

PHONE (808) 594-1888  
Committee on Resource Management  
Trustee John Waihe'e IV, *At-Large - Chair*  
Trustee Luana Alapa, *Moloka'i / Lāna'i - Vice Chair*  
*Members*

Trustee Leina'ala Ahu Isa, *At-Large*  
Trustee Dan Ahuna, *Kaua'i / Ni'ihau*  
Trustee Kaleihikina Akaka, *O'ahu*  
Trustee Keli'i Akina, *At-Large*  
Trustee Brendon Kalei'aina Lee, *At-Large*  
Trustee Carmen Hulu Lindsey, *Maui*  
Trustee Keola Lindsey, *Hawai'i Island*



FAX (808) 594-1865

**STATE OF HAWAII'  
OFFICE OF HAWAIIAN AFFAIRS**

**MEETING OF THE  
COMMITTEE ON RESOURCE MANAGEMENT (RM)**

**DATE:** Thursday, July 22, 2021

**TIME:** 1:30 p.m.

**PLACE:** Virtual Meeting

Viewable at [www.oha.org/livestream](http://www.oha.org/livestream) OR

Listen by phone: (213) 338-8477, Webinar ID: 949 3309 0127

**Due to the threat of COVID-19, Governor Ige issued the recent Emergency Twenty-First Supplementary Proclamation dated June 7, 2021 that suspends parts of Hawai'i Revised Statutes Chapter 92, Public Agency Meetings and Records to, among other things, enable boards to conduct business without any board members or members of the public physically present at the same location.**

**The OHA Board of Trustees and its Standing Committees will hold virtual meetings until further notice. The virtual meetings can be viewed and observed via livestream on OHA's website at [www.oha.org/livestream](http://www.oha.org/livestream) or listen by phone: (213) 338-8477, Webinar ID: 949 3309 0127**

**AGENDA**

**I. Call to Order**

**II. Public Testimony on Items Listed on the Agenda\***

(Please see page 2 on how to submit written testimony or provide oral testimony online.  
Oral testimony by telephone/landline **will not** be accepted)

**III. Approval of Minutes**

- A. June 23, 2021
- B. June 24, 2021
- C. June 30, 2021

**IV. Unfinished Business**

None

**V. New Business**

- A. ACTION ITEM RM #21-09: Approve OHA's Intent to Apply to the Administration for Children and Families, Administration for Native Americans, American Rescue Plan Act Emergency Native Language Funding Opportunity for Native Hawaiians and Pacific Islanders for \$250,000
- B. WORKSHOP: Amendments to the Native Hawaiian Trust Fund Investment Policy Statement and the Debt Management Policy Implementation Procedures

**VI. Executive Session‡**

- A. Consultation with Board Counsel Robert G. Klein and Everett Ohta, OHA Assistant Senior Legal Counsel, re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities with respect to updates by Administration regarding potential acquisition of commercial properties, pursuant to HRS§92-5(4)

**VII. Announcements**

**VIII. Adjournment**



**STATE OF HAWAII'  
OFFICE OF HAWAIIAN AFFAIRS**

If you require an auxiliary aid or accommodation due to a disability, please contact Raina Gushiken at telephone number 594-1772 or by email at: [rainag@oha.org](mailto:rainag@oha.org) no later than three (3) business days prior to the date of the meeting. Meeting materials will be available to the public 72-hours prior to the meeting and posted to OHA's website at: [www.oha.org/rm](http://www.oha.org/rm).

†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.

\*Public Testimony: Public testimony can be submitted to the OHA Board of Trustees either:  
(1) in writing emailed at least 24 hours prior to the scheduled meeting, or  
(2) as live, oral testimony online during the Public Testimony portion of the virtual meeting.

**Public Testimony must be limited to matters listed on the meeting agenda.**

Please visit OHA's website for more detailed information on how to submit Public Testimony at:  
<https://www.oha.org/how-to-submit-testimony-for-oha-bot-meetings/>.

Persons wishing to provide *written testimony* on items listed on the agenda should submit testimony via *email* to [BOTmeetings@oha.org](mailto:BOTmeetings@oha.org) at least **24 hours prior** to the scheduled meeting. Any testimony received after this deadline will be considered 'late' testimony and distributed to the Board members after the scheduled meeting.

**Due to COVID- 19, please do not fax, mail, or hand-deliver written testimony.**

Persons wishing to provide *oral testimony online* during the virtual meeting must register here first:

[https://zoom.us/webinar/register/WN\\_bGQTFnJiTmySkmK6alq4kA](https://zoom.us/webinar/register/WN_bGQTFnJiTmySkmK6alq4kA)

The registration to provide oral testimony online will remain open until the Public Testimony section on the agenda has concluded. You will need to register prior to this time if you would like to orally testify. Once you have completed your registration, a confirmation email will be sent to you with a link to join the virtual meeting and further instructions on how to provide oral testimony during the virtual meeting.

To provide oral testimony online, you will need:

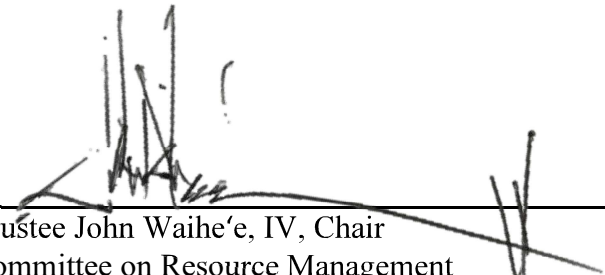
- (1) a computer or mobile device to connect to the virtual meeting;
- (2) internet access; and
- (3) a microphone to provide oral testimony.

Oral testimony online will be limited to five (5) minutes.

Oral testimony by telephone / landline **will not** be accepted at this time.

Once your oral testimony is completed, please disconnect from the meeting. If you do not log-off on your own, support staff will remove you from the Zoom meeting.

