condition desired, for the accomplishment of which a course of action is to be taken.
		ix. "Operating Costs" means the recurring costs of operating, supporting and
		maintaining programs.
		x. "Planning" means the process by which objectives are formulated; measures by which effectiveness in attaining those objectives are identified; alternatives
		by which objectives may be determined are determined; the full costs,
		effectiveness and benefit implications of each alternative are determined; the
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#	Current: Executive Policy Manual	Revised: Executive Policy Manual
		 assumptions, risks and uncertainties of the future are clarified: and cost and effectiveness and benefit tradeoffs of the alternatives are identified. xi. "Program" means a combination of resources and activities designated to achieve an objective or objectives. xii. "Program Size Indicators" means a measure to identify the magnitude of a program, such as the beneficiaries serviced by the program, the amount of a commodity, the volume of services, etc. iii. "Program Structure" means a display of programs which are grouped in accordance with the objectives to be achieved, or the functions to be performed. iv. "Programming" means the process by which long-range program and financial plans are scheduled for implementation over the timespan of the strategic plan and which specifies what programs are to be implemented, how they are to be implemented, when they are to be implemented, and what the cost of such implementation are.
ix		 3.4.c. The following responsibilities are assigned to the preparation of the Biennium Budget: i. Administration shall evaluate, formulate and recommend for consideration by the Board of Trustees a proposed Biennium Budget and Multi-Year Financial Plan. ii. The Board of Trustees shall: a. Consider the proposed Biennium Budget and Multi-Year Financial Plan recommended by Administration; b. Approve new programs within OHA's program structure and appropriate funds to implement programs it deems appropriate; and c. Review the implementation of the Biennium Budget and evaluate the program management, execution, and performance.
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#	Current: Executive Policy Manual	Revised: Executive Policy Manual
x		3.4.d. The Biennium Budget shall be submitted to the Board of Trustees no later than 7 calendar days before formal consideration and shall, in general, contain the following:
		 i. <u>OHA's program structure:</u> ii. <u>Statement of objectives for each respective program:</u> iii. <u>The financial requirements for the next two fiscal years to carry-out the recommended programs; and</u> iv. <u>Program size indicators and measurement of effectiveness for each respective program</u>
xi		 3.4.e. The information contained in the Biennium Budget shall be presented specifically in the following manner: i. Information shall be displayed by programs and cost categories and aggregated by Line of Business and means of financing: ii. Operating cost, capital investment costs and debt service shall be distinguished; iii. The full cost of each program shall be identified;
		 iv. Each program budget shall, at minimum, identify the following information: Proposed changes in the levels of expenditures, by cost categories, between the biennium in progress and the ensuing biennium, together with a brief explanation of the major reasons for each change Salary adjustments to existing positions and personnel The addition or deletion of positions Measurements of the program size and program effectiveness Changes in the actual or planned level of program size and effectiveness
	Committee on Resource Management	 f. An appendix table that lists all vacant positions displayed by program g. An appendix table that lists all current contracts displayed by contract number, description of services performed, amount, vendor and program. BM#18-12 September 26, 2018 Page 6.

#	Current: Executive Policy Manual	Revised: Executive Policy Manual
# xii		 3.4.f. The Biennium Budget shall be submitted in conjunction with a Multi-Year Financial Plan. The Multi-Year Financial Plan, in general, shall show the fiscal implications of the proposed Biennium Budget for the remaining fiscal years of the strategic plan. The Multi-Year Financial Plan shall be continually updated and maintained by Administration. Specifically, the Multi-Year Financial Plan shall contain. at minimum, the following: OHA's program structure: OHA's strategic plan objectives; A summary of outstanding debt on all financing agreements; A summary of the actual and projected investment performance and valuations of OHA's financial and commercial real-estate assets; Financial summaries displaying the financial condition of OHA, each Line of Business, and each respective program, actual for the completed fiscal years: and estimated for the fiscal year in progress and each of the ensuing fiscal years of the strategic plan; Brief statements disclosing the basis upon which the revenue and expenditure estimates in the Multi-Year Financial Plan were made; A brief narrative of the plans that describe the objectives and activities that are proposed to be implemented by each respective program over the course of the strategic plan; and
		of the strategic plan; and viii. Measures by which the effectiveness in attaining the program objectives is to be assessed, including measures of the actual level of effectiveness attained in the last completed fiscal year, the estimated level of effectiveness attained in the fiscal year in progress, and the planned level of effectiveness planned for each of the ensuing fiscal years of the strategic plan.
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Current: Executive Policy Manual	Revised: Executive Policy Manual
	Fiscal Transparency
	3.4.k. OHA shall maintain an official, searchable web portal accessible to the public that affirmatively discloses, at minimum, all appropriate financial information from fiscal year 2022 and beyond, as described in the following subsections.
	 <u>Biennium Budgets and Multi-Year Financial Plans</u>; Variance Reports;
	iii. <u>Statements of the Native Hawaiian Trust Fund Investment portfolio that</u> display quarterly holdings and investment returns:
	iv. <u>A digital and searchable data set of the annual check registers including the</u> amount, date, vendor name, and program that is associated with the
	 v. A digital and searchable data set of all grant, sponsorship and other funding awarded by OHA, including a listing of the names of all applicants, the names of all recipients, award amount, funding type, and means of financing.
	3.4.1. The aforementioned financial information shall be uploaded onto the searchable web portal no later than 120 days after the conclusion of each fiscal year beginning with fiscal year 2022.
	Current: Executive Policy Manual

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ATTACHMENT B

Proposed Amendments to Board of Trustees Operations Manual

ATTACHMENT B: Proposed Amendments to the Board of Trustees Operations Manual

The changes to the policies are displayed as follows:

- New text that has been added is indicated in red underlined.
- Text that has been deleted is indicated in strikethrough.

#	Current: Board of Trustees Manual	Revised: Board of Trustees Manual
xiv	36.a. Monthly budget variance reports, displaying actual versus budgeted expenditures are distributed by the Administrator to all Trustees, Deputy Administrators, and Hale Directors for review and action. Corrective action and/or budget adjustments are implemented based on feedback from the Trustees and staff.	36.a. Monthly budget variance reports, displaying actual versus budgeted expenditures are distributed by the Administrator to all Trustees, Deputy Administrators, and Hale Directors for review and action. Corrective action and/or budget adjustments are implemented based on feedback from the Trustees and staff.
XV	35.10. The final budget is presented in two parts (Personnel and Operations) for ARM committee consideration.	
xvi	27.b. The Administrator is granted authority to approve Community Grants Program requests up to \$24,999. The total requests approved by the Administrator shall not exceed a maximum of twenty (20%) of the total yearly grant allocation in the TOB. Grant requests over \$24,999 require the concurrence of a majority vote of five (5) of all members to which the Board is entitled.	27.b. The Administrator is granted authority to approve Community Grants Program requests up to \$24,999. The total requests approved by the Administrator shall not exceed a maximum of twenty (20%) of the total yearly grant allocation in the TOB. Grant requests over \$24,999 require the concurrence of a majority vote of five (5) of all members to which the Board is entitled.

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#	Current: Board of Trustees Manual	Revised: Board of Trustees Manual	
xvii	35.c. The comprehensive biennium budget shall address, in sufficient detail, planning, programming, and financing to support OHA's strategic plan goals and to adequately meet the financial requirements of OHA's programs and operations.	35.c. The proposed comprehensive b Biennium b Budget shall address, in sufficient detail, planning, programming, and financing to support OHA's Strategic Plan priorities and results and to adequately meet the financial requirements of OHA's programs and operations. The preparation of the Biennium Budget shall be governed by the following general principles:	
		 i. Planning, programming, budgeting, evaluation, appraisal and reporting shall be by programs; ii. A program which serves two or more objectives shall be placed in the program structure along with that objective which it primarily serves; iii. Both operating and capital investment costs shall be identified for all programs regardless of the means of financing; iv. The full cost of each program shall be identified; v. Costs shall be displayed in the year of their anticipated expenditure; vi. Objectives shall be stated for each respective program; vii. The effectiveness of programs in attaining objectives shall be assessed; viii. Planning shall have a long-range view that is consistent with the duration of the strategic plan; and ix. Systematic analysis in terms of problems, objectives, alternatives, costs, effectiveness, benefits, risks and uncertainties shall constitute the core of program planning. 	

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ATTACHMENT C

Executive Policy Manual Series 3040: Program, Planning, Budgeting (PPB)

3040 Program, Planning, Budgeting System (PPBS)

Definitions

3.4.a. If not otherwise clear from the context, the following definitions shall apply to the following sections:

- i. **"Capital Investment Costs"** reflect the sum of costs related to the construction of a capital improvement project beyond the research and development phase. Capital investment costs include the costs associated with the acquisition and development of land, design and construction of new facilities, and the renovations or additions to existing facilities.
- ii. **"Cost Categories"** means the major types of operating costs, including the research and development costs associated with capital expenditures.
- iii. **"Debt Service"** means interest and principal repayments on financing agreements.
- iv. **"Effectiveness Measure"** means the criterion for measuring the degree to which the objective sought is attained.
- v. **"Financing Agreement"** means any lease purchase agreement, installment sale agreement, loan agreement, line of credit, or any other instruments of indebtedness of which the full faith and credit of OHA are pledged towards the payment of the principal and interest.
- vi. **"Full Cost"** means the total cost of a program and includes both operating and capital costs.
- vii. **"Means of Financing"** means the various sources from which funds are available.
- viii. **"Objective"** means a statement of the end result, product, or condition desired, for the accomplishment of which a course of action is to be taken.
- ix. **"Operating Costs"** means the recurring costs of operating, supporting and maintaining programs.
- x. **"Planning"** means the process by which objectives are formulated; measures by which effectiveness in attaining those objectives are identified; alternatives by which objectives may be determined are determined; the full costs, effectiveness and benefit implications of each alternative are determined; the assumptions, risks and uncertainties of the future are clarified; and cost and effectiveness and benefit tradeoffs of the alternatives are identified.
- xi. **"Program"** means a combination of resources and activities designated to achieve an objective or objectives.
- xii. **"Program Size Indicators"** means a measure to identify the magnitude of a program, such as the beneficiaries serviced by the program, the amount of a commodity, the volume of services, etc.
- xiii. **"Program Structure"** means a display of programs which are grouped in accordance with the objectives to be achieved, or the functions to be performed.

ATTACHMENT C: Series 3040: Program, Planning, Budgeting (PPB).

xiv. "**Programming**" means the process by which long-range program and financial plans are scheduled for implementation over the timespan of the strategic plan and which specifies what programs are to be implemented, how they are to be implemented, when they are to be implemented, and what the cost of such implementation are.

Budget Preparation

3.4.b. The proposed comprehensive Biennium Budget shall address, in sufficient detail, planning, programming, and financing to support OHA's Strategic Plan priorities and results and to adequately meet the financial requirements of OHA's programs and operations. Only those portions of the Biennium Budget that include State of Hawaii General Funds and the required Trust Fund match shall be submitted to the Legislature. The preparation of the Biennium Budget shall be governed by the following general principles:

- i. Planning, programming, budgeting, evaluation, appraisal and reporting shall be by programs;
- ii. A program which serves two or more objectives shall be placed in the program structure along with that objective which it primarily serves;
- iii. Both operating and capital investment costs shall be identified for all programs regardless of the means of financing;
- iv. The full cost of each program shall be identified;
- v. Costs shall be displayed in the year of their anticipated expenditure;
- vi. Objectives shall be stated for each respective program;
- vii. The effectiveness of programs in attaining objectives shall be assessed;
- viii. Planning shall have a long-range view that is consistent with the duration of the strategic plan; and
- ix. Systematic analysis in terms of problems, objectives, alternatives, costs, effectiveness, benefits, risks and uncertainties shall constitute the core of program planning.

3.4.c. The following responsibilities are assigned to the preparation of the Biennium Budget:

- i. Administration shall evaluate, formulate and recommend for consideration by the Board of Trustees a proposed Biennium Budget and Multi-Year Financial Plan.
- ii. The Board of Trustees shall:
 - a. Consider the proposed Biennium Budget and Multi-Year Financial Plan recommended by Administration;
 - b. Approve new programs within OHA's program structure and appropriate funds to implement programs it deems appropriate; and
 - c. Review the implementation of the Biennium Budget and evaluate the program management, execution, and performance.

3.4.d. The Biennium Budget shall be submitted to the Board of Trustees no later than 7 calendar days before formal consideration and shall, in general, contain the following:

- i. OHA's program structure;
- ii. Statement of objectives for each respective program;
- iii. The financial requirements for the next two fiscal years to carry out the recommended programs; and
- iv. Program size indicators and measurement of effectiveness for each respective program.

3.4.e. The information contained in the Biennium Budget shall be presented specifically in the following manner:

- i. Information shall be displayed by programs and cost categories and aggregated by Line of Business and means of financing;
- ii. Operating cost, capital investment costs and debt service shall be distinguished;
- iii. The full cost of each program shall be identified; and
- iv. Each program budget shall, at minimum, identify the following information:
 - a. Proposed changes in the levels of expenditures, by cost categories, between the biennium in progress and the ensuing biennium, together with a brief explanation of the major reasons for each change;
 - b. Salary adjustments to existing positions and personnel;
 - c. The addition or deletion of positions;
 - d. Measurements of the program size and program effectiveness;
 - e. Changes in the actual or planned level of program size and effectiveness;
 - f. An appendix table that lists all vacant positions displayed by program; and
 - g. An appendix table that lists all current contracts displayed by contract number, description of services performed, amount, vendor and program.

Financial Planning

3.4.f. The Biennium Budget shall be submitted in conjunction with a Multi-Year Financial Plan. The Multi-Year Financial Plan, in general, shall show the fiscal implications of the proposed biennium budget for the remaining fiscal years of the strategic plan. The Multi-Year Financial Plan shall be continually updated and maintained by Administration. Specifically, the Multi-Year Financial Plan shall contain at minimum, the following:

- i. OHA's program structure;
- ii. OHA's strategic plan objectives;
- iii. A summary of outstanding debt on all financing agreements;

- iv. A summary of the actual and projected investment performance and valuations of OHA's financial and commercial real estate assets;
- v. Financial summaries displaying the financial condition of OHA, each Line of Business, and each respective program, actual for the completed fiscal year and estimated for the fiscal year in progress and each of the ensuing fiscal years of the strategic plan;
- vi. Brief statements disclosing the basis upon which the revenue and expenditure estimates in the Multi-Year Financial Plan were made;
- vii. A brief narrative of the plans that describe the objectives and activities that are proposed to be implemented by each respective program over the course of the strategic plan; and
- viii. Measures by which the effectiveness in attaining the program objectives is to be assessed, including measures of the actual level of effectiveness attained in the last completed fiscal year, the estimated level of effectiveness attained in the fiscal year in progress, and the planned level of effectiveness planned for each of the ensuing fiscal years of the strategic plan.

Budget Implementation

3.4.g. As the Biennium Budget is prepared and authorized only once every two years, it may be necessary to update and make adjustments to the budget for various changes that may have occurred since the budget was passed. Significant changes to the budget are made through budget realignments. A budget realignment is generally a reforecasting of the total budget. Budget realignments are prepared by the CEO through the CFO and presented to the BOT for approval.

3.4.h. Changes to the Biennium Budget that are not comprehensive enough to require realignment are to be handled through budget adjustments. Administration is delegated the authority to approve budget adjustments that fall within the lesser of \$100,000 or 5% between each program. Budget adjustments in and out of grant and sponsorships appropriations are prohibited.

3.4.i. An annual report of budget adjustments made pursuant to section 3.5.f. shall be submitted to the Board of Trustees no later than 60 days after the closing of each fiscal year. The Budget Adjustment Report shall identify the program from which funds were transferred, the total amount of funds transferred, the program that received the transferred funds, the total adjustments made for the fiscal year, and a brief explanation of the necessity of the adjustments.

Budget Evaluation

3.4.j. OHA shall establish a budgetary monitoring process which ensures intra-office and program fiscal accountability. No later than 120 days after the closing of a fiscal year, the

Page 4

Administration shall submit to the Board of Trustees in an agendized meeting a Variance Report on program performance for the last completed fiscal year. In format, the Variance Report shall follow the same format as the Biennium Budget. The Variance Report shall include:

- i. A comparison of the budgeted expenditures and actual expenditures for the last completed fiscal year;
- ii. A comparison of the program size anticipated, and the size realized in the last completed fiscal year;
- iii. A comparison of the level of effectiveness anticipated and the level attained in the last completed fiscal year; and
- iv. A narrative explanation summarizing the major reasons for the differences in the comparisons made for the last completed fiscal year.

Fiscal Transparency

3.4.b. OHA shall maintain an official, searchable web portal accessible to the public that affirmatively discloses, at minimum, all appropriate financial information from fiscal year 2022 and beyond, as described in the following subsections.