You can continue to view the remainder of the meeting on the livestream or by telephone, as provided at the beginning of this agenda.

  
Trustee John Waihe'e, IV, Chair  
Committee on Resource Management

07/16/2021

\_\_\_\_\_  
Date

July 22, 2021 - Continued

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**STATE OF HAWAI'I  
OFFICE OF HAWAIIAN AFFAIRS  
560 N. NIMITZ HIGHWAY, SUITE 200  
(VIRTUAL MEETING - VIA ZOOM WEBINAR)  
COMMITTEE ON RESOURCE MANAGEMENT  
MINUTES**

**June 23, 2021 10:30 a.m.**

**ATTENDANCE:**

Chairperson John Waihe'e, IV  
Vice-Chairperson Luana Alapa  
Trustee Leina'ala Ahu Isa  
Trustee Dan Ahuna  
Trustee Kaleihikina Akaka  
Trustee Keli'i Akina  
Trustee Brendon Kalei'aina Lee  
Trustee C. Hulu Lindsey  
Trustee Keola Lindsey

**ADMINISTRATION STAFF:**

Sylvia Hussey, CEO / Ka Pouhana / Administrator  
Casey Brown, COO / Ka Pou Nui  
Erin Nakama, IT  
Everett Ohta, Corporation Counsel  
Grace Chen, Financial Services  
Kai Mana Peres-David, HR  
Raina Gushiken, Corporation Counsel  
Ramona Hinck, CFO  
Tiger Li, IT

**COUNSEL:**

Anna Elento-Sneed, Esq.  
Robert G. Klein, Esq.

**GUESTS:**

Daniel Kanahale  
Germaine Meyers

**BOT STAFF:**

Crayn Akina  
Melissa Wennihan

**I. CALL TO ORDER**

**Chair Waihe'e** calls the Committee on Resource Management meeting for Wednesday, June 23, 2021, to order at **10:30 a.m.**

**Chair Waihe'e** notes for the record that **PRESENT** are:

MEMBERS			AT CALL TO ORDER (10:30 a.m.)	TIME ARRIVED
CHAIR	JOHN	WAIHE'E, IV	PRESENT	
VICE CHAIR	LUANA	ALAPA	PRESENT	
TRUSTEE	LEINA'ALA	AHU ISA	PRESENT	
TRUSTEE	DAN	AHUNA	PRESENT	
TRUSTEE	KALEIHIKINA	AKAKA	PRESENT	
TRUSTEE	KELI'I	AKINA	PRESENT	
TRUSTEE	BRENDON KALEI'AINA	LEE	PRESENT	
TRUSTEE	CARMEN HULU	LINDSEY	PRESENT	
TRUSTEE	KEOLA	LINDSEY	PRESENT	

At the Call to Order, **NINE (9) Trustees are PRESENT**, thereby constituting a quorum.

## II. PUBLIC TESTIMONY on Items Listed on the Agenda\*

**Germaine Meyers:** Thank you Chair Waihe'e, Vice-Chair Alapa, Trustees and Lāhui. My name is Germaine Meyers, I am a beneficiary for beneficiary advocacy and empowerment. I'm also a Nānākuli, Hawaiian Homestead Lessee.

I come before you to testify regarding the Biennium Budget and most especially regarding the doubling of the grants portion. It has never been done before at this rate where it has doubled from the previous biennium and that is right now where my concern lies. I've emailed you all testimony for later with regards to the Joint BAE-RM Committee regarding the COVID grants, but what I'm testifying to you now relates to grants in general as it's listed in the biennium budget, and where my concerns stem from in the increase of it. There's accountability that I'm now questioning.

I made the false assumption, and I guess, untrustworthy trust, or now I am realizing that it was trust that was betrayed in believing that by increasing the grants monies for the community, that it would be reaching to the communities. Last week, as I've seen happening with regards to last week's Board meeting, everything is happening fast, and everything is happening with such short deadlines regarding the biennium budget, etc. I didn't think that it was going to be an issue when I called the Grants Manager after reviewing the packet, with such a short period of time with my responsibilities as a head of my household, and my family, etc.

When I reviewed the packet, I saw what was being recommended for grants, and I was concerned about it, and I contacted the Grants Manager and she was very defensive. To the point where she told me the information that I thought would be transparent and easy to receive; she said that I had to go to UIPA. Hence, I'm still waiting for those documents from the Grants Manager through the UIPA process.

Now I'm questioning –

- *Why is it that it was so difficult?*
- *Or why was there a wall or defensiveness, in asking for transparency and the process how those decisions were made to make those recommendations?*
- *Was DHHL homestead lands where Native Hawaiians are concentrated, taken into consideration?*

So that's why I am concerned that unless the Trustees and Administration address the Grants Manager, I'm concerned in the doubling of the grants, and that it would address the needs of a hui and not the Lāhui.

I think I've been coming to OHA since 2017, with the same concern, that there is equality, that it is fairness, that it's transparency, and most importantly, accountability.

When I asked the Grants Manager for accountability for her decisions, and her recommendations, and how she came to those recommendations to you Trustees, she got defensive and didn't want to answer and said, you're going to have to go through the UIPA process, because I'm not going to give you that information.

I'm coming to you now, looking at the Biennium Budget. I was part of my Neighborhood Board in vetting; and I was excited to see that *Grants* - was going to have more monies.

**Germaine Meyers:** However, after getting that experience, two days later, with the Grants Manager, now I'm questioning that trust and questioning the Grants Manager. I'm questioning if having more money in the grants part of the budget; if it's going to go too political, now that we're coming to an election year next year.

As we have seen that some in our Hawaiian community had taken CARES ACT money and used it for bribery. I'm concerned now that if Federal monies can be taken from CARES ACT for bribery, that OHA trust monies can be taken, for assisting political alliances to get elected to OHA or other seats, in bribery, etc.

I don't have any evidence of that, but what I do have is our current experiences that we've had with our Hawaiian leaders, and the betrayal, and most especially I have my informed experience with the Grants Manager. So, I come to you with heavy heart, I'm still waiting for the records to be provided to me so that I can provide you with testimony at 1:30 p.m. today.

Now I'm looking at this and the rush to it is so that we don't lose almost \$500,000. Now, I rather the money don't even be taken out of our own Trust and be given for those recommendations as the Grants Manager is asking the Trustees to do before the clock runs out, because that's money that's just being tossed into the wind, if she's not going to give accountability for her decisions, and especially to a beneficiary.

I don't think that I asked her in a manner in which it was other than I only asked her in a manner in asking for answers for her decisions, and I don't think I was wrong to ask for answers in how she made her recommendations.

Thank you, Trustees. I see that my time is out and short time today for you as well; you have many meetings. So, I just thank you and Mahalo for you listening to me today. A hui hou.

**Chair Waihe'e:** Thank you Germaine.

**Daniel Kanahale:** Thank you. My name is Daniel Kanahale, I am testifying as an individual on the Biennium Budget. I am a resident of South Maui, I live in the moku of Honua'ula. Honua'ula encompasses Wailea Resort, the lands of Makena, 'Āhihi-Kīna'u and most of the 'Ulupalakua Ranch. It is a moku that has a high concentration of historic and cultural properties and resources. It is a moku that has land that is highly coveted for its real estate and development value.

Much of the lands of South Maui where I live are no longer Hawaiian places; Kihei for example, has been developed beyond recognition. There are very few historic properties preserved in North Central and South Kihei and that's because during the '60s and '70s and early '80s, when development occurred, there weren't very strong or if any Historic Preservation laws. I spent years working for historic preservation in my own moku because Honua'ula is among the last truly Hawaiian places in South Maui. It holds our cultural and natural history.

**Daniel Kanahele:** Over the years, I have worked with many individuals and organizations in this historic preservation work, and especially with OHA, with the compliance enforcement team. I've worked with Kai Markell, Jerome Yasuhara and more recently, Kamakana Ferreira and Lauren Morawski. OHA's Compliance Enforcement team has been intimately involved with beneficiaries on the ground in this moku for a decade.

They have advocated for Historic Preservation before County bodies like the Maui County Council, the Maui Planning Commission, the Maui County Cultural Resources Commission, and with developers.

They have been involved in consultation processes in the Makena Resort expansion, the Grand Wailea expansion, the Wailea Resort phase two expansion, and with regards to Wailea 670 or the Honua'ula development project.

I don't have words to adequately praise the work that individuals like Kamakana Ferreira and the Compliance archaeologist Lauren Morawski have done in this moku. They have been instrumental in preserving hundreds of historic sites and features. They are currently instrumental in helping to preserve hundreds of historic sites and features that are not currently documented or do not have significant assessments that would allow them to be preserved, based on contract archaeologists.

The value of having your own archaeologists at OHA cannot be underestimated. You don't have to go to SHPD for expertise, you don't have to go to contract archaeologist for expertise. You have your own archeologists; a well-trained, educated archaeologist that knows a lot about Hawaiian archaeology. That is the reason why Maui County now has their own archaeologists because of all those benefits.

My concern moving forward is that as a result, maybe of budgetary changes, the Enforcement team that includes Kamakana and Lauren, are going to be streamline out of existence.

My question is: *how is that going to help the beneficiaries like myself who are on the ground?*

We don't have this intimate, knowledgeable relationship with OHA team members. We have spoken to Chair Hulu Lindsey about this on many occasions in her office here on Maui.

*What will replace; if this team is going to be streamlined out of existence?* I don't know.

*What will replace it?*

*What will happen to the archaeological position?*

*What will be the specific duties of the new unit in this process?*

These are all concerns that I have as a beneficiary. We've had a lot of success with the help of the Enforcement team in the past, and we presently have a lot going on, on the ground. I'm just expressing my individual concerns and also the concerns of many others, like myself, thank you.

**Chair Waihe'e:** Thank you, Daniel.

**III. APPROVAL OF MINUTES**

**A. May 25, 2021**

Trustee Hulu Lindsey moves to approve the minutes of May 25, 2021.

Trustee Akaka seconds the motion.

Chair Waihe'e asks if there is any discussion.

There is no discussion.

Chair Waihe'e calls for a **ROLL CALL VOTE**.

TRUSTEE		1	2	‘AE (YES)	A‘OLE (NO)	KANALUA (ABSTAIN)	10:47 p.m. EXCUSED
LEINA‘ALA	<b>AHU ISA</b>			X			
DAN	<b>AHUNA</b>			X			
KALEIHIKINA	<b>AKAKA</b>		2	X			
KELI‘I	<b>AKINA</b>			X			
VICE-CHAIR LUANA	<b>ALAPA</b>			X			
BRENDON KALEI‘ĀINA	<b>LEE</b>			X			
CARMEN HULU	<b>LINDSEY</b>	1		X			
KEOLA	<b>LINDSEY</b>			X			
CHAIR JOHN	<b>WAIHE‘E</b>			X			
<b>TOTAL VOTE COUNT</b>				<b>9</b>	<b>0</b>	<b>0</b>	<b>0</b>

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

Chair Waihe'e notes for the record that all members present vote 'AE (YES) and the **MOTION CARRIES**.



#### **IV. UNFINISHED BUSINESS**

##### **A. Workshop: Preliminary OHA Biennium Budget for the Fiscal Biennium Periods 2021-2022 (FY22) and 2022-2023 (FY23) – post beneficiary sharing, prior to action item**

**Chair Waihe'e** turns it over to Ka Pouhana Sylvia Hussey.

**Pouhana Hussey:** Thank you, Chair. Trustees, we thought Administration would just highlight. You've had the materials. You've had some of the community details that were sent out to the community. We've provided some additional information and really the Biennium Budget has two large components. It's the beneficiary and community investments, our grants section as well as the labor section.