- i. Biennium Budgets and Multi Year Financial Plans;
- ii. Variance Reports;
- iii. Statements of the Native Hawaiian Trust Fund Investment portfolio that display quarterly holdings and investment returns;
- iv. A digital and searchable data set of the annual check registers including the amount, date, vendor name, and program that is associated with the payment; and
- v. A digital and searchable data set of all grant, sponsorship and other funding awarded by OHA, including a listing of the names of all applicants, the names of all recipients, award amount, funding type, and means of financing.

3.4.c. The aforementioned financial information shall be uploaded onto the searchable web portal no later than 120 days after the conclusion of each fiscal year beginning with fiscal year 2022.

Action Item

Committee on Resource Management

September 26, 2018

RM # 18-12

ATTACHMENT D

Budget Policy Flowchart

	PRE	PARATION	IMPLEMENTATION	EVALUA	ΓΙΟΝ
RESPONSIBILITIES	Multi-Year Financial Plan Board of Trustees: Consider the prop Multi-Year Finan Approve new pro- structure; Review implement	commend a Biennium Budget and bosed Biennium Budget and cial Plan; grams within OHA's program ntation of the Biennium Budget gram management, execution and	Administration is delegated the authority to approve budget adjustments that fall within the lesser of 5% or \$100,000 between each program, except for grant and sponsorship appropriations.	Administration shall prepare a Variance Report	Administration shall maintain a Transparency Portal
	Biennium Budget	Multi-Year Financial Plan	Budget Adjustment Report	Variance Report	Transparency Portal
FORMAT	 Proposed changes are grouped by Line of Business, program and cost categories; Capital investment cost, debt service and operating costs are separated; Salary adjustments and changes in the number of positions are identified, Program size indicators and performance measures are reported; An appendix table with vacant positions and contracts is included 	 Summary of outstanding debt, Summary of the actual and projected investment performance and valuations; Financial summaries displaying the financial condition for each program and Line of Business; Actual, estimated and planned level of effectiveness attained for each program; Brief narrative of the program plans over the course of the strategic plan 	Budget Adjustment Report shall follow the same format as the Biennium Budget	 Includes a comparison between budgeted expenditures and actual expenditures; Comparison between program size anticipated and actual program size attained; Comparison between the level of effectiveness anticipated and the level attained Variance Report shall follow the same format as the Biennium Budget 	 Includes the Biennium Budgets and Multi-Year Financial Plans; Variance Reports; NHTF Investment Portfolio quarterly statements; Digital and searchable data set of all check, grant and sponsorship registers
DEADLINE	Submitted <u>no later than 7</u> consideration	<u>calendar days</u> before formal	Reported <u>no later than 60 calendar</u> <u>days</u> after each fiscal year	Reported <u>no later than 120 calendar</u>	<u>days</u> after each fiscal year

.

Action Item

Committee on Resource Management

September 26, 2018

RM # 18-12

APPENDIX 1

Reconciliation with Government Finance Officers Association (GFOA) Best Practices

APPENDIX 1: Reconciliation with Government Finance Officers Association (GFOA) Best Practices

GFOA best practices identify specific policies and procedures that contribute to improvement management of both small and large governments. Best practices are approved by the GFOA executive board and represent the official position of the organization.

The GFOA best practices are accessible on the following website: www.gfoa.org/best-practices

The following provides an analysis of how the proposed policy amendments that are defined in RM #18-12 reconcile with the GFOA best practices:

#	Best Practice	Description	RM #18-12
1	Long-Term Financial Planning	Recommends that all governments regularly engage in long-term financial planning.	Section 3.4.f. requires the submission of a multi-year financial plan that covers all remaining fiscal years of the strategic plan.
2	Strategic Planning	Recommends that all governmental entities use some form of strategic planning to provide a long-term perspective for service delivery and budgeting, thus establishing a logical link between authorized spending and organizational goals.	The existing policy already requires the development of 6-year strategic plans. (section 3.1.b)
3	Performance Management for Decision-Making	Recommends that program and service performance measures be developed and used as an important component of long term strategic planning and decision-making which should be linked to governmental budgeting.	Section 3.4.b. and 3.4.e. require the development and public disclosure of program objectives as well as measurements of effectiveness. In addition, section 3.4.j. also requires the public disclosure of a variance report that compares the level of effectiveness anticipated and the level attained in the last completed fiscal year.
4	Financial Forecasting in the Budget Preparation Process	Recommends that governments at all levels forecast major revenues and expenditures. The forecast should extend several years into the future. The forecast, along with its underlying assumptions, methodology, should be clearly stated and made available to stakeholders in the budget process.	Section 3.4.f. requires the submission of a multi-year financial plan that covers all remaining fiscal years of the strategic plan. The section also requires the submission of brief statements disclosing the basis upon which the revenue and expenditure estimates in the financial plan are made.

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#	Best Practice	Description	RM #18-12	
5	Making the Budget Document Easier to Understand	Recommends that governments incorporate specific guidelines to facilitate broader consumption and greater comprehension of the budget document. Guidelines are: i. introduction and overview ii. financial structure iii. policy and purpose iv. financial summaries v. capital and debt vi. departmental information vii. statistical/supplemental section	Section 3.4.d, and 3.4.e, define general principles for the presentation of the budget document.	
6	vii. statistical/supplemental section Departmental Recommends that governments consider specific guidelines when presenting information in the departmental section of the operating budget. Document Guidelines are: i. Design ii. Brevity iii. Services iv. Issues v. Revenues vi. Expenditures vii. Staffing viii. prioritization/goals and objectives		Section 3.4.d. and 3.4.e. define general principles for the presentation of the budget document.	
7	Public Participation in Planning, Budgeting and Performance Management	ix. measures. Recommends that governments incorporate public participation efforts in planning, budgeting, and performance management result processes.	The current policy already requires the development of a public input plan to ensure that the public has adequate opportunity to comment on the Biennium Budget through various means (Section 3.5.b.)	
8	Presenting Official Financials	Recommends that governments use their official websites as a primary means of communicating financial information to stakeholders.	Section 3.4.k. requires the development of a fiscal transparency portal that discloses budget, financial, performance and expenditure data in a digital and searchable format to the public.	

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#	Best Practice	Description	RM #18-12	
	Documents on Website			
9	Adopting Financial Policies	Recommends that governments adopt the following financial policies:	With the exception of an debt and economic development policy, all of the recommended policies have been implemented.	
		 i. General fund reserves ii. Reserves in other funds iii. Grants iv. Debt v. Investment vi. Economic development vii. Accounting and financial reporting viii. Risk management and internal controls ix. Procurement x. Long-term financial planning 		
10	Measuring the Full Cost of Government Service	Recommends that governments calculate the full costs of the different services they provide.	Section 3.4.b.iv. requires that the full costs of each program be identified.	

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APPENDIX 2

Reconciliation with State of Hawaii Executive Budget Act

APPENDIX 2: Reconciliation with State of Hawaii Executive Budget Act

The following table provides a brief analysis of how the proposed budget policies reconcile with the State of Hawaii Executive Budget Act.

Section	Hawaii Revised Statutes	OHA Executive Policy Manual	Reconciliation
Definitions	HRS §37-62	Section 3.4.a	The definitions included in Section 3.4.a. are identical to the definitions used in HRS §37-62.
Budget Preparation	HRS §37-64; HRS §37-65; HRS §37- 66; HRS §37-71.	Section 3.4.be	The governing principles used in Section 3.4.b. are identical to HRS §37-64. The responsibilities defined in Section 3.4.c. are identical to the responsibilities assigned to the Governor and Legislature as defined in HRS §37-65 and HRS §37-66. The budget format requirements defined in Section 3.4.d. and 3.4.e. are consistent with HRS §37-71.
Financial Planning	HRS §37-69	Section 3.4.f.	The financial planning requirement is consistent with HRS §37-69. Since OHA's planning process is guided by a strategic plan, the 6-year financial planning requirement that is defined in HRS §37-69 is amended to require the submission of a financial plan that only includes the remaining fiscal years of the financial plan.
Budget Implementation	HRS §37-36; HRS §37-37; HRS §37- 38; HRS §37-39	Section 3.4.g-h.	Transfers between programs within the same department are allowed if approved by the Department of Budget and Finance and the Governor. Transfers between expenditure categories within a program are allowed if approved by the Department of Budget and Finance. Sections 3.4.h and 3.4.i. provide a greater level of budget execution flexibility that is currently offered at the state level.
Budget Evaluation	HRS §37-75	Section 3.4.j.	The contents of the variance report are consistent with HRS §37-75. The submission of 120 days is shorter than the 5 months that is required under HRS §37-75. However, HRS §37-75 requires the submission of a variance report of the previous fiscal year and the fiscal year in progress. Section 3.4.j. only requires the submission of a variance report for the last completed fiscal year, which justifies the 120 days submission deadline.
Fiscal Transparency	HRS §27-44; HRS Chapter 92F	Section 3.4.k.	HRS §27-44 requires each department to "use reasonable efforts to make appropriate and existing data sets" available to the public through the State's open data portal. Section 3.4.k. builds upon this requirement by defining, what specific information, at minimum, shall be disclosed to the public in a searchable and digital format. The information that is required for submission is considered public information under HRS Chapter 92F.

Committee on Resource Management

RM #18-12

September 26, 2018

Action Item

Committee on Resource Management

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RM # 18-12

APPENDIX 3

Action Item PP-17, Committee on Policy and Planning (May 21st, 2002)

Office of Hawaiian Affairs ACTION ITEM

Action Item Code:	<u>PP-17</u>	
Meeting:	Committee on Policy and Planning	
Date:	May 21, 2002	
Prepared by:	In this	05-16
. ,	Crayn Akina, Trustee Aide	Date
Reviewed by:	agaw. Doin	
-	Clyde W. Namu`o, Administrator	Date
Reviewed by:	A Within 11	- 85-16
	Trustee John Waihe'e IV, Chair	Date
	Committee on Policy and Planning	

I. Action

To amend the Office of Hawaiian Affairs (OHA) *Policy and Procedures Manual* (Jan. 1991)

- Section
- 2.0 Powers and Duties of Trustees
- Subsection 2.5 Program Priorities

to the following:

"The OHA Board of Trustees shall set program priorities[.] <u>as established by</u> OHA's Master Plan through an integrated process of strategic planning, community input, and program evaluation through the Performance & Program Budget (PPB) and Total Operating Budget (TOB) process."

II. Issue

Shall OHA amend its *Policy and Procedures Manual* (Jan. 1991), Section 2.0 Powers and Duties of Trustees, Subsection 2.5 Program Priorities (Attachment A) to assure that the process of planning in OHA: 1) includes and involves all stakeholders, and 2) is systemized within the structure of OHA?

III. Discussion

A. Background

In February of 2001, OHA led by its Board of Trustees (BOT), began a strategic planning process that sought the input and involvement with as many of its stakeholders and partners as possible. The Strategic Planning process took the following steps:

1. Trustee Directives

In the beginning stages of the effort, a series of workshop meetings were conducted where Trustees brainstormed "Trustee-driven" Priorities for OHA (16 Total). Results from these workshops were documented and sorted. The Board then formulated and formally adopted:

- a) a Vision Statement, and
- b) a Mission Statement
- 2. Community Meetings

The Vision Statement, Mission Statement, OHA Budget, and Trustee Priorities were presented to the community for review and comment via 15 statewide community meetings. With 329 individuals in attendance, community brainstorming resulted in 284 "Community-driven" Priorities to supplement priorities produced by Trustees.

3. Research

Two research devices were launched to gain further input and feedback. More importantly the research sought to validate the direction of OHA's Strategic Planning efforts, according to beneficiaries.

- a) The first research method was a Printed Survey conducted through the Ka Wai Ola o OHA resulting in 45 responses
- b) The second method was a Telephone Survey (where respondents, when first-asked what ethnicity they were, answered "Hawaiian", and therefore qualified themselves for the survey). SMS Research conducted research with 802 responses.

In the end, the research validated the Strategic Planning effort as the data gathered proved that, for the most part, Trustees and its beneficiaries were in concert on issues / concerns / priorities.

4. Working Groups

Next, the Strategic Planning Core Group (Core Group), as a Boardapproved entity, combined all priorities identified by both Trustees and the community and categorized them into the following areas of concentration:

- Advocacy
- Culture
- Economic Development
- Education
- Environment & Resources Management
- Nationhood
- Policy
- Social Services
- Values and Principles (OHA Internal Working Group)

The Core Group then organized "Working Groups" based on these themes. Working Groups consisted of 50 individuals from the community who were organized into the groups mentioned above. Members were matched to a specific Working Group according to their background / work / expertise. Priorities were forwarded to these Working Groups where they would review the priorities and discuss proposals.

After discussions, each Working Group submitted a final written report to the Core Group. From these documents, Goals and Goal Statements were developed and submitted to the Trustees for approval.

5. Approval of Goals

On January 10, 2002, Trustees approved the Goals (10 total) of the OHA Strategic Plan (Attachment C). These goals were then taken back into the community where a series of meetings was conducted to inform the community on the status of the planning effort.

- Approval of First Year Action Plan On April 4, 2002, Trustees approved the First Year Action Plan of the OHA Strategic Plan (Attachment D).
- Commencement of Strategic Plan On July 1, 2002, the OHA Strategic Plan will formally commence in synchronous fashion with the OHA fiscal year.
- B. Initiative of the Strategic Planning Core Group

The Core Group initiated this amendment proposal in their February 26, 2002 meeting.

With the advent of the OHA Strategic Plan, Core Group discussions focused on systemizing the process of planning at OHA. The Core Group felt that by amending subsection 2.5 Program Priorities, OHA Programs would be driven by the strategic plan, the community, and the budgeting

process. The amendment would therefore assure stakeholder involvement and systemize the process within the structure of OHA.

C. Linking the Strategic Plan and Budget Process

On March 7, 2002, the BOT approved the Performance and Program Budgeting (PPB) Approach (Attachment E). The purpose of the PPB approach was to:

- 1) link the Strategic Plan to the budget, and
- 2) complement the Total Operating Budget (TOB) approach already practiced by OHA.
- D. Benefits of the Integrated Planning Process (involving OHA, Community, and the Budgeting Process)

The Integrated Planning Process, experienced with the Strategic Planning effort, benefits both OHA and the community. Both parties in this exchange have gained from their shared collaborations.

The planning process with the commencement of the Strategic Plan should be dynamic and on-going. With the passage of this amendment, OHA would institutionalize:

- Kākou: We work together, unified to accomplish our mission, and
- Po`okela: We do our absolute best and continuously seek improvement

IV. Alternatives

- A. Amend the Office of Hawaiian Affairs (OHA) *Policy and Procedures Manual* (Jan. 1991)
 - Section 2.0 Powers and Duties of Trustees
 - Subsection 2.5 Program Priorities

to the following:

"The OHA Board of Trustees shall set program priorities[.] <u>as established</u> by OHA's Master Plan through an integrated process of strategic planning, community input, and program evaluation through the Performance & Program Budget (PPB) and Total Operating Budget (TOB) process."

- B. Amend the Office of Hawaiian Affairs (OHA) *Policy and Procedures Manual* (Jan. 1991)
 - Section 2.0 Powers and Duties of Trustees
 - Subsection 2.5 Program Priorities

to include only the planning and budget process, without community input as follows:

"The OHA Board of Trustees shall set program priorities[.] <u>as established</u> by OHA's Master Plan through an integrated process of strategic planning and program evaluation through the Performance & Program Budget (PPB) and Total Operating Budget (TOB) process."

- C. Amend the proposed Amendment on the Committee's terms
- D. Do not amend the OHA Policy and Procedures Manual (Jan. 1991)

V. Recommended Action

Amend the Office of Hawaiian Affairs (OHA) *Policy and Procedures Manual* (Jan. 1991)

- Section 2.0 Powers and Duties of Trustees
- Subsection 2.5 Program Priorities

to the following:

"The OHA Board of Trustees shall set program priorities[.] <u>as established</u> by OHA's Master Plan through an integrated process of strategic planning, community input, and program evaluation through the Performance & Program Budget (PPB) and Total Operating Budget (TOB) process."

VI. Timeframe

Immediate action is recommended.

VII. Funding Source

No additional funds are required.

VIII. Attachments

Attachment A:	OHA Policy and Procedures Manual (Jan. 1991) section 2.0 Powers and Duties of Trustees
	subsection 2.5 Program Priorities
Attachment B:	HRS 10-5(4)
Attachment C:	Board of Trustees Minutes, January 10, 2002
Attachment D:	Board of Trustees Minutes, April 4, 2002
Attachment E:	Board of Trustees Minutes, March 7, 2002



OHA POLICY AND PROCEDURE MANUAL

January 1991

ATTACHMENT A

2.2 Administration of Trust Assets

In the administration of trust assets, the Board of Trustees shall act in a reasonable and prudent manner according to the highest fiduciary standards

applicable to private Trustees.