So, in open session, we can talk about the beneficiary and community investments and any other parts of the budget that you'd like to ask questions about, and then would request that in the labor discussion - we go into Executive Session. But again, that's completely up to you Trustees in how you want the flow of the information. I will say that the largest investments start in your budget folders on A-34, 35 and 36, tables 7, 8, 9 and 10.

In the electronic folder, if you are following along for our beneficiaries or others, the electronic folder, those tables start on electronic page 95. As these are the largest line items and some of the thinking as to why each table looks the way it does, and then any questions from the Trustees.

I'll also incorporate some of the beneficiary comments as to increases and other comments that were provided as well, and then open it for questions. Unless Trustees would like to approach it a different way.

*There are zero questions or comments.*

**Pouhana Hussey:** *Chair, is it okay to just go ahead and proceed with the highlights?*

**Chair Waihe'e:** Yes, go ahead.

**Pouhana Hussey:** Okay. Trustees, starting on A-34, Table 7 is the large summary of the 15.2 million committed in Fiscal Years 22-23. Again, these are Administration's recommendations based on the strategic plan directions, based on general funds, provisos, dollars that were received, based on the recent Fiscal Year 21 grants that were issued, as a result, of realignment #2.

In Budget Realignment #2 back in June of 2020, the Board increased the granting by about 1.2 million and so those are the grants; the next meeting is the last of the granting, awarding for that group. So, these 22-23, we normally in the past have solicited that and the Board approved back in October of 2020, to go ahead and do solicitations. Because we've had the Fiscal Year 21, these, these buckets have not been solicited yet; so, they're here for your viewing.

**Pouhana Hussey:** On Table 7; that first line, Grants in Aid Program & Proviso, \$830,000. That's the social services, proviso dollars of 415,000 plus OHA's matching. This historically has been implemented by contract for Emergency Financial Assistance; in this biennium, and with the proposed reorganizations, Administration is proposing that OHA itself administer these funds.

That will require processing, training, and systems upgrade to do that; but that is the proposed implementation of those same dollars that we have previously contracted in the last four biennium durations.

The second line are the community grants, and Table 8 has further detail. The Level II Grants; Table 9 has the detail and then the Sponsorships; Table 10 has the detail of that. There is a new line there for disaster aid and that just represents a modest amount that the Trustees can quickly approve for any kind of disaster, whether it's flooding, lava, or heavy rains that our communities are in need of. Sometimes the disaster is not enough to qualify as a federal disaster as an example, but it's still devastating to our communities. Administration proposed a modest amount to quickly respond to disasters in the communities - subject always to Trustee approval.

**Trustee Lee:** Sorry, Sylvia, *where is that line on?*

**Pouhana Hussey:** It's on Table 7, the Grants in Aid - Disaster Aid \$132,000. So that's a new line item, OHA has supported our communities with large scale disaster on Kaua'i and in Puna - as examples. We've also observed heavy rains, landslides, other kinds of things that happen in our communities that sometimes again, doesn't rise to the federal definition of disaster and trigger of aid, but our communities still need help in that regard. So Administration, is putting forward again, a modest amount there to procure a delivery mechanism so that if and when that is called upon, we already have the delivery mechanism and can quickly get those dollars out to our communities. So that is the thinking behind that line item.

**Pouhana Hussey:** With that, we'll go to Table 8; that's the Community Grants. You'll see that these line items, with the 500,000 are similar to what community grants used to be. One of the differences is in the housing line; so, the housing line leverages the general funds appropriation of 500,000, for occupancy ready, programming. What Administration is proposing is that we match and twice; so, add a million dollars to that 500 and provide occupancy housing ready services and grants for our communities with the intention of preparing our communities to occupy housing.

Whether that's rental housing, full/single family purchase housing, whether that's housing as a result, of DHHL development, State Development, private development, the intent would be for programming to help families be ready. Whether that's credit repair, down payment, first/last month rent, any of those kinds of programming and available. We know that there are many folks in the community who do that kind of work, so this is an intentional matching plus. We really want to have our beneficiaries be housing ready; occupancy ready, again, whether that's rentals, single or otherwise.

**Pouhana Hussey:** Then the rest are pretty, similar types. You'll see the higher education, these are the ones that you authorized in June 2020. We just are soliciting and now these are increases. So, one of the increase areas that you will note is the 'Ohana impact grants; this year we did \$250,000. Administration recommends three times that amount, because of the integrated families and strengthening our families. So, all of the social services aspects that our families need: mental health, integrated behavioral health, domestic violence, all of those kinds of services or needs - to utilize an 'ohana grant for that.

**Trustee Lee:** *Can we go back to the housing really, quickly?* So, for FY 20 and 21, we awarded the 500,000. *That was our 500,000 or was that from general funds as well?*

**Pouhana Hussey:** No, that was all trust funds.

**Trustee Lee:** That was our funds. Okay, so then I get the million for the Biennium Budget, because 500 is what we were always allocating. Then we're adding another 500 that's coming from general funds, and then we're going to add another five on top of that. *Correct?*

**Pouhana Hussey:** Right.

**Trustee Lee:** *So, can you tell us where the 500 from general funds is being pulled from? So, where are we currently spending that now and where is the additional 500 being pulled from?*

**Pouhana Hussey:** So, the general funds; *you mean from the proviso money that they gave us?*

**Trustee Lee:** Right. So, we got proviso now, but we used it someplace else. So that's what I'm asking. Now that we're going to allocate it for the housing, *where are we pulling it from? Where is not going - to get that money now?*

Then the additional five matching that we're doing; *where is that coming from in our current budget? Where are we moving it from?*

**Pouhana Hussey:** So, if I understand; in the prior year that 500,000 was all trust funds, because we didn't get the proviso - any general funds for housing.

**Trustee Lee:** Okay, I got it. So, it's not being pulled from someplace else. Got it.

**Pouhana Hussey:** Correct.

**Trustee Lee:** So that additional five that we're matching, *where is that being pulled from?*

**Pouhana Hussey:** So, the additional five that is coming from the Trust Fund increasing; within that. So, as we increase the community investments, the other costs that are going - is coming primarily from salaries and wages in terms of Operations. So, the reduction in salaries and wages allows us; because the 15.1 million, in the past has been subsidizing other operations; and now we're saying all the 15.1 million would be dedicated to beneficiary granting.

**Trustee Lee:** Okay, so that's not being pulled from frozen positions. That's an assumption that we move forward with the RIF.

**Pouhana Hussey:** Correct. So, the reduction in salaries and balancing that and utilizing the 5% from the Native Hawaiian Trust Fund to run the operations because the Public Land Trust Revenues plus the general funds; the dollar amount is being directed to Beneficiary and Community investments.

**Trustee Lee:** So, just for this part of the table; that's the only one that is affected by the RIF. *None of the rest of them are?* I see the dollars match all the way across.

**Pouhana Hussey:** So, in June of 2020, when the Board approved the additional grants, that realignment came because of a savings in labor. COVID savings in May came from labor, Budget Realignment came from labor, in terms of allowing us to increase the amount of grants.

**Trustee Lee:** But the June savings in labor had to do with 1) people weren't coming in, that's not going to be the case after July 1, and 2) we had frozen positions. That doesn't seem to me like that's the same amount, that that's not a RIF.

**Pouhana Hussey:** Correct. I'm just pointing out that the classification of dollars; personnel dollars have been swept to increase savings because of unfilled positions. In this case, labor dollars because of the RIF will increase the amount that we can dedicate Public Land Trust dollars to Grants.

**Trustee Lee:** Right. I just wanted to clarify, that's not the same as a decision we made in June.

**Pouhana Hussey:** Correct, same bucket of dollars that's coming, but different reason, correct.

**Trustee Akina:** I'm personally very pleased that we're increasing our allotments to Community Grants in FY 22 and 23. I'm presuming, of course, we're doing that because the ways the monies have been spent in the categories here, ranging from culture, through housing and so forth, have been evaluated in prior years.

- *How do we know as Trustees - when we say, "yes, let's increase the funding here in these categories, that a good evaluation has been made of prior year's use of that money and that warranted to continue doing so?"*
- *Do we have metrics in each category?*
- *How do we do this?*

**Pouhana Hussey:** So, Trustee to your point; *evaluation occurs in two ways, right?*

1. The grant monitoring that you spent the dollars; you said you were going to spend it in this way and serve this. *Did you do that?* So that's one, on a Grant-by-Grant basis.
2. Then there's what in the industry we call a program evaluation.  
*Which is, overall - did the Kūlia grants accomplish what it was supposed to?  
Did the Emergency Financial Assistance grants, the Housing grants and Education grants accomplish the overall?*

**Pouhana Hussey:**

That kind of program evaluation is what we need to do and have not done holistically, which is among the reasons the Systems Office and the Research have that evaluation component at the grant level - as well as the program level. So, at a minimum, we have all the granting information. *Did you spend it the way that you were supposed to?*

What we need to do is in the Culture grants, as an example:

- *Did these grants extend the practice?*
- *Did it deepen the practice?*
- *Did it expand the practitioners?*
- *Did it increase access to practices?*

So those kinds of evaluative elements are part of what we need to do for that.

So, at a minimum, we have the Fiscal accountability and Grant monitoring, but the overall program needs to be incorporated into our goal-forward-granting.

**Trustee Akina:** *Sylvia, how are we doing that? How are we developing the capacity to do program evaluation? Along with that, how will we as Trustees be able to tap into that - to affirm a decision?*

**Pouhana Hussey:** So, our Strategy Management office is being structured to be able to handle the evaluation along with the Research paia; so, the two complement each other. Then specifically, we would either do it in-house or contract out specific evaluations for these programs.

So, for example, the Emergency Financial Assistance grant that we have contracted out in the last four biennium periods, and four contractors. That evaluation alone is informative, because one year, one contractor, for whatever reason, left \$600,000 on the table, in terms of not getting dollars to our beneficiaries. So that kind of hindsight then informs on a go-forward-basis - *should we continue to administer that through a grant and take the 25% in overhead and contract it out? Or - do that ourselves, in this particular case, not all grants, but this particular case, and administer that ourselves?*

So that's the kind of evaluation on program, and then the implementation.

Then we also must implement.

*Have we been reaching what we need; if we administered ourselves?*

So that's going to also require an evaluation.

**Trustee Akina:** So, what I'm hearing you say is that we currently don't have access to an evaluation per se, for program areas in terms of whether we have/are achieving our goals in those areas. However, we are in the process of setting up a system by which we will in the future, be able to access that information when making budget decisions.

**Pouhana Hussey:** Right.

**Trustee Akina:** *How long will that be? Will the next round of budget decisions come with evaluations attached to program objectives?*

**Pouhana Hussey:** We need to set up our evaluation series, so we know we have the large evaluations to do. Then we have the programmatic evaluation.

So, all of the new grants issued in FY21, so Iwi Kupuna, Teacher Education, Homestead, those are set up to be able to be evaluated, and some of our other ones. I would say it's going to take effort, in this biennium - to get that rhythm.

Firstly - get that agenda going, get all the resources, line them up, and then actually do it. In the meantime, use the best information that we have, which is the financial information plus the feedback from the grantees, in terms of who are we reaching and - *are we reaching it effectively?*

**Trustee Akina:** So, with respect to the two different levels of evaluation, the first being grants evaluations themselves, and the second being overall program evaluation in terms of achieving our goals. On the first side, I'm hearing that we're well-equipped. What I've picked up as Maile and you have come before the Board is that we have a very disciplined process of administering and monitoring the Grants. So that when you bring that to us - organizations that are being renewed and so forth, it's implicit that you have already evaluated them positively.