Justification: Section 10-5(2), Hawaii Revised Statutes

2.3 Investment of Funds

In the investment of funds, the Board of Trustees shall act according to the highest fiduciary standards applicable to private trusts, with the further provision that investments shall not be made in companies substantially involved in nuclear or weaponry contracts, or companies that have a large capital investment in countries that practice apartheid. Justification: Section 10-5(3), Hawaii Revised Statutes

2.4 Policies

All policies formulated by the Board of Trustees shall not diminish or limit the benefits of native Hawaiians under Section 4 of Article XII of the State Constitution, and shall be designed to serve the needs of the Hawaiian community as a whole.

Justification: Section 10-5(4), Hawaii Revised Statutes

2.5 Program Priorities

The OHA Board of Trustees shall set program priorities. Justification: Section 10-5(4), Hawaii Revised Statutes

. . . 4
OFFICE OF HAWAIIAN AFFAIRS

(6) Serving as a receptacle for reparations. [L 1979, c 196, pt of §2; am L 1990, c 304, §4]

Case Notes

Determination of whether damages received by State from illegal sand mining operation was funds derived from a public land trust was a nonjudicial discretion; whether income from sales, leases, or other dispositions of lands surrounding harbors on all major islands, of land on Sand Island, of land on Airport, fell within section was a nonjudicial discretion. 69 H. 154, 737 P.2d 446.

[§10-4] Office of Hawaiian affairs; established; general powers. There shall be an office of Hawaiian affairs constituted as a body corporate which shall be a separate entity independent of the executive branch. The office, under the direction of the board of trustees, shall have the following general powers:

- To adopt, amend, and repeal bylaws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law;
- (2) To acquire in any lawful manner any property, real, personal, or mixed, tangible or intangible, or any interest therein; to hold, maintain, use, and operate the same; and to sell, lease, or otherwise dispose of the same at such time, in such manner and to the extent necessary or appropriate to carry out its purpose;
- (3) To determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to the office of Hawaiian affairs;
- (4) To enter into and perform such contracts, leases, cooperative agreements, or other transactions with any agency or instrumentality of the United States, or with the State, or with any political subdivision thereof, or with any person, firm, association, or corporation, as may be necessary in the conduct of its business and on such terms as it may deem appropriate;
 (5) To execute, in accordance with its bylaws, all instruments necessary or
- (5) To execute, in accordance with its bytaws, an instantion incompany appropriate in the exercise of any of its powers; and
- (6) To take such actions as may be necessary or appropriate to carry out the powers conferred upon it by law. [L 1979, c 196, pt of §2]

§10-5 Board of trustees; powers and duties. [Validity of 1990 amendment and retroactivity to June 16, 1980. L 1990, c 304, §§16, 18.] The board shall have the power in accordance with law to:

- (1) Manage, invest, and administer the proceeds from the sale or other disposition of lands, natural resources, minerals, and income derived from whatever sources for native Hawaiians and Hawaiians, including all moneys received by the office equivalent to that pro rata portion of the revenue derived from the public land trust referred to in section 10-2;
- (2) Exercise control over real and personal property set aside to the office by the State of Hawaii, the United States of America, or any private sources, and transferred to the office for native Hawaiians and Hawaiians;
- (3) Collect, receive, deposit, withdraw, and invest money and property on behalf of the office;
- (4) Formulate policy relating to the affairs of native Hawaiians and Hawaiians, provided that such policy shall not diminish or limit the benefits of native Hawaiians under Article XII, section 4, of the state Constitution;
- (5) Otherwise act as a trustee as provided by law;

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ATTACHMENT B

Trustee Stender and Trustee Akana. He offered to expedite and support the NHRLF effort with the support and joint effort of Trustees Akana and Stender, who have experience with the Administration for Native Americans. Finally he echoed the comments of Trustee Ota.

Trustee Dela Cruz also congratulated Park on the decrease in delinquency rates and noted the NHRLF report was excellent.

UNFINISHED BUSINESS -STRATEGIC PLANNING

Trustee Waihe'e MOVED, SECONDED by Trustee Ota to approve the goals, for the Office of Hawaiian Affairs Strategic Plan.

Trustee Akana MOVED, SECONDED by Trustee Ota to AMEND the motion to read to approve the goals for the Office of Hawaiian Affairs Strategic Plan subject to the completion of the action plan. The plan should be reviewed by the Board by at least a biennial basis.

A vote was taken: Trustee Akana Yes Trustee Stender Yes Trustee Dela Cruz Yes Trustee Waihe'e, IV Yes Trustee Ota Yes Chair Hee Yes AMENDMENT CARRIED UNANIMOUSLY. To AMEND the motion to read, "To approve the goals for the Office of Hawaiian Affairs Strategic Plan subject to the completion of the action plan. The plan should be reviewed by the Board by at least a biennial basis".

Trustee Akana MOVED, SECONDED by Trustee Stender to AMEND goal nine entitled Land and Housing to read, "By 2003 OHA shall have increased the percentage of its investment in real estate by no less than 15% and shall develop strategies to enhance the use of these assets to benefit the Native Hawaiian people".

A	vote	was	taken:	
---	------	-----	--------	--

A wata waa ta haw

Trustee Akana	Yes	Trustee Stender	Yes
Trustee Dela Cruz	Yes	Trustee Waihe'e, IV	Yes
Trustee Ota	Yes	Chair Hee	Yes

AMENDMENT CARRIED UNANIMOUSLY. To AMEND goal nine entitled Land and Housing to read, "By 2003 OHA shall have increased the percentage of its investment in real estate by no less than 15% and shall develop strategies to enhance the use of these assets to benefit the Native Hawaiian people".

A vote was taken:			
Trustee Akana	Yes	Trustee Stender	Yes
Trustee Dela Cruz	Yes	Trustee Waihe'e, IV	Yes
Trustee Ota	Yes	Chair Hee	Yes
MAIN MOTIN CARRIE	D UNANI	MOUSLY AS AMENDED.	To approve the goals

for the Office of Hawaiian Affairs Strategic Plan subject to the completion of the action

Board of Trustees Meeting Minutes, January 10, 2002, Page 3 of 7

ATTACHMENT C

Trustee Machado: I have nothing further to add except that no decision-making was done in executive session.

Chairperson Apoliona:

Okay members, going back to our agenda. We are at VI. B. and I will recognize Trustee Cataluna.

VI. NEW BUSINESS B. STRATEGIC PLAN

B. STRATEGIC PLAN – ACTION PLANS

MOTION

U.

Trustee Cataluna:	Thank you Madame Chair. I <u>move to adopt the first year action plan of the OHA</u> <u>Strategic Plan.</u>
Trustee Waihee:	Second.
Chairperson Apoliona:	Okay, discussion members? This is inclusive of the corrected sheets that were provided by the Administrator. If there is no
Trustee Cataluna:	And as per discussions we had a special briefing session on
Chairperson Apoliona:	On Tuesday.
Trustee Cataluna:	Tuesday.
Chairperson Apoliona:	It's been seconded by Trustee Waihee. Any discussion members? Hearing none can I have a roll call vote?

ROLL CALL VOTE

MOTION

move to adopt the first year action plan of the OHA Strategic Plan.

TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
TRUSTEE ROWENA	AKANA			YES			
TRUSTEE DONALD	CATALUNA	1		YES			
TRUSTEE LINDA	DELA CRUZ			YES			
TRUSTEE CLAYTON	HEE		-				EXCUSED
TRUSTEE COLETTE	MACHADO			YES			LAUGED
TRUSTEE CHARLES	OTA			YES		<u> </u>	
TRUSTEE OSWALD	STENDER		1	YES			
TRUSTEE JOHN	WAIHEE		2	YES			
CHAIRPERSON HAUNANI	APOLIONA			YES			
TOTAL VOTE COUNT							

MOTION: [X] UNANIMOUS [] PASSED [] DEFERRED [] DIED [] FILED

Chairperson Apoliona: Motion passes. Congratulations Mr. Administrator.

Trustee Machado: And Trustee Cataluna...

Chairperson Apoliona: The continuing work begins...

Trustee Cataluna: And Trustee Waihee...

Chairperson Apoliona: ...and Trustee Waihee and all the Trustees. Okay moving to the Committee on Budget & Finance, Trustee Stender.

Office of Hawallan Affairs Board of Trustees Meeting Minutes, Thursday, April 4, 2002

well known through out the state. He is a Hawaiian. I know that from his heart that he cares and wants to do more for his people.' And this would be ideal for him to work towards this approach in housing. David Hulihee is ranked the top ten, he might be the number one person next the Fletcher in the construction industry. Royal Construction has an excellent reputation and their all-union people. Louis Kau works for the land reality arm of Kamehameha Schools Bishop Estate. He was the point of contact when I was the chair of B&F worked with to finalize the plans for Ku Lana O liwi. And the final payments that took place for that project. So I know he is familiar and he too like David is part Hawaiian. And they too are constantly looking at giving back to the community and to his people. Leatrice Kauahi is a member of a very prestigious bank. She is also Vice-President. She is a young, I couldn't say young cause she is middle age but she is a Hawaiian woman...

Trustee Stender:

That's young ...

Trustee Machado:

...she is a Hawaiian woman in this field of finance and financial banking. She too has constantly giving to the Native Hawaiian Revolving Loan Fund. With her service as an Alu Like Board member. Gary Yee who I do not know but in reviewing his resume has an impeccable background as an architect. We should be proud of this list and I really want Kali Watson and Quality Homes to move on. I don't want to be that individual that would attempt to hold back this process. This needs to be in place as part of our condition. So I will be supporting these individuals because they are a wonderful group and we should be pleased that they are willing to serve with Kali on a limited partnership, LLC with...on behall of the Office of Hawaiian Affairs.

Chairperson Apoliona:

Are there any other discussion members? Hearing none can I have a roll call vote on the motion?

ROLL CALL VOTE

MOTION:

<u>move to approve the appointment of Frank Brandt, David Hulihee, Louis</u> <u>Kau, Leatrice Kauahl, and Gary Yee as Office of Hawalian Affairs</u> <u>representatives on the board of directors of Quality Homes of the Pacific,</u> <u>LLC.</u>

TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
TRUSTEE ROWENA	AKANA			YES WRESERVATIONS			
TRUSTEE DONALD	CATALUNA			YES			1
TRUSTEE LINDA	DELA CRUZ			YES			
TRUSTEE CLAYTON	HEE			YES			
TRUSTEE COLETTE	MACHADO		2	YES			
TRUSTEE CHARLES	OTA	1		YES			
TRUSTEE OSWALD	STENDER	1		YES			
TRUSTEE JOHN	WAIHEE	1		YES			*
CHAIRPERSON HAUNANI	APOLIONA			YES			
TOTAL VOTE CO	UNT			9	0	0	0

MOTION: [X] UNANIMOUS [] PASSED [] DEFERRED [] DIED [] FILED

Chairperson Apoliona: Motion passes, congratulations Kali. Going to VI. D. 1., Trustee Stender.

<u>VI.</u>	NEW BUSINESS
D.	JOINT MEETING OF COMMITTEES ON BUDGET AND FINANCE & POLICY AND PLANNING
1.	OHA STRATEGIC PLAN PERFORMANCE AND PROGRAM BUDGETING APPROACH

MOTION

Trustee Stender: Madame Chair your committee at a Budget and Finance and Policy and Planning had a joint meeting this moming. Reviewed the subject matter and move to adopt the Performance & Program Budgeting approach to complement OHA's existing Total operating Budget approach, wherein beginning Fiscal Year 2003, all OHA expenditures are lined to OHA's Strategic Plan and program evaluation to the budgeting process.

Chairperson Apoliona: Trustee Waihee.

Trustee Waihee: Second.

Chairperson Apoliona: Discussion members? Hearing none, can I have a roll call vote?

ROLL CALL VOTE

MOTION:

move to adopt the Performance & Program Budgeting approach to complement OHA's existing Total operating Budget approach, wherein beginning Fiscal Year 2003, all OHA expenditures are lined to OHA's Strategic Plan and program evaluation to the budgeting process.

TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA Abstain	EXCUSED
TRUSTEE ROWENA	AKANA					ABSTAIN	
TRUSTEE DONALD	CATALUNA			YES			
TRUSTEE LINDA	DELA CRUZ			YES			
TRUSTEE CLAYTON	HEE				NO		
TRUSTEE COLETTE	MACHADO	1		YES			
TRUSTEE CHARLES	ΟΤΑ		1	YES			
TRUSTEE OSWALD	STENDER	1		YES	1		
TRUSTEE JOHN	WAIHEE	1	2	YES			
CHAIRPERSON HAUNANI	APOLIONA			YES			
TOTAL VOTE CO	DUNT			7	1	1	0

MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] DIED [] FILED

Chairperson Apoliona: Motion passes. Moving to Committee on Program Management. Trustee Dela Cruz.

VI

NEW BUSINESS COMMITTEE ON PROGRAM MANAGEMENT

	Alian REVOLVING LOAN FUND (NHRLF) ADVISORY BOARD OF DIRECTORS
Vice Chair Dela Cruz:	Wait, were are we?
Chairperson Apoliona:	VI. E. 1.
Vice Chair Dela Cruz:	<u>Move to approve the submission to the Administration for Native Americans (ANA), of a list of names to serve on the Native Hawaiian Revolving Loan Fund (NHRLFO Advisory Board of Directors. The list of names consist of Ainsley A. Ahio, Teresa Bright, Harvey H. McInerny Jr., Robert N.E. Piper, Christine Van Bergelik, and Aaron E. Lorenzo. Names from this list will be selected to fill any vacancies that may arise upon the expiration of terms or resignation of existing advisory board members.</u>
Chairperson Apoliona:	Trustee Cataluna.
Trustee Cataluna:	<u>Second.</u>

OFFICE OF HAWAIIAN AFFAIRS

Action Item

Committee on Resource Management

September 26, 2018

RM # 18-12

APPENDIX 4

Action Item , Performance & Program Budgeting, Joint Committee on Policy & Planning and Budget & Finance (March 7th, 2002)

OFFICE OF HAWAIIAN AFFAIRS Action Item

Joint Committee on Policy & Planning and Budget & Finance March 7, 2002

Action Item Issue:

Performance & Program Budgeting

1

Prepared by:

Reviewed by:

 \overline{v}_{i}

Joan M. Ball	8-27-08
Joan M. Bolte, CFO	Date
Olyene Notice	FEB 2 8 2002
Clyde W. Namu`o, Administrator	Date
1 When 1	278
John Waihe'e IV, Policy & Planning Chairman	Date
Cerpen: Nom	MAR 2002
The Oswald Stender, Budget & Finance Chairman	Date
U .	

Approved by:

Approved by:

I. Action Item:

To adopt the Performance & Program Budgeting approach to complement OHA's existing Total Operating Budget approach, wherein beginning in Fiscal Year 2003, all OHA expenditures are linked to OHA's Strategic Plan and program evaluation to the budgeting process.

II. Issue:

Whether the Office of Hawaiian Affairs should adopt the Performance & Program Budgeting approach.

III. Discussion:

A. BOT approved Strategic Plan Goals

On January 10, 2002, the Board of Trustees of the Office of Hawaiian Affairs (OHA) passed the following ten (10) Strategic Plan Goals:

Advocacy-Native Rights

By 2007 OHA shall have devised and implemented strategies to protect Native Hawaiian rights and entitlements and secured at least one significant legal outcome; created a legal mechanism to assure a predictable on-going revenue stream from the Public Land Trust; and ensured the settlement of the blood quantum issue.

Culture

By 2004 OHA shall have drafted a plan that identifies and provides solutions to safeguard endangered traditions, practices and rights, and subsequently put into practice steps that will protect, re-establish and enhance Hawaiian cultural assets by the year 2007.

Economic Development

By 2007 OHA's investment in the creation and retention of wealth for Native Hawaiians shall have: 1) impacted at least 7% of the total statewide Native Hawaiian population by improving economic solvency and 2) accounted for a return on investment to OHA "equal or greater than the cost of capital used to fund the activity and/or OHA's current rate of return (total fund) from the Native Hawaiian Trust Fund."

Education

By 2007 OHA shall have assisted 28,750 Native Hawaiians to achieve age appropriate literacy.

Environment-Natural Resources

By 2007 OHA shall have protected natural and cultural resources through the adoption of stewardship standards by 5 public and 10 private entities as evidenced by research, studies and partnerships; and the enactment of new laws, ordinances and rules.

Nationhood

By 2007 OHA shall have assisted, coordinated and enabled the creation of a unified Hawaiian Nation.

Policy

By 2007 OHA shall have initiated, collaborated, partnered and advocated with other agencies and organizations through five Memoranda of Agreements that will commit the signatories to act assertively together on behalf of their beneficiaries-in-common.

Social Services

By 2007 OHA shall have improved the quality of life for 17,500 Native Hawaiians in the areas of food, shelter, and safety.

Land and Housing

By 2003 OHA shall have increased the percentage of its investment in real estate by no less than 15% and shall develop strategies to enhance the use of these assets to benefit the Native Hawaiian people.