That's what I'm understanding on that side and I feel confident in that. I do want to compliment you there because that is a tremendous advance for us.

The side that I'm not feeling quite so confident on yet is on whether our money going to various pots for programmatic goals is being effective. We're kind of in a position of acting on faith, good faith I believe, because I think we're moving in the right direction. *But you understand my faith-based approach?* I suppose that I think we're being asked to move forward in allocating extremely large amounts of money to different program areas.

**Pouhana Hussey:** Casey, *did you want to comment since that's going to be your kuleana?*

**Ka Pou Nui Brown:** Yes, Aloha. So, one thing I can say and I'm drawing on even my past experience - prior places. Measuring impact at population level, meaning whether-or-not a program is actually moving the needle in this particular area, say housing or farming is very, very difficult. There's no organization that has it fully figured out yet, but everyone's trying.

Another part of this that makes it difficult is the availability and the access to data. So, the team that does the evaluation, or the team that's measuring impact, has steps to be able to be even while equipped to do the measuring.

So OHA is looking at those steps. That's why we're so concerned about data right now. That's why we're trying to work with partners to get better access to data. Because it's so difficult to measure the impact and that's the stuff that we care about a lot.

**Pou Nui Brown:** Of all those levels of evaluation, it's *"are we moving the needle with the programs we're funding?"* You guys touched on it already, but it's going to take us a while. I can tell you that nobody has a super-good handle on how to truly measure impact well yet; it's a difficult task. So, we're going to be updating you folks as we get better at it, as we get more access to data and we're trying. I just wanted to mention that, trying.

**Pouhana Hussey:** So, building on that, Trustee Akina. On the OHA website, from the last Strategic Plan is the Lāhui Impact report that indicates in the past eight years at the lāhui level:

- *What were those outcomes?*
- *What were those large pieces?*

To reassure you - there's that in terms of assessing what impacts to the lāhui from the last Strat. Plan. That we need to set up that same structure, not only at the tactical level, but the strategy level to assess that.

We have our strategy goals, and then you come down to tactics and operations. That kind of evaluation also needs to be tiered and structured and cycled accordingly. So that's what Casey is also talking about and that's why the Strategy Management office also has the kuleana to steward the Waihona.

That's the electronic database; not only financial data. How many grants are we doing, but also what is going on in the community so that we could have Community Profiles on the lāhui at the community level.

*How is this community doing? How is that community doing?* Because each community has a different composition. Some communities have many homestead communities, others don't.

They have large educational institutions, others don't. So that kind of community evaluation is ultimately what we want to get to as well. So not just the strategy, but how is our lāhui doing in terms of abundance, and because if that's the end of the day - we want a resilient and abundant lāhui.

*How are we going to know that - if we don't know what it looks like now to be able to measure?*

So that's another group of data sets and organization that we need to get our hands around so that we can continue to report on a quarterly basis. That's the goal of administration; is to report on a quarterly basis to the Trustees as part of quarterly reporting, how our communities are doing in all of the aspects, education, health, housing, social services, all of that.

So, some of the reports that you've been given prior to the neighbor island meetings have been an attempt to try to move away from just kind of activity based and start to put a framework to report on how the lāhui is doing, as it relates to all of that.

We're not going to take any credit for any of that; but let's all put it together because those kinds of reports can help community members get other grants because of the data that's there. Then it allows us to track that data, not just us, but with Lili'uokalani Trust, Kamehameha Schools, Lunalilo Home, all of the others that can benefit from that kind of data and then manage that.

**Pouhana Hussey:** That also means we can manage a Native Hawaiian research agenda. *What are those research items that benefit us?* It doesn't have to be us; it can be other people, but we are aligned to an abundant lāhui. Apologies for how long that took; but this biennium is a lot of groundwork, so that we can continue to report in the next 15 years.

**Trustee Akina:** Thank you. I appreciate the direction we're going in, just eager to be able to make decisions on the basis of asking whether we're moving the dial in housing or in economic empowerment, and so forth. Thank you, I've taken enough of the time, thank you.

**Pouhana Hussey:** Trustees, *are there any other questions on Table 8?*

There are none.

**Pouhana Hussey:** Table 9 are the Level II Grants; you will see there.

The Department of Hawaiian Homelands commitment for 3 million dollars - there is about 10 years more. I think 2032 is about the last payment for that infrastructure debt service.

You will see Hawaiian-Focused Charter Schools, that has doubled and the reason it's doubled is Administration recognizes that Native Hawaiian-Focused Charter Schools, function in the communities and therefore, it's not just places for education. So, a lot of the social services, health, those kinds of needs of our community can be operationalized, through that in partnership with others. Like the Native Hawaiian Healthcare systems, Papa Ola Lōkahi and those systems there, whether they're education or not. We really want to increase that so that we can utilize the Hawaiian-Focused Charter Schools to affect the communities around them. Many of the schools are in Hawaiian homestead communities; others are in stand-alone.

What we want to be sure is that there's a mechanism for us to get dollars to our communities, in a system and in our education goals; striving to have a Native Hawaiian Education Systems through charters and Hawaiian medium. So that's all kaiapuni schools as well. So that's why that increase is doubled. It's because we're trying to systemically and holistically utilize the Charter School Network, to get to our communities. Whether that's food, transportation, domestic violence, access to networks, kupuna, many of our families and communities have a lot of family kuleana to take care of.