Health

By 2007 OHA shall have collaborated with other Native Hawaiian health care providers to increase the acquisition of resources from federal, state, counties and others, to address the health care needs of Native Hawaiians with particular focus on the needs of the aged and elderly, including but not limited to prevention, treatment, education, and other needs.

The proposed Performance & Program Budgeting (PPB) approach attempts to measure the efficiency and effectiveness of the Office of Hawaiian Affair's (OHA) objectives in meeting the above referenced Strategic Plan Goals. PPB recognizes the value of incorporating planning and evaluation (*through outcome and performance measures*) into OHA's accountability systems. Although the concept of PPB is not new, what is innovative is the movement to link planning and program evaluation to the budgeting process. The discussion below is a mix of several different models currently being utilized within the United States:

B. Perspective of Performance & Program Budgeting

ANOTHER WAY OF LOOKING AT OHA'S ACTIVITIES

I. DIVISIONS HRS PROGRAM & CONSTITUTION AREAS BOARD OF TRUSTEES ADVOCACY-NATIVE RIGHTS **ADMINISTRATIVE** CULTURE HAWAIIAN RIGHTS ECONOMIC DEVELOPMENT PROGRAM SYSTEMS GROUP EDUCATION ENVIRONMENT - NATURAL RESOURCES NATIONHOOD POLICY SOCIAL SERVICES AND & HOUSING HEALTH

C. Advantages of Performance & Program Budgeting

PPB promotes and fosters a process that results in maximizing efficiency and effectiveness in the Office of Hawaiian Affairs (OHA). Through the recent January 10, 2002 BOT establishment of program priorities, outcome measures and elimination of service duplication can be achieved. PPB provides for the enhancement of:

1. Trustee, Community, and Legislative decision-making

- Groups activities sharing similar purposes
- Allows evaluation of activities by outcomes
- Provides for an interdepartmental overview of activities
- Allows trustees and legislators to set informed priorities
- 2. Managerial accountability
 - Specifies outcomes, objectives and activity levels
 - Allows comparisons among similar objectives
- 3. Specified objectives and strategies
 - Defines measurable objectives as steps toward designated outcomes
 - Identifies strategies for achieving objectives
 - Relates strategies to outcomes and activities to strategies
- 4. Flexible budget presentation
 - Provides overview of all activities in an area for setting priorities
 - Displays budget funds and details department activities for managers and specialists
 - Ensures that the right questions are asked
 - Directs attention to program outcomes and their relationship to departments and funds
- 5. **Program evaluation**
 - Provides a basis for short-term management and long-term evaluation
 - Clarifies the purpose of a given set of activities
 - Presents criteria by which achievements can be assessed
 - Provides better direction to program managers

- Encourages divisions to improve program performance
- Provides measures of results
- D. Steps to Performance & Program Budgeting
 - <u>Identify Program Areas</u>, representing the major service commitments of OHA. This step was accomplished and solidified by the BOT on January 10, 2002 on Lana`i.
 - Delineate each program area into hierarchical outline of goals, objectives, activities, and projects to provide greater accountability to intent and policies. OHA's ongoing strategic planning efforts provide the basis for developing the outlines.
 - <u>Classify all OHA services/activities and supporting budget funds to an</u> <u>objectives, activities, or projects</u>. Develop a program classification accounting code to delineate each objective, activity, and element. Assign all OHA funds with a program classification code. Requirements, receipts, expenditures, objectives, and outcomes, will be tracked by program classification codes.
 - 4. <u>Conduct strategic/performance Administrative planning</u>. An Operations Manual is conducted in concert with program planning (by Program Area). The Operations Manual is the foundation used to implement programs. Strategic/performance planning is at least a four-step process incorporating the following tasks:
 - <u>Convene divisions/units serving similar beneficiaries needs or</u> <u>expected outcomes</u> to improve collaboration and help avoid gaps and overlap in services. Identify target populations and expected outcomes.
 - <u>Identify emerging trends and factors</u> and the effects these trends and factors have on workload, program operations and expected outcomes.
 - Identify objectives and outcome measures. Divisions set their own objectives and outcome measures, then collaborate with other divisions serving similar beneficiary needs or expected outcomes for the purpose of coordination.
 - Identify strategies, activities, and innovations for achieving objectives and improving services. Strategies show the different types of activities used to accomplish objectives. Innovations represent new ideas (*with current funding levels*) for making services more effective or efficient.

5. <u>Ensure that OHA's planning process includes and involves all</u> <u>stakeholders</u> and is systematized within the structure of OHA.

E. Planning Outputs for Performance & Program Budgeting

The proposed Performance Planning process would produce 12 outputs that could be incorporated in the Office of Hawaiian Affairs Operations Plan and the Performance & Program Budget documents. Three outputs are incorporated in each of the documents and provide a link between them: program objectives, outcome measures, and funds supporting objectives.

Performance Planning Outputs	OHA's Operations Manual (proposed)	Program Budget	Category Budget
Mission Statement	X		
Division Goals	X		
Trends and Implications	X	Х	
Beneficiaries	x	X	
Expected Outcomes		Х	X
Program Objectives	x	Х	X
Administrative Objectives	X		
Outcome Measures	X	Х	X
Performance Measures		Х	X
Funds Supporting Objectives	X	Х	X
Strategies/Activities	X	X	

Innovations		
	Х	

F. Classification Structure of Performance & Program Budgeting

The Performance Budget provides information in an orderly presentation progressing from the general concept to a specific focus.



*"Program Area" refers to a group of functions sharing a common purpose. Also, these functions are not limited to any one division; they may involve several divisions working together toward the achievement of a single goal.

Some objectives will have no further division into activities, while others may have activities that are further divided into projects. The specific breakdowns of the objectives depends upon the purposes expressed in OHA's strategic plan, Hawaii Revised Statues, rules & regulations, and Board of Trustees policies.

The intention is to make objectives broad enough to encompass activities and

projects that:

- Share a common purpose;
- Have common or similar outcome measures; and
- Can be analyzed and evaluated by similar methods.
- G. Performance Budgeting Accounting

The intent for OHA's FY:03 portion of the Total Operating Budget (TOB) is to have each budget fund linked to a program number, with an objective of minimizing split funds. If the PPB approach is accepted by the BOT in a timely fashion, it may be possible to integrate this change within OHA's Oracle Financial accounting system. The change will not affect the biennium TOB budget passed for FY:02 and FY:03; however, we will need to link any assigned PPB numbering system with Oracle's account code string.

H. Key Documents of Performance & Program Budgeting

Four key documents are associated with Performance & Program Budgeting:

1. Biennium Total Operating Budget (TOB)

This document serves as the base budget upon which the Performance & Program Budgeting approach is applied. Currently, OHA's Total Operating Budget (TOB) for FY:02 & FY:03, the category-budget (Attachment A), is and will continue to be the approved budget. There are four (4) divisions, which include all of the budget funds used to support OHA's operations, in compliance with OHA's Spending Policy. The four divisions correspond to four (4) legislative divisions established for the biennium fiscal years of 2001-2002 and 2002 - 2003. The funds in each division are grouped by categories, and include expenditures, providing the basis for fiscal control. Fiscal information is presented by "categories of expenditure" rather than by specific "objects of expenditure." OHA funds are appropriated by categories rather than by objects, except for general funds, which provides division managers greater flexibility in administering their funds.

2. Performance & Program Category Budget, by Program Area (Goal)

This summary document is considered an overlay budget to the Total Operating Budget (TOB). The four divisions' resources approved through the TOB process are allocated to the ten (10) program areas (goals). Attachment **B** is an illustrative template of a "Budget Summary for All Program Areas (goals)" for Fiscal Year 2003. All of the funds will be cross-referenced to the objectives they support. This format clearly shows how funds from different divisions are sometimes classified together if they address a similar goal (program area).

3. Performance & Program Budget, by Division

This document groups budget information by program area (goals) and provides policy-related information on the purpose and intent of funds. There are ten (10) program areas, each representing a broad sector of services. Within each program area, funds are classified by objective, activities or projects, each addressing a type of policy issue, such as "native rights" or "access to social services." Attachment C is an illustrative template for one of the program area, "policy" for Fiscal Year 2003. Attachment D provides an example of the type of information that would be submitted to the Board of Trustees as supporting documentation to the Performance & Program Budget for approval by the Budget & Finance Committee and the Board of Trustees.

4. OHA Operations Manual

This document is intended to provide operational plans for each of the principle divisions in OHA. The manual should describe specifically how (*through strategies and activities*) each division's program objectives are being addressed by the division/unit. In addition, the manual should show what innovations are planned over the next five years to improve the performance of the division or program activities. Both the division and program budget documents should be cross-referenced to the OHA Operations Manual.

I. Cross-References

Certain reference points are used to link the *Performance & Program Budget documents* with each other and with the *OHA Operations Manual*. Reference points include: program objectives, outcome measures (*values only shown in budget documents*), supporting funds, and Performance & Program Budget codes.

IV. Alternatives:

- A. Adopt the Performance & Program Budgeting Approach as a means of linking the Strategic Plan and evaluations to the budgetary process;
- B. Modify and/or replace with another approach that attempts to measure the efficiency and effectiveness of objectives and links objectives and evaluations to the budgetary process.
- C. Reject the Performance & Program Budgeting Approach and use no means of linking the Strategic Plan and evaluations to the budgetary process.

V. Recommended Action:

To adopt the Performance & Program Budgeting approach to complement OHA's existing Total Operating Budget approach, wherein beginning in Fiscal Year 2003, all OHA expenditures are linked to OHA's Strategic Plan and program evaluation to the budgeting process.

VI. Timeframe:

Immediate action is recommended.

VII. Funding Source:

No additional funds are required, the Performance & Program Budgeting approach is a budget overlay to the existing FY:02 & FY:03 Total Operating Budget (TOB) and future biennium TOB's.

VIII. Attachments

- A. FY:02 & O3 Total Operating Budget
- B. Performance & Program Category Budget, by Program Area (sample)
- C. Performance & Program Budget, by Division (sample)
- D. Performance & Program Budget Supporting Documentation (sample)

Office of Hawaiian Affairs 560 N Nimitz Hwy. Ste. 200 Honolulu, HI 96817 Roll Call Vote Sheet – ACTION ITEM

Committee on Resource Management	DATE: September 26, 2018 Motion: Vote:	
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AGENDA ITEM: IV. New Business

B. RM #18-12: Amendments to OHA's Board of Trustees Executive Policy Manual related to budget preparation, budget format, and budget reporting requirements.

Motion/Action:

To update the budget preparation, format and reporting requirements by approving amendments to the Executive Policy Manual ("Policy Manual") and Board of Trustees Operations Manual ("Operations Manual") as described in Attachments "A" and "B" <u>excluding the amendments on Fiscal Transparency</u> 3.4.k through 3.4.l in Attachment "A" and "C".

AMENDMENT:

MEANS OF FINANCING:

TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEI	AHU ISA			X			
DAN	AHUNA						X
ROWENA	AKANA						X
KELI'I	AKINA		X	X			
PETER	APO			X			
ROBERT	LINDSEY				Х		
COLETTE	MACHADO			X			
JOHN	WAIHE'E	X		X			
CHAIR HULU	LINDSEY			X			
TOTA	L VOTE COUNT			6	1		

MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED

Office of Hawaiian Affairs Board of Trustee Meeting October 11, 2018 10:00 am

V. New Business

B. Discussion and deliberations on the findings and recommendations (Report) of the Ad Hoc Committee on Grants and Sponsorships re: Trustee Sponsorship and Annual Allowance Fund *pursuant to HRS § 92-2.5(b)(1)(C)*

Please insert the Report by the Ad Hoc Committee on Grants and Sponsorships related to the Trustee Sponsorship and Annual Allowance Fund distributed in the October 2, 2018 Board of Trustees meeting folder.





2018 SEP 21 P 5:46

OFFICE OF HAWAIIAN AFFAIRS Interoffice Memorandum

DATE:	September 20, 2018
TO:	OHA Board of Trustees
FROM:	Trustee Colette Y. Machado Chair, Ad Hoc Committee on Grants and Sponsorships
SUBJECT:	Findings and Recommendations from the Ad Hoc Committee on Grants and Sponsorships related to the Trustee Sponsorship and Annual Allowance Fund

Background

Since 1991, the Office of Hawaiian Affairs ("OHA") has made individual annual allowance funds available to each Trustee on the Board of Trustees ("BOT"). In 1993, these funds were codified through the passage of legislation at the Hawai'i State Legislature, with language allowing for Trustee use of a protocol allowance being placed into Section 10-9, Hawai'i Revised Statutes. This purpose of this fund was expanded by BOT action in 2013 to include a sponsorship allowance, creating the Trustee Sponsorship and Annual Allowance Fund ("TSAAF").

On August 1, 2017, the OHA BOT approved the formation of the Ad Hoc Committee on Grants and Sponsorships ("Ad Hoc Committee"), with Trustee Colette Y. Machado as Chair, Trustee John Waihe'e IV as Vice Chair, and David Laeha, Lōpaka Baptiste, Misti Pali-Oriol, and Monica Morris as members, passed with six yes votes and three excused absences. The Ad Hoc Committee was created consistent with Hawai'i Revised Statutes§92-2.5(b)(1). The TSAAF is under the purview of this Ad Hoc Committee.

The issuance of the State Auditor's Report No. 18-03 in February 2018, raised an immediate need to review of the TSAAF and CEO-initiated sponsorships. In a proactive response to concerns raised by the Hawai'i State Auditor ("State Auditor") in his report, the BOT took the cautious measure of placing a moratorium on the TSAAF on February 27, 2018. That moratorium, effective February 27, 2018, on both the TSAAF and CEO-initiated sponsorships, also called for the immediate return of the unused balance of each Trustee's TSAAF allotment to OHA. This moratorium remains in effect. The moratorium passed with six yes votes and three no votes.

The Ad Hoc Committee convened, with the assistance of support staff, to review existing policies, review external guidelines, and to discuss a proposed revised policy. This report serves as the Ad Hoc Committee's findings and recommendations for the Trustee allowance.

Dates of Convened Meetings

Thursday, January 25, 2018 Thursday, February 15, 2018 Thursday, March 1, 2018 Thursday, March 15, 2018 Thursday, April 5, 2018 Tuesday, April 10, 2018 Friday, April 27, 2018 Friday, May 25, 2018 Wednesday, July 18, 2018 Tuesday, August 14, 2018 Tuesday, August 28, 2018 Thursday, September 14, 2018

Support Staff and Research Materials

In addition to the Ad Hoc Committee members, several members from the Administration staff were present at meetings to provide support in subject matter expertise and in program operations knowledge. These staff members were Everett Ohta from Corporation Counsel, Controller Gloria Li, and Public Relations Officer Sterling Wong. BOT staff Melissa Wennihan, Crayn Kauahi Akina, Carol Ho'omanawanui, Laurene Kaluau-Kealoha, and Dayna Pa provided logistical and technical support.

The Ad Hoc Committee studied, examined, and consulted with a variety of existing materials and publications. These included existing internal OHA policies, as well as those related to allowance expenditures for elected officials of other legislative bodies. These materials are:

- Section 10-9, Hawai'i Revised Statutes https://www.capitol.hawaii.gov/hrscurrent/Vol01_Ch0001-0042F/HRS0010/HRS_0010-0009.htm
- Action Item ARM #13-11, "Approval of BOT Executive Policy Amendment relating to Trustee Sponsorship and Annual Allowance Fund as shown in Attachment "A" and Corresponding and Conforming Changes to BOT Executive Policies as shown in Attachment "B"
- Action Item PP-09.01, Committee on Policy & Planning (March 30, 2001) (not adopted).
- OHA Trustee Sponsorship and Annual Allowance Fund, Internal Guidelines and Procedures, May 2016
- Report No. 18-03, Audit of the Office of Hawaiian Affairs, A Report to the Governor and the Legislature of the State of Hawai'i, February 2018 http://files.hawaii.gov/auditor/Reports/2018/18-03.pdf
- Hawai'i State Ethics Commission, Application of the State Ethics Code to Use of Legislative Allowance Fund, June 5, 2014 <u>https://ethics.hawaii.gov/wp-</u> content/uploads/2014/06/LegislativeAllowanceFunds.pdf

- Guidelines on the Use of Legislators' Annual Allowance, posted July 24, 2014 http://ethics.hawaii.gov/wp-content/uploads/2014/07/LegAllowance.pdf
- 2015-2016 Administrative and Financial Manual of the Senate, State of Hawai'i, Adopted January 21, 2015 https://www.capitol.hawaii.gov/docs/AdminManual.pdf
- Report No. 12-07, Audit of the Policies and Procedures Relating to the Honolulu City Council's Annual Contingency Allowance, Office of the City Auditor, City and County of Honolulu <u>https://www.honolulu.gov/rep/site/oca/oca_docs/council_annual_contingency_all</u> owance_final_report.pdf

Historical Information

The OHA BOT first established a Trustee allowance on June 28, 1991. The action taken by the BOT established an allowance for each Trustee to cover incidental expenses connected to Trustee functions and duties and adopted governing guidelines. The annual allowance funding was set at \$7,200 per Trustee, allotted on a semi-annual basis. The source of funds was from OHA special funds.

The purposes of the Trustee allowance were (a) To develop and maintain an ongoing communication network with beneficiaries and the general public; and (b) To promote a broader understanding of Hawaiian issues; and encourage participation in the resolution of those issues. Then-BOT Counsel Sherry P. Broder provided the then OHA Administrator with a legal opinion regarding the proper structure and use of the Trustee Annual Allowance on May 29, 1991.

In 1993, a Trustee protocol allowance was added to Section 10-9, Hawai'i Revised Statutes by the Hawai'i State Legislature. The applicable language reads:

[Members of the OHA board:]

(4) Shall be allowed a protocol allowance to cover expenses incurred in the course of a member's duties and responsibilities.

The language to put a Trustee protocol allowance into law was not in the first draft of the authorizing legislation, which originated in the Senate as legislation related to Trustee compensation (salary). Language relating to a Trustee protocol allowance first arose during a House hearing in the House Committee on Hawaiian Affairs. However, the inclusion of this allowance language raised concerns on the floor of the House of Representatives. Representatives spoke both against and in favor of the allowance account, and ultimately, the language passed into law.

In response to the Hawai'i State Auditor's 2001 audit of OHA and concerns regarding the Trustee Allowance Program, the now-inactive Committee on Policy and Planning, chaired by Trustee John Waihe'e IV, pursued a measure which would have made the Trustee allowance a

reimbursable fund. That action did not receive the votes to pass Committee, and did not advance to the BOT for consideration.

In 2013, the BOT expanded the use of the fund with the passage of ARM #13-11, in response to Trustees' desires to provide funds to recipients who were otherwise ineligible for OHA grants. The combined fund of allowances and sponsorship funds is the present-day TSAAF of \$22,200 per Trustee seat.

As previously stated earlier in this report, a moratorium was placed on the TSAAF on February 27, 2018, in response to concerns raised in State Auditor Report No. 18-03.

State Auditor Reviews of OHA Trustee Allowances

In its 2001 audit of OHA, the Hawai'i State Auditor raised concerns regarding OHA's Trustee Allowance Program. The State Auditor found that certain Trustees co-mingled the annual allowance with personal funds; made interest-free personal loans for themselves and family members; spent allowances on questionable expenses; and did not always return unspent annual allowances. The State Auditor noted that "[t]hese trustees appear to have failed to uphold their responsibility of loyalty, and may have instead spent funds of personal needs and interests."

The State Auditor indicated that advancing allowances created issues, and therefore recommended that Trustee allowances be disbursed on a reimbursable basis.

In its 2005 audit of OHA, the State Auditor found that that the same issues identified in the 2001 audit continued. The auditor again recommended disbursing Trustee allowances on a reimbursable basis.

In its February 2018 audit of OHA, the State Auditor found that the rules governing Trustee allowances are "broad and arbitrarily enforced, resulting in many instances of questionable spending." The State Auditor further noted that policies and procedures for the program are "incomplete" and "inconsistent, contradictory, and include undefined terminology, which is subject to varying interpretations by trustees and the Administration." The State Auditor also found that the Administration allowed noncompliant spending.

In both the 2005 and 2018 reports, the State Auditor stated that while trustee allowance expenditures are small and just a fraction of OHA's overall spending, they are reflective of broader issues of how OHA manages trust funds.

In 2018, the State Auditor offered the following recommendations for the Trustee allowance program:

OHA Board of Trustees

1. In general: (page 44)

d. 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.

5. With respect to Trustee Allowances: (pages 46-47)

- a. 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.
- b. 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.
- c. Work with the Administration to more clearly define procedures related to the use and administration of Trustee Allowances.
- d. 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.
- e. 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.
- f. 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.

OHA Administration

5. With respect to Trustee Allowances: (page 48)

- a. Monitor and review trustees' use of Trustee Allowances and ensure expenditures using Trustee Allowances comply with the Trustee Allowances policy.
- b. Establish procedures to more clearly define the Administration's role and procedures for administering and monitoring the use of Trustee Allowances.
- c. Report to the board the specific expenditures approved and reimbursed to each trustee using Trustee Allowances.
- d. 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.

Discussion and Findings

The work of this Ad Hoc Committee to review the TSAAF was considerable. The Ad Hoc Committee acknowledged the importance of considering all the recommendations of the 2018 State Auditor's report, while taking consideration of Trustee expectations, as well as OHA's unique role and how it differs from other elected legislative bodies. In order to have a strong base of comparisons, the Ad Hoc Committee reviewed the policies of other elected bodies, along with current OHA guidelines, Trustee fiduciary duties, the state ethics code, and audits conducted of other governing bodies.

In order to expedite meetings, the Ad Hoc Committee adopted a process in which they agreed to policy concepts, but a smaller team would draft the precise language to match those objectives. The drafted language was brought back to the full Ad Hoc Committee for review and consent. This agreement, and agreement to specific policies in the Ad Hoc Committee's draft policy recommendation, were all unanimous decisions of the Ad Hoc Committee.

The Ad Hoc Committee agreed that the name of the allowance should be the Trustee Protocol Allowance (TPA) to match the purpose of the statutory language contained in Section 10-9 of Hawai'i Revised Statutes. The Ad Hoc Committee agreed that it would recommend reverting to the original purposes of the Trustee allowance – establishing a communication network and promoting a broader understanding and participation in the resolution of Native Hawaiian issues, as recommended by the State Auditor.

The Ad Hoc Committee also decided to recommend that the current level for the TPA be set at \$7,200.00 per Trustee seat, which was the funding level prior to enactment of ARM #13-11.

Importantly, the Ad Hoc recommends that the leftover balance of the budgeted TSAAF funds, which represented the remaining Trustee "sponsorship" portion of the funds, not be reallocated until the BOT takes a future vote on how those remaining funds are to be disbursed. Those funds total \$135,000 (\$15,000 per Trustee seat). Until action is taken, the remaining "sponsorship" funds should remain under continued moratorium

The Ad Hoc agreed that the Trustee Protocol Allowance should be a reimbursable fund, which also satisfies longstanding recommendations of the State Auditor and aligns with the administration of similar allowance funds. The audits of the State Legislature's Legislative Allowance, and the Honolulu City Council's Annual Contingency Allowance provided much direction in suggestable models and summaries of other allowance accounts from other jurisdictions. Across the board, these allowance accounts were not up-front disbursements, but instead reimbursements for allowable expenditures.

Specific allowable and disallowable expenses were drawn from existing internal OHA guidelines as well as from the Legislative Allowance of the Hawai'i State Senate. Conversations with Administration staff also provided areas in which clarity and additional direction was needed for fiscal staff.

The Ad Hoc Committee agreed to create an appeals process was created, which the Ad Hoc Committee believed should also include a review by the Hawai'i State Ethics Commission.

At the suggestion of Trustee John Waihe'e IV, Vice Chair of the Committee, the report was sent to the Hawai'i State Ethics Commission for their review. Additionally, the Ad Hoc Committee unanimously agreed that review should include OHA Corporation Counsel, and Justice Robert G. Klein, the BOT Counsel. Recommendations made by Judge Klein and by the staff of the Hawai'i State Ethics Commission were considered, and many of the recommendations were incorporated into the final draft as it was considered and approved by the Ad Hoc Committee.

Recommendation

The Ad Hoc Committee, by a unanimous affirmative vote on September 13, 2018, approved its recommendation in the form of draft policy for a revised protocol allowance, the Trustee Protocol Allowance ("TPA"). This policy has been reviewed by BOT Counsel Robert G. Klein, the OHA Corporation Counsel Albert Tiberi and Everett Ohta, as well as the staff of the Hawai'i State Ethics Commission, led by Executive Director Dan Gluck.

The draft TPA policy, which would amend section 3.5.n of the OHA Executive Policy Manual, is attached to this report.

Under the draft TPA policy, allowable expenses include:

- Communication expenses dedicated solely to OHA business:
 - Service plans for home office internet, home office phone and fax, and cellular phone, and
 - Web-based communication services;
- Copying and postage costs;
- Office supplies;
- Books and reference materials;
- Renting of meeting facilities, if OHA facilities are not available within a reasonable vicinity of the activity or event location, and related expenses such as security services, cleaning/maintenance charges, and rental of equipment. Meetings must be organized and attended by a Trustee or Trustee's staff, to communicate with or educate beneficiaries or the general public on matters relating to Native Hawaiians or the OHA Board of Trustees;
- Reasonable expenses for food and beverages, provided that if the food or beverage expenses have been reimbursed by another source, then reimbursement for that portion from the TPA is prohibited:
 - Purchased for a meeting or function, which includes one or more person(s) who are not a Trustee or an employee of OHA, the purpose of which is to communicate with or educate beneficiaries or the general public on matters relating to Native Hawaiians or the OHA Board of Trustees; or
 - Purchased for Trustees and staff who are required to be present at Board or Committee meetings that extend through the lunch or evening hours. Expenses for food and beverages consumed by a Trustee or staff as part of their daily work during the scope of their normal work day shall not be reimbursed;
- Reasonable expenses for lei and gifts, which are customarily exchanged with fellow officials, honorees, special guests, and dignitaries at an event; and
- Reasonable expenses related to a Trustee's official travel, registration fees, and associated costs to attend conferences, seminars, or meetings, which shall comply with existing OHA travel guidelines and approvals; provided that if the travel cost or associated expenses have been reimbursed by another source (example: per diem), then reimbursement for that portion from the TPA is prohibited.

Disallowed uses of the TPA include:

- Food or beverages for Trustees and staff only, except when reasonably related to a Trustee's or staff member's official duties, e.g., purchase of meals for Trustees and staff who are required to be present at Board or Committee meetings that extend through the lunch or evening hours. Food or beverages purchased to thank or appreciate staff or for social occasions or events such as birthday celebrations, farewell or retirement parties, are personal expenses and are not reasonably related to a Trustee's official duties.
- Alcoholic beverages;
- Political or charitable contributions;
- Expenses related to campaign activities;

- Expenses which are personal in nature such as dry cleaning expenses, transportation costs to and from work (including mileage), legal fees and costs, monthly parking costs for employee or Trustee parking, and airline club membership and lounge access;
- Gifts: purchase of retirement gifts, thank you/appreciation gifts, bereavement/funeral/sympathy gifts or flowers, welcome gifts, farewell gifts, anniversary gifts, birthday gifts, congratulation gifts, and any other gifts for Trustees, staff, and others, except for gifts purchased in compliance with subsection 1.g. above;
- Tickets for recreational or entertainment events and fundraisers;
- Membership fees and dues for business, community or social organizations;
- Financial support, grants, loans, or sponsorships, whether direct or indirect, to individuals, groups or organizations;
- Any expenses reimbursed from another source to avoid duplicate payment/reimbursement;
- Any services provided and goods received for the personal benefit of the Trustee and/or immediate family members, other Trustees and/or their immediate family members, and OHA employees;
- Computer hardware and software;
- General office and communication equipment; and
- General office furniture.

The annual TPA for each Trustee shall be \$7,200.00, or other amount approved by the Board, per fiscal year cycle (July 1 through June 30). The TPA shall be retained by OHA. Unspent amounts in the TPA fund will lapse at the end of the fiscal year and will not carry over. Each TPA will start on July 1.

The full draft proposed TPA policy is included as an attachment to this memo. Enactment of this policy lifts the moratorium on the Trustee allowance, but moratoriums on Trustee sponsorships would remain in effect until policies are addressed for those areas. The moratorium on CEO-initiated sponsorships also remains in effect.

The Ad Hoc Committee recommends that this draft TPA policy be considered by the Resource Management ("RM") Committee as an Action Item. If passed at the RM level, the policy will be referred to the BOT for consideration and final passage.

Attachments

- 1. Draft Trustee Protocol Allowance ("TPA") Policy, passed by the Ad Hoc Committee on Grants and Sponsorships on September 13, 2018
- 2. Letter from Hawai'i State Ethics Commission Executive Director Dan Gluck to OHA Chair Colette Y. Machado, Dated September 5, 2018
- 3. OHA Committee on Policy and Planning Action Item #PP-09.01 (with Attachments A and B **only**)

ATTACHMENT 1

Trustee Protocol Allowance (TPA)

3.5.n Each Trustee is allowed a Trustee Protocol Allowance (TPA) to be used to cover expenses that are reasonably related to a Trustee's official duties and responsibilities (i.e., the normal and ordinary types of expenditures that a Trustee is reasonably expected to incur in performing his or her representational and fiduciary duties), that are consistent with OHA's mission to better the conditions of Native Hawaiians, and that comply with applicable laws and OHA policies. Use of the TPA for personal purposes or purposes that are not reasonably related to a Trustee's official duties and responsibilities are prohibited and may also violate the Fair Treatment law under the state Ethics Code, Section 84-13, Hawai'i Revised Statutes (HRS).

The purpose of the TPA is to develop and maintain an ongoing communication network with beneficiaries and the general public, to promote a broader understanding of Native Hawaiian issues within the Native Hawaiian community and among the general public, and to encourage participation in the resolution of those issues; provided that such communications comply with applicable laws and OHA policies, such as the Board of Trustees' Code of Conduct and restrictions related to campaign activities.

- 1. Each Trustee is allowed an annual allowance, referred to as the TPA and as provided by HRS 10-9(4), in an amount determined by the Board of Trustees, to be used to cover expenses incurred in the course of a Trustee's official duties and responsibilities. Allowable uses of TPA funds are:
 - a. Communication expenses dedicated solely to OHA business:
 - (1) Service plans for home office internet, home office phone and fax, and cellular phone, and
 - (2) Web-based communication services;
 - b. Copying and postage costs;
 - c. Office supplies;
 - d. Books and reference materials;
 - e. Renting of meeting facilities, if OHA facilities are not available within a reasonable vicinity of the activity or event location, and related expenses such as security services, cleaning/maintenance charges, and rental of equipment. Meetings must be organized and attended by a Trustee or Trustee's staff, to communicate with or educate beneficiaries or the general public on matters relating to Native Hawaiians or the OHA Board of Trustees;

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ATTACHMENT 1 Chair Machado's September 20, 2018 Memo to BOT regarding Findings and Recommendations from the Ad Hoc Committee on Grants and Sponsorships related to the Trustee Sponsorship and Annual Allowance Fund

- f. Reasonable expenses for food and beverages, provided that if the food or beverage expenses have been reimbursed by another source, then reimbursement for that portion from the TPA is prohibited:
 - Purchased for a meeting or function, which includes one or more person(s) who are not a Trustee or an employee of OHA, the purpose of which is to communicate with or educate beneficiaries or the general public on matters relating to Native Hawaiians or the OHA Board of Trustees; or
 - (2) Purchased for Trustees and staff who are required to be present at Board or Committee meetings that extend through the lunch or evening hours. Expenses for food and beverages consumed by a Trustee or staff as part of their daily work during the scope of their normal work day shall not be reimbursed;
- g. Reasonable expenses for lei and gifts, which are customarily exchanged with fellow officials, honorees, special guests, and dignitaries at an event; and
- h. Reasonable expenses related to a Trustee's official travel, registration fees, and associated costs to attend conferences, seminars, or meetings, which shall comply with existing OHA travel guidelines and approvals; provided that if the travel cost or associated expenses have been reimbursed by another source (example: per diem), then reimbursement for that portion from the TPA is prohibited.
- 2. Certain expenditures may be found to be inappropriate uses of the TPA because: the expenditure appears to be more personal in nature or otherwise does not appear to be reasonably related to a Trustee's official duties and responsibilities; the expenditure is contrary to OHA's mission to better the conditions of Native Hawaiians; or the expenditure contravenes OHA policies or the law. The following expenditures are specifically disallowed by this policy:
 - a. Food or beverages for Trustees and staff only, except when reasonably related to a Trustee's or staff member's official duties, e.g., purchase of meals for Trustees and staff who are required to be present at Board or Committee meetings that extend through the lunch or evening hours. Food or beverages purchased to thank or appreciate staff or for social occasions or events such as birthday celebrations, farewell or retirement parties, are personal expenses and are not reasonably related to a Trustee's official duties.
 - b. Alcoholic beverages;
 - c. Political or charitable contributions;
 - d. Expenses related to campaign activities;
 - e. Expenses which are personal in nature such as dry cleaning expenses, transportation costs to and from work (including mileage), legal fees and costs, monthly parking
- Draft 9/13/18 subject to adoption by the OHA Board of Trustees

ATTACHMENT I

Chair Machado's September 20, 2018 Memo to BOT regarding Findings and Recommendations from the Ad Hoc Committee on Grants and Sponsorships related to the Trustee Sponsorship and Annual Allowance Fund costs for employee or Trustee parking, and airline club membership and lounge access;

- f. Gifts: purchase of retirement gifts, thank you/appreciation gifts, bereavement/funeral/sympathy gifts or flowers, welcome gifts, farewell gifts, anniversary gifts, birthday gifts, congratulation gifts, and any other gifts for Trustees, staff, and others, except for gifts purchased in compliance with subsection 1.g, above;
- g. Tickets for recreational or entertainment events and fundraisers;
- h. Membership fees and dues for business, community or social organizations;
- i. Financial support, grants, loans, or sponsorships, whether direct or indirect, to individuals, groups or organizations;
- j. Any expenses reimbursed from another source to avoid duplicate payment/reimbursement;
- k. Any services provided and goods received for the personal benefit of the Trustee and/or immediate family members, other Trustees and/or their immediate family members, and OHA employees;
- I. Computer hardware and software;
- m. General office and communication equipment; and
- n. General office furniture.
- 3. The annual TPA for each Trustee shall be \$7,200.00, or other amount approved by the Board, per fiscal year cycle (July 1 through June 30). The TPA shall be retained by OHA. Unspent amounts in the TPA fund will lapse at the end of the fiscal year and will not carry over. Each TPA will start on July 1.
- 4. To utilize the TPA retained by OHA, Trustees must submit a request for reimbursement or a request for an advance; provided that such an advance will be payable directly to a merchant/vendor only. Trustees must show that the primary purpose of the expenditure is in support of or a result of an official Trustee duty consistent with the allowable expenses listed above. The Trustee shall be required to fill out a certification form in which the Trustee certifies that the claimed reimbursement or advance is true and correct and that it complies with applicable laws and OHA policies.
- 5. In processing a request for reimbursement or advance, OHA Administration may request additional information necessary to determine compliance of a claimed expenditure with applicable laws and OHA policies. The approval by OHA Administration of a request for reimbursement or advance shall not be construed to mean that an expenditure complies with

Draft 9/13/18 - subject to adoption by the OHA Board of Trustees

ATTACHMENT 1

Chair Machado's September 20, 2018 Memo to BOT regarding Findings and Recommendations from the Ad Hoc Committee on Grants and Sponsorships related to the Trustee Sponsorship and Annual Allowance Fund the state ethics code; the final authority on the ethics code is the Hawai'i State Ethics Commission. It is the responsibility of the individual Trustee to insure compliance with the state ethics code and Trustees are encouraged to consult with the state Ethics Commission on questions related to compliance with the state ethics code.