So again, we're just trying to use that mechanism to effect strengthening our community. Then the kūlia grants are there; that came out of the Ad-hoc committee's work. The Ad-hoc committee's work hasn't been done; Chair Hulu and Trustee Waihe'e are working toward that, and Admin. owes them a report for the work that has been done in the last two years, and then bring that to Trustees for recommendation and action. Kūlia is technically a pilot program; and so, we have our Systems Office ready to do an evaluation of that kūlia; *did it achieve the intended outcomes of the program?*



**Trustee Keola Lindsey:** The question I have is - it's my understanding that like our grant products have minimum and maximum rewards - in looking at Table 8, for culture; if the amount isn't going to increase in this biennium request -

*Do we anticipate the number of organizations being awarded grants also not increasing?*

Whereas - like in housing, if we're tripling the amount of grants being awarded -

*Do we anticipate roughly, I know it's not like a perfect mathematical equation, but do we anticipate a requisite increase in the amount of grants to individual organizations being close to that triple?*

I don't know if that question makes sense, but I'm interested in the number of organizations that will be receiving the increased prevalence.

**Pouhana Hussey:** Yeah. So, in just doing the dollars, we do the dollars and then when we're ready to solicit and we start to make, for example, the Iwi Kupuna one is a good example; modest dollars when we first launched it.

So, we thought, and this is a discussion with Grants, Systems Office, Casey, Mona, obviously Maile and team, and me. We need to think about what's the dollar amount that's meaningful for the work and then the number of contracts.

So, in Ahahui; \$10,000 - smaller amount, lower risk, you can award a lot more. If you're awarding a housing grant, and you have some - very long term.

The other change that we want to implement is if a grantee in the two-year awarding cycle is doing good work, and we think that they should continue, we want to think about how that might look in our budgeting. Because we know, awarding by biennium is not programmatically logical; most programs take at least three years to get going.

So, awarding at least in a three-year cycle for a brand-new program, would be better for that program to stand up and get going. National Indigenous awards at five years.

So, ANA, which is the premium indigenous group, they award at five years in their awarding; large Kellogg grants, a large philanthropy they'll award larger. So, we'd like to think about that as we think about the programming.

Back to your question, let's say, we do just launch another \$500,000, part of that would need to be - *what is our point?*

*Is our point to continue, increase the practice, increase the number of practitioners, implement a culture-based education or culture-based health?*

Culture is - you cannot just do check, okay, yeah, this is culture. Culture is just so embedded in our practices. That is another thought as to maybe we should take the dollars and integrate it into some other aspects.

**Pouhana Hussey:** On the other hand, there are those that are staunch practices of culture that we need to uphold, strengthen, and enable. All of that does impact - and then how many contracts that reasonably you need to award. So, it's a number of factors, when we make the recommendations for the solicitation that goes out.

**Trustee Ahu Isa:** I'm looking at Table 9, the Hawaiian-Focused Public Charter Schools where you went from 15 to 3 million - do you give it to, you said to the network, with the...

*Is there an Association of Hawaiian Charter Schools?*

**Pouhana Hussey:** Nā Lei Na'auao, the Alliance of Native Hawaiian Education, but they have other Charter Schools, that's part of their alliance as well, they're one entity there. If you're thinking about what used to be the Charter School Network, that there was an actual network with an Executive Director, that network doesn't exist anymore. So, one of the Charter School principals is kind of being a part of that group. Nā Lei Na'auao has been the advocate for Charter Schools, especially Hawaiian-Focused Charter Schools.

**Trustee Ahu Isa:** I'm just concerned about how that 6 million is disbursed.

**Pouhana Hussey:** Right now, the 1.5 a year is done primarily on a per pupil basis, because it allows the schools to decide how they want to use that - and they match it up with Kamehameha funds. Some of them get private grants or federal funds or others that they have sought on their own.

The additional 1.5; the intent is to use the schools as distribution sites for mental health, dental services, other kinds of needs that need to be in the community - child protection and that kind of social services, then the mechanism to distribute would likely be different.

**Trustee Ahu Isa:** Okay. I understand that part. So, when you mentioned that - I thought, that's not education - that is like the social services part of it, which the charter schools would have access to, because they're with the students. *So, we can use OHA money to take care of that?*

**Pouhana Hussey:** Right, so we just want to use the Charter School Network and their networks in the community to be able to distribute the money, but we would specify what those monies should be used for. Whether it's Papa Ola Lōkahi, or the Native Hawaiian Health Systems that are there on island - through them. But utilize the network, the charter schools, as the physical sites, because they're sitting in the middle of our communities.

**Trustee Ahu Isa:** I'd be interested to see the evaluations; how they're going to collect the data on this stuff. Mahalo.

**Pouhana Hussey:** Yeah.

**Trustee Hulu Lindsey:** In the past the charter school money was given to Kanu o Ka 'Āina to distribute. *Has that changed? Is that what you're saying?*

**Pouhana Hussey:** So, we did a solicitation for the contractor; and Kanu o Ka 'Āina was the successful contractor for that 1.5. We would need to determine if the 1.5 is in addition to that contract, or if it's completely different. Then we would need to solicit a different distributor of the dollars. But currently Kanu o Ka 'Āina is the contractor who administers the 16 charter schools and then OHA manages their own contract, so that they're not in a conflict position of managing their own contract.

**Trustee Hulu Lindsey:** I'm aware of that. *So, the 2 million and 3 million is that the same monies, and you'll go out for solicitation for the same kind of services, as Kanu is providing?*

**Pouhana Hussey:** So, the 2 million which is the 500,000, that the Board approved in Realignment #2 - that one was a contract, because that was meant to go to them for COVID for major repair, and maintenance. The additional 1.5 in the 3 million solicitation - depending on the design, we would need to go out for a granting process to be able to administer that through the networks.

**Trustee Hulu Lindsey:** I just want to impress upon Administration, that it's important that whoever we give that to, is sort of related to the charter school family, and not go to outsiders just because they want to distribute the money. We should stay within the charter school families because they know what they are doing, and they help each other. So, I just want to impress that upon you folks before you give us distribution for an entity that we can't agree with.