- 6. Items purchased with TPA funds are the property of OHA. Non-perishable and nonconsumable items purchased with the TPA, except for gifts purchased in compliance with subsection 1.g, above, shall be surrendered to the OHA Administration upon the Trustee's separation from OHA.
- 7. A TPA expense must be deducted from the same fiscal year's allocation in which the expense was incurred. A prior year's expense cannot be paid from the current or a future fiscal year's TPA allocation. Each Trustee is responsible for paying any TPA expenses incurred that are in excess of a given fiscal year's TPA allocated amount.
- 8. The use of the TPA to purchase goods and/or services in the amounts of \$2,500 or more shall be from businesses that provide proof of compliance with State and Federal taxes and the Department of Labor and Industrial Relations (DLIR), and are also in good standing with the Department of Commerce and Consumer Affairs (DCCA). Further, the purchase of goods and/or services in amounts of \$5,000 or more shall be in accordance with all applicable laws and administrative rules governing procurement.
- 9. In cases where an expenditure is determined to be impermissible by the OHA Administration, the Trustee or the CEO may consult with the Hawai'i State Ethics Commission, as necessary. The Trustee may appeal the determination made by the OHA Administration, in writing, to the Chair of the BOT. The Chair shall render a written decision on the appeal within seven (7) business days, which shall be final.
- 10. This policy is subject to the Board of Trustees' Code of Conduct and sanctions contained therein.
- 11. The OHA Administration shall compile and transmit to the OHA BOT a quarterly report of expenditures made by each Trustee from his or her TPA. The quarterly report of expenditures shall also be posted to OHA's public website in a timely manner thereafter.
- 12. It is not intended that the TPA supersede, replace, diminish, or reduce the statutory compensation allowed to Trustees as provided for in Chapter 10, Hawai'i Revised Statutes, as amended.
- 13. The CEO shall be guided by this policy to develop internal guidelines and procedures for the use and administration of the TPA including reporting requirements, required documentation, and auditable record keeping.

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Chair Machado's September 20, 2018 Memo to BOT regarding Findings and Recommendations from the Ad Hoc Committee on Grants and Sponsorships related to the Trustee Sponsorship and Annual Allowance Fund 14. The Fund created by this policy will be called the OHA Board of Trustees' Protocol Allowance Fund and the report of expenditures will be called the Trustee Quarterly Protocol Allowance Expenditure Report.

Draft 9/13/18 – subject to adoption by the OHA Board of Trustees

ATTACHMENT I Chair Machado's September 20, 2018 Memo to BOT regarding Findings and Recommendations from the Ad Hoc Committee on Grants and Sponsorships related to the Trustee Sponsorship and Annual Allowance Fund

ATTACHMENT 2



HAWAII STATE ETHICS COMMISSION

State of Hawaii · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawaii 96813 50th ANNIVERSARY 1968-2018

September 5, 2018

Colette Y. Machado Chairperson, Office of Hawaiian Affairs 560 N. Nimitz Hwy., Suite 200 Honolulu, Hawai'i 96817 Via Email: <u>everetto@oha.org</u>

Re: Response to request for guidance regarding draft policy for the use of the Office of Hawaiian Affairs Board of Trustees' protocol allowance

Dear Chair Machado,

Thank you for providing us with the opportunity to provide feedback on the draft policy ("Draft Policy") regarding the use of the Office of Hawaiian Affairs ("OHA") Board of Trustees' protocol allowance ("TPA"). My colleagues and I sincerely appreciate your efforts to promote the highest ethical standards within OHA, and we are grateful for the opportunity to work with you on this important project.

You ask "whether any part of the policy is inconsistent with the Hawai'i Code of Ethics." On behalf of the staff of the Hawai'i State Ethics Commission ("Commission"), I see no part of the Draft Policy that is inconsistent with Hawai'i Revised Statutes ("HRS") chapter 84, the State Ethics Code. However, I respectfully offer a few suggestions for your consideration.

1. Legislature's Rules re: Legislative Allowances

If you have not already done so, you may wish to review the Legislature's rules on legislative allowances. The Senate's rules are available at

https://www.capitol.hawaii.gov/session2016/docs/2015-2016SenateAdminManual.pdf (see Sec. 1.3, "Legislators' annual allowance," and Exhibit 1A, "Guideline Memorandum on Annual Allowances," p. 78 of 123 of the overall PDF document). The House's rules are available at https://www.capitol.hawaii.gov/docs/HouseAdminManual.pdf (see Sec. 1.3, "Legislator's annual allowance," and "Guidelines Memorandum for Annual Allowance," p. 16 of 108 of the overall PDF document).

2. <u>Membership Dues</u>

You have represented that memberships in organizations such as Hawaiian Civic Clubs and the National Congress of American Indians help to further OHA's mission, and I do not believe that the Commission would disagree: policy decisions regarding how to further OHA's mission are within the purview of OHA Trustees and will not be second-guessed by the Commission. The Commission's only concern would be that individual Trustees are somehow Colette Machado Chairperson, Office of Hawaiian Affairs September 5, 2018 Page 2

gaining a personal benefit from membership or are seeking membership in organizations that only tangentially benefit OHA; indeed, this is the reason why the Commission discourages individual legislators from using their legislative allowances to join membership organizations (except for "legislative and governance organizations," including the Council on State Governments and the National Conference on State Legislatures).

Rather than having individual Trustees decide whether to use OHA funds to join membership organizations, the Board of Trustees may wish to consider making those decisions as a Board – that is, using generalized OHA funds, rather than individual TPA funds, to join organizations – and deciding as a Board which Trustees/employees should represent OHA at any membership organizations' functions. This would avoid any appearance that individual Trustees are deriving a personal benefit from the membership and ensures that Trustees do not duplicate each other's efforts in supporting worthy causes.

3. Food purchases

Paragraph 1(i) contains very good language regarding reimbursement from another source ("provided that if the travel cost or associated expenses have been reimbursed by another source (example: per diem), then reimbursement for that portion from the TPA is prohibited"). We respectfully recommend that similar language be included in paragraph 1(g). This may be redundant, but it may be helpful to include this language in multiple locations to ensure that both Trustees and employees avoid seeking *per diem* or other reimbursement for meals that are provided by another source.

Additionally, paragraph 1(g) appears to cover a rather broad range of topics; as such, you may wish to consider including more language and/or examples in paragraph 1(g) to further clarify the situations in which these expenditures are allowable. For example, the Senate's rules on legislative allowances state: "Expenses for usual and customary food and beverage items consumed by staff and other persons as part of their daily work during the scope of their normal work day shall not be reimbursed." *See* Hawaii State Senate, "Guideline Memorandum on Annual Allowances," available at <u>https://www.capitol.hawaii.gov/session2016/docs/2015-2016SenateAdminManual.pdf</u> (pp. 78-79 of 123 of the overall PDF document). If there are special circumstances under which Trustees and staff must work through mealtimes, then OHA funds may be used to pay for Trustees'/staff's meals. However, Trustees and employees should not arrange meetings at mealtime to justify an expenditure of OHA funds for their personal benefit.

4. Caveat re: Ethics Code

You may wish to consider adding a disclaimer that the Ethics Commission has jurisdiction over the Ethics Code, such that an OHA fiscal officer's approval of an expense does not necessarily mean that the expenditure complies with the Ethics Code. While we fully anticipate that expenditures made in compliance with the Draft Policy will also satisfy the current Ethics Code, the Ethics Commission has the specialized expertise to determine whether an expenditure complies with HRS chapter 84. OHA Trustees and employees are *more* than welcome to contact the Commission for guidance on expenditures should they have any
Colette Machado Chairperson, Office of Hawaiian Affairs September 5, 2018 Page 3

lingering concerns: my colleagues and I are more than happy to provide fast, confidential guidance on any such questions.

5. Publication of expenditures

You may wish to consider publishing Trustees' expenditures on OHA's website contemporaneously (or as quickly as is practicable) to provide additional transparency. The Honolulu City Council publishes Councilmembers' contemporaneous travel and expense reports on its website. See http://www.honolulu.gov/component/content/article/172-site-ccl-cat/1740-ccl-view-council-members.html?Itemid=597. We respectfully suggest that OHA do the same for its Trustees: these expenditures are public records, and the knowledge that expenditures will be published contemporaneously (or as quickly as feasible) will help to discourage improper expenditures.

* * * * *

I wish to thank you for your commitment to promoting the highest ethical standards within OHA, and for this opportunity to comment on the Draft Policy. As always, please let me know how my colleagues and I can be of further assistance.

Very truly yours,

Daniel M. Gluck Executive Director and General Counsel

ATTACHMENT 3

Office of Hawaiian Affairs ACTION ITEM

Meeting:	Committee on Policy & Planning	
Date:	Friday, March 30/2001	54 10
Prepared by:	Normal (Shun	
	Fonald B. Mun, Deputy Administrator	Date
Reviewed by:	A Contraction of the second se	
	Randeli K Ogata, Administrator	Date
Reviewed by:	The Men H	
-	John Waihee IV, Chairman	Date
	Committee on Policy and Planning	

I. Action

To approve and adopt an Office of Hawaiian Affairs Trustee Allowance policy wherein funds are disbursed on an actual expenditure reimbursable basis in lieu of the existing system of prepayment and quarterly reporting.

This policy shall be inserted in the Office of Hawaiian Affairs Administrative and Financial Manual of Guides.

II. Issue

Should the Office of Hawaiian Affairs replace the existing policy of prepayment and quarterly reporting of Trustee Allowance expenditures with a system in which funds are disbursed on an actual expenditure reimbursable basis?

III. Discussion

The Office of Hawaiian Affairs Trustee Allowance system was initially established on June 28, 1991. (Attachment A) The allowance was implemented to cover incidental expenses incurred by Trustees for the following purposes:

To develop and maintain an ongoing communication network with beneficiaries on the general public; to promote a broader

understanding of Hawaiian issues; and to encourage participation in the resolution of those issues.

Funds were to be prepaid in the amount of \$3,600.00 on a semi-annual basis, with quarterly reporting requirements.

On February 1, 1996, the Board of Trustees clarified guidelines for the use, accounting and disposition of non-perishable purchases. (Attachment B)

It is these amended or clarified guidelines that currently govern the use and disposition of the trustee annual allowance. (Attachment C)

In March 2001 however, the Auditor of the State of Hawaii questioned the misuse of the allowance by various trustees. (Attachment D) Specifically she found:

We reviewed trustee expense reports for calendar years 1996 through 1999, and found numerous questionable transactions that did not appear to meet the purpose of the trustee expense account. For example, two trustees used their allowances to make interest-free personal loans exceeding a combined total of \$8,000 to themselves and family members. Another trustee spent over \$1,000 on beauty salon services over a three-year period. These trustees appear to have failed to uphold their responsibility of loyalty, and may have instead spent funds for personal needs and interests.

We also found that certain trustees did not always return unspent annual allowances to OHA, although policy requires that they do so. These trustees returned only half of the \$24,250 in unspent allowances between calendar years 1996 and 1999. This is after spending \$231,171 in annual allowances over those four years.

The Auditor also suggested the following remedial action:

OHA should consider disbursing trustee expenses funds on an actual expenditure reimbursement basis. This would help to ensure that these funds are used only for allowable purposes, and reduce the opportunity to use such funds for personal expenses. Subsequently, the OHA Response to State Auditor Report stated"

OHA staff will be recommending a reimbursable allowance plan as opposed to the existing policy of a prepayment at the beginning of the year. Thus, (sic) a reimbursement plan would allow for greater scrutiny of expenditure. (Attachment E)

It is within the context of these events that this action item was prepared.

Basically what is suggested is reimbursement for actual expenditures incurred by the trustees for legitimate and allowable purposes set forth. By eliminating prepayment of the allowance at least three major problems would be addressed:

- 1. No co-mingled funds
- 2. No requirement to repay unspent funds
- 3. No income tax or W-2 on unspent funds not returned

Instead of quarterly reports, reimbursement forms would be required within ten days of the expenditure. The forms would require the approval of the Chairperson of the Board, and in the case of the Chairperson, the approval of the Administrator and Chief Financial Officer prior to disbursement of a reimbursement. This heightened scrutiny and the fact that expenditures are "out of pocket" should tend to mitigate the misuse and personal use of allowance funds.

Finally, pre-approval of expenditures is encouraged to avoid the embarrassment, cost and possible audit of improper spending. Note however, that pre-approval does not guarantee reimbursement as the Request for Reimbursement form accompanied with the pre-approval if available is still required to be filed and approved. (Attachment F)

At the present time, \$7,200 per trustee is budgeted for the trustee allowance.

IV. Alternatives

- a. Approve and adopt an Office of Hawaiian Affairs Trustee Allowance policy wherein funds are disbursed on an actual expenditure reimbursable basis in lieu of the existing system of prepayment and quarterly reporting.
- b. Decline to change the existing Trustee Allowance policy of prepayment and quarterly reports.
- V. Recommendation

Approve and adopt an Office of Hawaiian Affairs Trustee Allowance policy wherein funds are disbursed on an actual expenditure reimbursable basis in lieu of the existing system of prepayment and quarterly reporting. (Attachment G)

VI. Time Frame

As soon as possible

VII. Funding

No new funding required

Attachments

- A. Action Item and BOT minutes dated June 28, 1991
- B. Action Item dated January 30, 1996 and BOT minutes dated February 1, 1996
- C. Trustee Allowance Disbursement letter dated January 5, 2001
- D. Audit of the Office of Hawaiian Affairs, March 2001, pages 14 and 15
- E. OHA Response to State Auditor Report, February 12, 2001, pages 9 and 10
- F. Request for Pre-Approval of Trustee Allowance
- G. Proposed Amendments to Chapter 3

OFFICE OF HAWAIIAN AFFAIRS

Action Sheet

Meeting:	Board of Trustees
Date:	June 28, 1991
Prepared by:	Stanley H.L. Lup, Acting Administrator
Reviewed by:	V Abraham Aiona, Chairman
	Committee on Budget, Finance, Policy and Planning

I. Action Item:

Allowance for incidental expenses. Establishing an allowance for each member of the Board of Trustees to cover incidental expenses connected with Trustee function and duties and adopting governing guidelines.

II. Background Information

The Budget, Finance, Policy and Planning Committee took up the subject of an allowance for Trustees to cover activities incident to their office on May 10, 1991, and decided to recommend the adoption of an allowance, provided guidelines to govern the use of the allowance are developed and legal advice as to the propriety of using special funds for this purpose. The guidelines have been developed. Sherry Broder, counsel to the Board has issued a legal supporting opinion. The recommendation of the Committee is now ready for presentation to the Board.

- III. Issue:
 - 1. In the performance of the functions and duties of Trustee, business expenses, excluding per diem, air and ground transportation, are incurred. Expenses such as business meals, social and cultural functions.
 - 2. An allowance for incidental expenses is a standard practice by much of the private sectors and is provided to each member of the State legislature.
 - 3. An allowance will enhance the ability of each Trustee to perform his or her duties by reducing or eliminating out of pocket cost.

Page 2

IV. Means of Financing:

Special funds.

Annual Allowance July 1 to December 30, 1991

Trustee	Amount
Rowena Akana	\$ 3,600
Abraham Aiona	3,600
Moanikeala Akaka	3,600
Frenchy DeSoto	3,600
Louis Hao	3,600
Clayton Hee	3,600
Kamaki Kanahele	3,600
Thomas Kaulukuklui, Sr.	3,600
Moses Keale, Sr.	3,600

Sub-Total \$32,400

V. Discussion:

The allowance will be subject to year end federal and state taxes. As such individual record keeping is very important.

VI. Time Frame:

Once appropriated and approved as to legality by the Board's Counsel, the allowance would be made available within 10 calendar days.

VII. Attachments:

- Exhibit A: Memorandum from Sherry P. Broder, Esq., Subject: "Legal Review of the 'Annual Allowance' Established by the Committee on Budget, Finance, Policy and Planning, May 10, 1991."
- Exhibit B: Chapter 3, Annual Allowance (new) for the Administrative and Financial Manual of Guides.



EXHIBIT "A"

OCEAN VIEW CENTER PENTHOUBE 3 707 RICHARDS 8TREET HONOLULU, HAWAII 95813

TELEPHONE: (808) 531-1411 (808) 944-1139 FAX: (608) 531-5411

HEMORANDUK

- TO: Richard K. Paglinawan Administrator Office of Havaiian Affairs
- From: Sherry P. Broder
- Date: May 29, 1991
- Subject: Legal Review of the "Annual Allowance" Established by the Committee on Budget, Finance, Folicy and Planning, May 10, 1991

This memorandum is written in response to your request of Nay 17, 1991, for a review of the action taken by OHA's Committee on an Annual Alloyance for each Trustee. According to Section 3.2 of the Committee's proposal, this could be spent for the following purposes: and maintain Wto an ongoing communication network with beneficiaries and the general public; to promote a broader understanding of Hawaiian issues; and encourage participation in the resolution of those issues." Examples of permitted expenditures might, therefore, include funds to allow each Trustee to send mailings to OHA beneficiaries directly, funds to hire meeting halls within which individual Trustees could meet with beneficiaries, funds to hire staff to coordinate contacts between individual Trustees and the beneficiaries and to allow each Trustee to respond to their inquiries directly, as well as other means of communication.

ATTACHMENT 3 Chair Machado's September 20, 2018 Memo to BOT regarding Findings and Recommendations from the Ad Hoc Committee on Grants and Sponsorships related to the Trustee Sponsorship and Annual Allowance Fund

CONFIDENTIAL

SHEARY P. SRODER ATTORNEY AT LAW A LAW CORPORATION In my professional judgment, this action--if approved by the full Board--would be legitimate and shoulds be addressed in order to legal problem Two questions need to be addressed in order to understand the legal framework within which the OHA trustees must act: (1) What limits does the nature of the trust that generates OHA's resources impose on the ability of the Trustees to spend or allocate those resources? (2) What limits do the constitutional and statutory provisions impose on the ability of the Trustees to spend or allocate OHA's resources?

(1) The funds OHA can draw upon have certain built-in restrictions on their use. Legislatively-authorized general funds must be used for the purposes identified by the legislature at the time of authorization. Revenues depivel from the public land trust proceeds must, according to HARL'Section 10-13.5, be used "for the betterment of the conditions of native Havaiians," who are for this purpose defined as half-blood Havaiians (H.R.S. Section 10-2). Although it can be argued that the limitation in Section 10-13.5 is too narroy and constitutes a violation of the trust established in the 1898 Joint Resolution of Annexation of an infringement on the basic right of self-governance of the Hawaiian people, such an argument raises complex political and legal issues and is certain to be divisive in the Hawaiian Community. Accordingly, the Trustees should ensure that the 5(f) funds they receive benefit the native Hawailans.

At the present time, it is clear that OHA may expend 5(f)

funds for the benefit of native Hawaiians only. Hative Hawaiian Trusts Jiudicial Relief Act, H.R.S. Chapter 673, commonly referred to as the "right to sue bill by native Hawaiians and Hawaiian Individuals and Organizations" states that OHA must administer this trust "in the sole interest of its beneficiaries." Nevertheless, OHA is not required to maximize revenues to the native Hawaiian public trust, so long as the trust is administered "in the sole interests of its beneficiaries." Furthermore, the State may provide collateral benefits to non-benaficiaries, "but only so long as the primary benefits are enjoyed by beneficiaries, and the beneficiaries, collateral benefits and the are collateral benefits do not detract from nor reduce the benefits anjoyed by the beneficiaries." Section 673-1(b)(1).

This requirement of administration for the "sole interest of its beneficiaries" has also been established in case law by Hawaii Supreme Court with regard to the Hawaiian Home Lands Trust. In <u>Ahuna v. Department of Hawaiian Home Lands</u>, 64 Haw. 327, 338, 640 P.2d 1161 (1982), the Hawaii Supreme Court stated that" "[0]na specific trust duty is the obligation to administer the trust solely in the interest of the beneficiary."

To limit judicial challenges, the Trustees should seek to the their expenditures of the public land trust proceeds to identifiable benefits that will be received by the native Hawaiians whenever possible.

(2) OHA was designed by the 1978 Constitutional

Convention to be a semi-autonomous entity with substantial independent control of its resources. This decision was reinforced by the legislature which stated in 1979, in what is now Section 10-4 of the Hawaii Revised Statutes, that OHA "shall be a separate antity independent of the executive branch." OHA's Trustees may allocate OHA's resources for the benefit of its beneficiaries so long as the Trustees determine that it is in the **und** interests of its beneficiaries, unless their action is explicitly in conflict with a constitutional or statutory provision designed to limit OHA's activities. I am enclos for with this memorandum an opinion letter written by Jon M. Goodyke on November 5, 1990 on a related subject which discusses in detail the reasons that support this conclusion.

Unless, therefore, an explicit statutory or constitutional provision limits OHA's Trustees, they may allocate resources and spend resources for communication and participation as described in the Committee's proposal. Are there any explicit limitations that would restrict their ability to establish an "Annual Allowance"?

H.R.S. Section 10-9 establishes the compensation rate per meeting for the Trustees and in addition authorizes them to receive "transportation fares" and "personal expenses" (or per diem) for their travel. It is not, however, written in language that indicates that this list is meant to be exhaustive. It does not, in other words, indicate that the Trustees cannot also receive other appropriate expenses for other legitimate purposes.

H.R.S. Section 10-12 authorizes the Administrator to hire staff to carry out the functions of OHA. Is this provision meant to be exclusive, or does it permit the Trustees to hire their own staff as well to assist them in their legislative functions, to carry out the purposes identified in Section 3.2 of Chapter 3 on the "Annual Allowance"? The language of H.R.S. Section 10-12 does not indicate that this provision is meant to be exclusive, and analogies to other legislative bodies--such as the county councils in Hawaii--illustrate that it is partial and usual for legislators to have their own staff asplatents.

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It would appear, therefore, that nothing in the Hawaii Revised Statutes or the Hawaii State Constitution prohibits the establishment of the "Annual Allovance."

To summarize, the creation of an "Annual Allowance" for individual Trustees appears to be a legitimate expenditure of OHA's resources. The actual uses of these funds may need to be monitored, however, to ensure that the expenditures are in fact in the actual the boundary of the boundary of the second s

Chapter 3. Annual Allowance

Sec. 3.1. <u>Scope of Chapter</u>. The Board may, from time to time, appropriate sufficient funds for an annual allowance to each trustee. This chapter establishes and implements the annual allowance.

Sec. 3.2. <u>Purposes</u>. The purposes of the annual allowance are as follows: to develop and maintain an ongoing communication network with beneficiaries and the general public; to promote a broader understanding of Hawaiian issues; and encourage participation in the resolution of those issues.

Sec. 3.3. <u>Annual Allowance</u>. Each trustee is allowed such amount as provided by the Board to be used for any purpose set forth under Sec. 3.2. The use of the allowance is subject to reporting or accounting, and the amount of the allowance is not subject to reduction or adjustment by per diem, air or ground transportation payments, or compensation. The allowance is available no later than ten calendar days after the effective date of trustees appropriating funds for the annual allowances. In the case of a trustee who fills a vacancy after the specified ten-day period, the allowance is payable no later than ten calendar days after the trustee is appointed by the Board or Governor.

Sec. 3.4. <u>Accounting</u>. Each trustee will prepare a quarterly report within ten calendar days of the quarter's end on annual allowance expenditures. All reports shall be filed with the chairperson, and such reports shall be subject to annual audits and be included as a part of the financial report of the expenditures of OHA as a whole. Whenever possible, Chapter 3. Annual Allowance Page 2

quarterly reports shall be supported by invoices, receipts or other similiar documents. OHA Form No. _____, 'Quarterly Allowance Report', shall constitute the report form. Any unexpended annual allowance shall be returned to OHA no later than 10 working days following the expiration of the term of office or a vacany that may occur through any other cause.

Office of Hawaiian Affairs Quarterly Allowance Report Quarter Ending

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Trustee	•	Filing Date
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MINUTES OF THE REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE OFFICE OF HAWAIIAN AFFAIRS

HELD AT THE CAMERON CENTER 95 MAHALANI STREET WAILUKU, HAWAII

June 28, 1991

The Trustees of the Office of Hawaiian Affairs met on the Island of Maui, in the County of Maui, State of Hawaii, on Friday, June 28, 1991, at 9:15 A.M.

The meeting was called to order by Chairman Clayton H. W. Hee. The pule was offered by Trustee Thomas Kaulukukui. On roll call, those present and excused were as follows:

Present: Trustee Abraham Aiona Trustee Moanikeala Akaka Trustee Rowena N. Akana Trustee A. Frenchy DeSoto Trustee Louis Hao Trustee Clayton H. W. Hee Trustee Kamaki A. Kanahele, III Trustee Thomas K. Kaulukukui, Sr.

Excused: Trustee Moses K. Keale, Sr.

Others Present: Stanley H. L. Lum, Dep Adm

Trustee Aiona requested that the agenda be amended to add under New Business, "Resolution for Keanae School". Trustee DeSoto MOVED, SECONDED by Trustee Aiona to approve the agenda as amended. Motion CARRIED unanimously.

Trustee Kaulukukui MOVED, SECONDED by Trustee Akana to approve the minutes of May 31, 1991, as circulated. Motion CARRIED unanimously.

The Chairman reported that he has just one item for action which will be taken up under New business, Item B.

Deputy Administrator Stanley Lum reported on the following items:

ROLL CALL

AMENDMENTS TO AGENDA

APPROVAL OF MINUTES

CHAIRMAN'S REPORT

ADMINISTRATOR'S REPORT

- 1. Personnel Appointments. Mr. Lum introduced Ms. Christina Zarobe to the members. Christina is OHA's new Assistant Editor. Mr. Lum also advised the Board that Mr. Scott Exo has been hired on an emergency hire basis as a Grants Application and Management Specialist in the Planning and Research Division. Also for the summer, the Native Hawaiian Revolving Loan Fund has hired Ms. Heidi Ho as an intern.
- 2. Past Due Entitlement Audit. OHA's independent audit of the results by the State's audit. We have reached agreement with the Office of State Planning that the funds (\$100,000) appropriated in Act 304 will be used to cover other independent audits.
- 3. Kalapana Displacements HB 865; SB 1434. HB 865 deals with making available to those persons displaced from Kalapana low interest loans for areas of lessor volcanic risks. SB 1434 allows long term leases of state lands in the Kikela-keokea area made available to Hawaiians from Kalapana. No monies were appropriated with this bill.
- 4. Hawaii County Economic Opportunity Council. Received a letter from Mr. George Yokoyama with regards to the Keaukaha self-help housing. Some lots are in the tsunami inundation zone and as a result, there needs to be some construction changes. Mr. Yokoyama is asking if OHA could assist with an additional \$7,000.
- 5. Sovereignty Grant Proposal to ANA. A coalition of groups, including OHA, have forwarded a sovereignty grant to ANA. OHA has \$70,000 to attract new grants, and we have indicated that these funds are available for matching funds if ANA so requires.
- 6. Senate Committee on Energy and Natural Resources Hearing.
 - A. July 1, 1991 State Capitol National Shoreline

Park.

B. July 23, 1991 - Washington, D. C. - Tentative Agenda: All Amendments to HHC Act except Purpose Clause.

The Chairman reported that he and Mr. Lum have met with Senator Akaka's staff, and that administration is redrafting OHA's testimony for July 1, 1991, amplifying some of the concerns raised.

- 7. Kepoo v. Burgess, et al. Decision. Decision was successfully concluded, and this exhausts Mr. Kepoo's remedy within the State.
- Price IV Petition to U.S. Supreme Court. A petition has been submitted to the supreme court on behalf of the trustees named.
- 9. Trustee Presentation Skills Workshop. A new schedule has been arranged with Pam Chambers with the first workshop scheduled for Tuesday, July 9, 1991, at 2:30 p.m.
- 10. Others. Ms. Sherry Broder had suggested that a press release be issued on the Kepoo case.

Trustee Aiona reported on the following action items from the Budget, Finance, Policy and Planning Committee.

Trustee Aiona MOVED, SECONDED by Trustee DeSoto that the Board favorably act on and recommend the appropriation of \$45,000 in special funds for the contracting of Mr. Lawrence S. Okinaga, attorney at law, of Carlsmith, Ball, Wichman, Case, Mukai & Ichiki, in order to begin addressing the many tasks, the Committee will be needing with professional, legal and technical advice, research, recommendations and work products of the highest quality. Motion CARRIED unanimously.

A short recess was called by the Chairman - 9:40 - 9:45.

BUDGET, FINANCE, PLANNING & POLIC

LAWRENCE OKINAG

RECESS

Trustee Aiona MOVED, SECONDED by Trustee DeSoto to approve a one year allocation of \$33,444 from special funds to Child and Family Services for the Waianae Coast Teen Network/Hawaii Island Teen Service Project. The Child and Family Services is requesting said amount to continue its program of health education and counseling for pregnant and parenting teens, their partners and families in the Waianae, Hilo and Kona areas. Motion CARRIED unanimously.

Trustee Aiona MOVED, SECONDED by Trustee DeSoto to issue a proposal to lease 1,700 square feet for general office purposes in the Pacific Brewing building located at the corner of Imi Kala and Eha Streets with the following conditions:

- 1. The landlord also negotiates direct leases with Alu Like, Inc., Department of Hawaiian Home Lands and Hui No Ke Ola Pono.
- 2. Office space to be built out to needs of tenant.
- 3. First right to lease additional space.
- 4. An option to purchase the property at appraised value no sooner than two years from the date a lease agreement is executed.

Also to appropriate \$103,499 from special funds for the fiscal year ending June 30, 1992, and \$39,021 for the fiscal year ending June 30, 1993. Motion CARRIED unanimously.

Trustee Aiona MOVED, SECONDED by Trustee Kanahele for the hiring of Administrative Aides for Trustees of the Office of Hawaiian Affairs and to provide funding from special funds so that the Trustees may best serve the beneficiaries of OHA. The Administrative Aides will be acquired by contract with compensable time not to exceed on the average 20 hours per week. Motion CARRIED unanimously.

Trustee Aiona MOVED, SECONDED by Trustee Akana to approve establishing an allowance for each member of the Board of Trustees to cover incidental expenses connected with trustee functions and duties and adopting governing guidelines. The annual allowance of \$7,200 per trustee will be allotted on a semi-annual basis with special funds designated as the source of funds. Motion CARRIED.

CHILD & FAMILY SERVICES

PACIFIC BREWING BUILDING

ADMINISTRATIVE AIDES

TRUSTEE'S ALLOWANCE

Trustee DeSoto voted 'no'.

Trustee Hao reported that there were no action items from the Economic Development and Land Committee, however, there was one announcement. That the Committee will be holding a workshop on July 6, 1991, at 9:00 in the OHA Conference Room on the Memorandum of Agreements relative to land issues.

Trustee Kaulukukui reported that there were no action items from the Education and Culture Committee, however, he wanted to report that staff should be completing the criteria for scholarships by the end of June.

Trustee Akaka reported that there were no action items from the Health and Human Services Committee. Trustee Akaka stated that the members did go over the budget for this committee and that \$3,800 was approved to print brochures relating to Hawaiian health problems.

Trustee DeSoto reported on the following action items from the Legislative Review Committee.

Trustee DeSoto MOVED, SECONDED by Trustee Hao that the Office of Hawaiian Affairs oppose the proposed reapportionment formula for the following reasons:

- 1. That the use of registered voters as the population base is a likely violation of U.S. Supreme Court rulings related to 'one person, one vote'.
- 2. That the use of an adult population of individuals '18 years of older' will significantly penalize and underrepresent Native Hawaiians during the ten years that the new districts are in force because Native Hawaiians have a proportionally-higher number of 'under 18' individuals.
- 3. By using the adult voter population, Native Hawaiian communities are penalized and more likely to become part of a 'canoe district'.
- 4. All 'canoe districts' act to deprive Native Hawaiians of

ECONOMIC DEVELOPMENT & LAN

EDUCATION & CULTURE

HEALTH & HUMAN SERVICES

LEGISLATIVE REVIEW

REAPPORTIONMENT

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appropriate representation by attempting to submerge our population with a non-associated population.

Trustee Kanahele spoke in favor of the motion because he has great concerns of Molokai being attached to Oahu. It would be a detriment to the Island of Molokai. Trustee Hao also spoke in favor of the motion because being from Molokai which is a rural community, it is very different from Oahu. Having one island connected to another is a problem. Motion CARRIED unanimously.

Trustee Kanahele reported that there were no action items from the OHA Relations Committee.

Trustee Hee reported on the following items on the Status and Entitlements and Housing Committee.

- 1. A letter was sent to Ms. Norma Wong asking for a price for Pohukaina and the AAFES Building. Also the lands on the western edge of Kewalo Basin and lands on the eastern shore of Keehi Lagoon.
- 2. There is a large map in the Chairman's office showing the state controlled lands along the airport complex.
- 3. A Mr. Jim Funaki is representing the Housing Finance and Development Corporation in the negotiations of OHA's revenue entitlements from certain ceded lands at Kealakehe, Kona, Hawaii and at Lahaina, Maui.

Trustee DeSoto MOVED, SECONDED by Trustee Aiona to oppose the proposed Ka' lwi National Shoreline Park. The Chairman reported that staff is preparing testimony to be delivered on July 1, 1991. The testimony speaks in opposition of the proposal and it seeks to clarify OHA's position to give back federal surplus lands. Motion CARRIED unanimously.

Chairman Hee reported on the reorganization of the committee structure and MOVED for first reading approval. Trustee Aiona SECONDED the motion. Motion CARRIED unanimously. OHA RELATIONS

STATUS & ENTITLEMENTS & HOUSING

KA 'IWI SHORELINE

REORGANIZATION

Trustee Aiona MOVED, SECONDED by Trustee DeSoto to issue a Resolution in support of the Keanae Community's concern in the closing of Keanae School on September 19, 1991. Trustee Aiona's main concern was the cultural values. Trustee Kanahele also spoke in favor of the motion because of the cultural sensitivity of the Hawaiian children. Motion CARRIED unanimously.

Chairman Hee referred to the Education and Culture Committee the Proposal from the Native Hawaiian Historic Preservation (Task Force) Council for consideration back to the full Board. If the Committee has any concerns, they are to work with Trustee Kanahele, who is a member of the Council.

Mrs. Mei Ling Akuna asked to speak before the Board against the action the Board just took on Keanae School. Mrs. Akuna, who is a former valedictorian and class president of Keanae School, is for the closing of the school because of the following reasons:

- 1. The children's academic grades are very low.
- 2. The parents are very uncooperative.
- 3. Most children are not from Keanae.

Executive Session - 10:35 a.m. Regular Session Reconvened - 11:40 a.m.

There were no action items taken in Executive Session which required ratification.

There being no further business, the meeting adjourned at 11:44 a.m.

Respectfully submitted,

Barbara Yuen

KEANAE SCHOOL

NATIVE HAWAIIAN HISTORIC PRESERVATION (TASK FORCE) COUNCIL

MEI LING AKUNA

EXECUTIVE SESSION

ADJOURNMENT

OFFICE OF HAWAIIAN AFFAIRS ACTION ITEM

MEETING:	BUDGET, FINANCE & POLICY COMMITTEE January 30, 1996
PREPARED BY:	Lula M. Cal
	Linda M. Colburn, Administrator
REVIEWED BY:	Trustee Abraham Aiona Chair. Budget, Finance & Policy Committee

I. ACTION ITEM

To discuss and appropriately amend Title I, Chapter 3 of the Administrative & Financial Manual of Guides ("Manual of Guides") relating to Annual Allowance (see Exhibit "A") to provide clearer, more specific guidelines and to ensure such guidelines fully comport with requirements of the federal and state taxing authorities and opinions issued by the Hawai'i State Ethics Commission.

II. ISSUE

The trustees have raised a number of questions relating to the use of the annual allowance, reporting requirements to OHA and taxing authonties, and the disposition of non-penshable items purchased with allowance funds. These questions are timely posed and demonstrate the need to review, revise and clarify the policies and procedures set forth in Chapter 3 of the Manual of Guides.

III. DISCUSSION

The provisions which currently control the use and disposition by trustees of their annual allowance were approved by the Board on June 28, 1991, approximately four and one-half years ago. Although attempts have been made periodically to update Title I, Chapter 3, no amendments have been enacted since June, 1991.

1. Use of Annual Allowance. Questions have been raised as to what types of items and/or services may be purchased with annual allowance funds. Section 3.2 is

not specific in this regard. Rather, it broadly states that:

)

"The purposes of the annual allowance are ... to develop and maintain an ongoing communication network with beneficiaries and the general public; to promote a broader understanding of Hawaiian issues; and encourage participation in the resolution of those issues."

In her letter dated May 29, 1991 (see Exhibit "B"), Sherry P. Broder, Esq. advised that:

"... examples of permitted expenditures might, therefore, include funds to allow each Trustee to send mailings to OHA beneficiaries directly, funds to hire meeting halls within which individual Trustees could meet with beneficiaries ...".

The trustees' annual allowance is somewhat analogous to the annual allowance issued to State legislators. With respect to the disposition of the allowance, Chapter 24-1, Hawai'i Revised Statutes states, in part:

"§24-1. <u>Allowance for incidental expenses</u>. Each member of the legislature shall receive an annual allowance of \$5,000, which amount is to cover incidental expenses connected with legislative duties ..."

The Citizen's Committee on the Allowance for Personal Expenses of Members of the Legislature described the legislative expenses requiring an allowance as:

"expenses such as meals required by meetings held early or late in the day, ... expenditures connected with social, political, and charitable functions which a legislator is expected to attend, postage for newsletters, and other mailings to constituents, ..."

The foregoing are some examples of annual allowance expenditures deemed permissible. Ms. Broder cautions in her May 29, 1991 letter that trustees must remain mindful that the expenditures comport with the purpose for which trust funds may be used.

2. Accounting and Retum of Unused Allowance. The annual allowance was appropriated to provide trustees with readily accessible funds from which to pay incidental expenses incurred in connection with the performance of their duties as trustees. As in the case of legislative allowances, these funds were not intended as additional compensation or salary on which the trustees are required to pay taxes. In order to clearly differentiate the annual allowance as an "allowance" versus compensation, the funds must be accounted for on no less than an annual basis and any unused or excess portion must be returned. Attached for your perusal as Exhibit "C" is a letter from Teresa Beedle dated January 28, 1992.

3. Disposition of Non-Perishable Purchases. On December 10, 1993, the Hawai'i State Ethics Commission issued its Advisory Opinion No. 93-6 (see Exhibit "D") in response to an inquiry from Russell Blair. Among other things, the Opinion addresses the disposition of non-perishable items purchase with allowance moneys. The Opinion states, in pertinent part:

"... non-perishable items purchased with the legislative allowance should be considered state property. They should be treated no differently than other pieces of state property at the legislature. ... Accordingly, nonperishable items purchased with the legislative allowance should be placed on inventory and remain with the Senate when a senator leaves office. ... It is for the State to decide how to allocate or dispose of these items."

In tight of the similarities between the trustees' allowance and the legislative allowance, it seems advisable to establish a policy that states all non-perishable items purchased with OHA funds should be reported, upon acquisition, to the Administrative Services Offices for inclusion in OHA's inventory and, upon a trustee's departure, remain with the Office for disposition.

4. Other Considerations. It has come to the attention of Administration and members of the Board that a particular trustee appears to have been utilizing a disproportionately large quantity of stationery, copying paper and postage, has monopolized the photocopying equipment on the 5th floor, and, by the sheer volume of mailouts requested, has taken up a disproportionately large amount of the ASO staffs' time and energy. Attached as Exhibit "E" and incorporated by reference are charts itemizing the quantity of postage, supplies and photocopies by trustee.

Due to the actions of this trustee, the funds appropriated to line items such as postage and office supplies are being expended at an unprecedented rate. If such expenditures continue at the present level, the funds appropriated will be depleted prior to the end of the fiscal year; Administration will be forced to request additional trust funds in order to maintain the Agency's operations.

IV. ALTERNATIVES

- 1. Do not amend Title I, Chapter 3 of the Manual of Guides.
- 2. Amend Tille I, Chapter 3 to clarify the use, accounting procedures, and

disposition of non-perishable items purchase with allowance moneys. Attached as Exhibit "F" and incorporated by reference, is a proposed amendment to Chapter 3. New language is underscored; language to be deleted is bracketed. [Accountable Plan]

3. Amend only portions of Title I, Chapter 3 In the manner to be determined in the course of the Committee's discussions.

V. RECOMMENDATION

Administration recommends that Alternative 2 be approved by the Committee and forwarded to the Board for its consideration.

This Alternative 2 offers language clarification, addresses questions which trustees have raised regarding use and reporting requirements, ensures a greater degree of conformity to federal and state tax regulations, and provides a reasonable avenue for the funding of trustees' expenses which are not <u>directly</u> related to his or her duties as a member of OHA's Standing Committees or, in the case of the Chairperson, the Board.

VI. SOURCE OF FUNDING

Administration does not anticipate a need for additional funding to implement Alternatives 1 or 2.

VII. TIMEFRAME

Within thirty days following review and approval by the Board's counsel and other persons deemed appropriate by the Board.

Chapter 3. Annual Allowance

Sec. 3.1. <u>Scope of Chapter</u>. The Board may, from time to time, appropriate sufficient funds for an annual allowance to each trustee. This chapter establishes and implements the annual allowance.

Sec. 3.2. <u>Purposes</u>. The purposes of the annual allowance are as follows: to develop and maintain an ongoing communication network with beneficiaries and the general public; to promote a broader understanding of Hawaiian issues; and encourage participation in the resolution of those issues.

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Sec. 3.4. <u>Accounting</u>. Each trustee will prepare a quarterly report within ten calendar days of the quarter's end on annual allowance expenditures. All reports shall be filed with the chairperson, and such reports shall be subject to annual audits and be included as a part of the financial report of the expenditures of OHA as a whole. Whenever possible, Chapter 3. Annual Allowance Page 2

quarterly reports shall be supported by invoices, receipts or other similiar documents. OHA Form No. ____, 'Quarterly Allowance Report', shall constitute the report form. Any unexpended annual allowance shall be returned to OHA no later than 10 working days following the expiration of the term of office or a vacany that may occur through any other cause.

05: 29. 91 03:15 PM *S. BRODER 808 5318411 P01



SHERRY P. BRODER ATTORNEY AT LAW A LAW CORPORATION

OCEAN VIEW CENTER PENTHOUSE 3 TOT RICHARDS STREET HONOLULU, HAWAI 9613

CONFIDENTIAL

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TELEPHONE: (808) 831-1411 (808) 844-1138 FAX: (808) 831-8411

XENORANDUX

TO: Richard K. Paglinawan Administrator Office of Havaiian Affairs

From: Sherry P. Broder

Date: Hay 29, 1991

Subject: Legal Review of the "Annual Allowance" Established by the Committee on Budget, Finance, Policy and Planning, May 10, 1991

This memorandum is written in response to your request of Hay 17, 1991, for a review of the action taken by OHA's Committee on an Annual Allowance for each Trustee. According to Section 3.2 this . that of the Committee's proposal, could be spent for the following purposes: Hto and maintain an ongoing communication network with beneficiaries and the general publicy to promote a broader understanding of Hawailan issues; and encourage participation in the resolution of those issues." Examples of permitted expenditures might, therefore, include funds to allow each Trustee to send mailings to OHA beneficiaries directly, funds to hire meeting halls within which individual Trustees could meet with beneficiaries, funds to hire staff to coordinate contacts batwaen individual Trustees and the beneficiaries and to allow each Trustee to respond to their inquiries directly, as well as other ATTACHMENT 3

05. 29. 91 03:15 PM *S. BRODER 808 5318411 PO2

In my professional judgment, this action--if approved by the full Board--would be legitimate and should not raise any major legal problems. Two questions need to be addressed in order to understand the legal framework within which the OHA trustees must act: (1) What limits does the nature of the trust that generates OHA's resources impose on the ability of the Trustees to spend or allocate those resources? (2) What limits do the constitutional and statutory provisions impose on the ability of the Trustees to spend or allocate OHA's resources?

(1) The funds OHA can draw upon have certain built-in restrictions on their use. Legislatively-authorized general funds must be used for the purposes identified by the legislature at the time of authorization. Revenues dapived from the public land trust proceeds must, according to H a at Section 10-13.5, be used "for the betterment of the condicions of native Havaiians," who are for this purpose defined as half-blood Hawaiians (H.R.S. Section 10-2). Although it can be argued that the limitation in Section 10-13.5 is too narrow and constitutes a violation of the trust established in the 1898 Joint Resolution of Annexation of an infringement on the basic right of self-governance of the Havaiian people, such an argument raises complex political and legal issues and is certain to be divisive in the Havailan Community. Accordingly, the Trustees should ensure that the 5(f) funds they receive benefit the native Havallans.

At the present time, it is clear that OHA may expend 5(f)

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funds for the benefit of native Havailans only. Mative Havailan Trusts Jiudicial Relief Act, M.R.S. Chapter 673, commonly referred to as the "right to sue bill by native Havalians and Kawailan Individuals and Organizations" states that ONA must administer this trust "in the sole interest of its beneficiaries." Nevertheless. OHA is not required to maximize revenues to the native Havaiian public trust, so long as the trust is administered "in the sole interests of its beneficiaries." Furthermore, the State may provide collateral benefits to non-beneficiaries, "but only so long as the primary benefits are enjoyed by beneficiaries, and the ent Pford 1 by collateral benefits beneficiaries, and the are collateral banefits do not detraot from nor reduce the benefits enjoyed by the beneficiaries." Section 673-1(b)(2).

This requirement of administration for the "sole interest of its beneficiaries" has also been established in case law by Havaii Supreme Court with regard to the Havaiian Home Lands Trust. In <u>Ahuna v. Department of Havaiian Home Lands</u>, 64 Haw. 327, 338, 640 P.2d 1161 (1982), the Havaii Supreme Court stated that" "[0]na specific trust duty is the obligation to administer the trust solely in the interest of the beneficiary."

To limit judicial challenges, the Trustees should seek to the their expenditures of the public land trust proceeds to identifiable benefits that will be received by the native Ravailans whenever possible.

(2) OHA was designed by the 1978 Constitutional

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Convention to be a semi-autonomous entity with substantial independent control of its resources. This decision was reinforced by the legislature which stated in 1979, in what is now flection 10-4 of the Havaii Revised Statutes, that OHA "shall be a separate entity independent of the executive branch." OHA's Trustees may allocate OHA's resources for the benefit of its beneficiaries so long as the Trustees determine that it is in the sole interests of its beneficiaries, unless their action is explicitly in conflict with a constitutional or statutory provision designed to limit OHA's activities. I am enclosing with this memorandum an opinion letter written by Jon M. Goodyke on November 5, 1990 on a related subject which discusses in detail the reasons that support this conclusion.

Unless, therefore, an explicit statutory or constitutional provision limits OHA's Trustees, they may allocate resources and spend resources for communication and participation as described in the Committee's proposal. Are there any explicit limitations that would restrict their ability to establish an "Annual Allowance"?

H.R.S. Section 10-9 establishes the compensation rate per meeting for the Trustees and in addition authorizes them to receive "transportation fares" and "personal expenses" (or per diem) for their travel. It is not, however, written in language that indicates that this list is meant to be exhaustive. It does not, in other words, indicate that the Trustees cannot also receive other appropriate expenses for other legitimate purposes. H.R.S. Section 10-12 authorizes the Administrator to hire staff to carry out the functions of OHA. Is this provision meant to be exclusive, or does it permit the Trustees to hire their own staff as well to assist them in their legislative functions, to carry out the purposes identified in Section 3.2 of Chapter 3 on the "Annual Allowance"? The language of M.R.S. Section 10-12 does not indicate that this provision is meant to be exclusive, and analogies to other legislative bodies--such as the county councils in Hawaii--illustrate that it is partial and usual for legislators to have their own staff aspiglients.

It would appear, therefore, that nothing in the Hawaii Revised Statutes or the Hawaii State Constitution prohibits the establishment of the "Annual Allowance."

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To summarize, the creation of an "Annual Allowance" for individual Trustees appears to be a legitimate expenditure of OHA's resources. The actual uses of these funds may need to be monitored, however, to ensure that the expenditures are in fact in the sole interests of the beneficiaries.