**Pouhana Hussey:** Understand.

**Trustee Lee:** So Sylvia, looking at Tables 8 and 9, the increases from the current biennium to the budget. If my math is right, I'm just doing it really fast - it comes out to about 1.3 per year, so it comes out to 2.6. I noticed that on Table 9 'Ohana and the Iwi Kupuna; they're eliminated from the budget, but there's an increase in Table 8.

*Am I correct in assuming that that increase of one point?*

Because what's been eliminated from Table 9 from FY21 is about 1.3 - it's a little under.

Basically, we took out that money and redistributed for the leverage opportunities and the charter schools.

**Pouhana Hussey:** Yeah, well - yes and no.

So, the 'Ohana and Community grants - initially the Board approved \$250,000 and they picked up another million because of the reallocation of the Emergency Financial Assistance funds.

So originally, the Board approved like \$250,000 and then the Board approved the recommendation to add the additional million, and then go ahead and solicit. So, the million is a higher number than what it was originally.

**Trustee Lee:** Right, but we had it in the budget to do that.

**Pouhana Hussey:** Correct.

**Trustee Lee:** So essentially, that's what's covering all of these inquiries. I'm trying to disseminate what's related to RIF and what's not related to that. So that's about right, this just about covers all of those increases from leverage opportunities, down to Hawaiian-Focused Charter Schools

**Pouhana Hussey:** Right, because in the realignment, the increase in grants was about 1.2, because of the non-RIF personnel.

**Trustee Lee:** Okay, thanks. I have more questions about this, but I'll reserve them for Executive Session.

**Trustee Akina:** I have a question on Table 9, with regard to the monies that we're paying to DHHL.

*Isn't that a long-term liability of ours and obligation for the servicing of the infrastructure loan at DHHL?*

I'm just wondering why it's listed as a grant. It takes up a big proportion of what we say, we give grants to, but it would seem to me that this doesn't typically fall into the category of application and evaluation and renewal, that grants do.

**Pouhana Hussey:** *So, that's not our debt, right?* If it were our debt, because of bonds that we issued, we would carry the debt on our balance sheet, but we don't carry the debt on that.

As a result, the payment of that is treated as a grant to DHHL, who on their end carries the debt and the debt service line items. We used to just send \$3 million over, every May. We changed that, we only send a quarter at a time to make sure that we can use our cash, instead of sending all 3 million over.

That's an opportunity for Trustees. They have given Administration a breakdown and an update of all the infrastructure projects that they have; there's a spreadsheet and everything. If the Board is interested in having that presentation by DHHL; I would encourage it because it's highly informative. It outlines the projects, what portion of it was paid for that, where they are in terms of building and construction and all of that, which is part of our responsibility - to monitor that spreadsheet, if you will.

So, again, totally up to the Trustees, but I think that would be a really, informative presentation by DHHL.

**Trustee Akina:** Sylvia, thank you. I think that would be informative and I for one, would be very interested in that. While I recognize what you're saying - that it's not our debt, per se, it's more of a contractual obligation we have that we are committed to. Appearing along with our grants and being counted in with our grants, may potentially inflate the total of grant money in the perception of the public, I'm just wondering about whether that's the right category.

**Pouhana Hussey:** In our budget construction slides - we look at all the components and one of the components that we look at, are our long-term commitments. So long-term commitments, like the DHHL commitment is a long-term commitment for granting. We also look at the general funds matching because that's also a commitment on our part, as well.

As to the classification, for our books, it matches grants. For reporting and maybe messaging, perhaps there's a greater clarity that you feel we should... when we do our annual reporting that we contextualize, a 3 million spend on grants and just don't lump it into everything.

**Trustee Akina:** Thank you.

**Trustee Keola Lindsey:** Sylvia - *what confirms that commitment of \$3 million to DHHL?*

In Table 8, there are the homestead community grants. *Right?*

So, I guess where I'm going is - *what locks that commitment in a grant to the government versus a commitment to the homestead communities?*

**Pouhana Hussey:** I'm going to ask Everett. There is a contract and Everett if I could ask you to turn on your camera and give some context to that commitment.

**Assistant Senior Legal Counsel Everett Ohta:** Good morning, Trustees. To address Trustee Lindsey's question - the contract is between OHA and DHHL. If you can come back to that, I can get reacclimated to answer that question. Sorry, I was not prepared to speak to that specific contractual obligation.

**Pouhana Hussey:** I apologize, Everett. When he comes back, he can also speak a little bit about the refinancing; that shortened the period. In 2017, the Department refinanced and shorten the life on the loan and shaved off about seven or eight years. But the dollar amount that we're paying, we're just going to get there a lot earlier. Everett can provide that additional insight when he returns with the info. Sorry, Everett.

**Trustee Hulu Lindsey:** I just want to share with Trustee Keola Lindsey, that a former Board of Trustees signed a contract with Hawaiian Homes to provide \$3 million a year for 30 years to help pay for their infrastructure. That was a contribution made by the Board then.

When I became a Trustee, I asked: *"How could you make that kind of commitment for the future Boards?"* But they did.

When Everett reports - he will report on us paying less than the 30 years now, because they've refinanced the loan, and it's less of an obligation to DHHL and our commitment.

**Pouhana Hussey:** They issued revenue bonds. So, in that spreadsheet that they have, they'll total everything up to the 85 million in revenue bonds. Then all the projects that are associated with that, that our debt service is now paying for. If Trustees and Chair are interested, I can go ahead and contact DHHL and invite them for a presentation to the Board.

**Trustee Keola Lindsey:** Just real quick, I think my question got answered. The vehicle for the commitment was the contract. I don't need any more info., but like Trustee Akina I'd be interested in the presentation from DHHL to get more specifics about what the money's being used for in the future.

**Trustee Hulu Lindsey:** Sylvia, maybe you can enlighten the Board in that the homestead money is not going to DHHL it's going to the homestead associations. *Right?*

**Pouhana Hussey:** Correct.

**Trustee Hulu Lindsey:** So, two different pockets.

**Pouhana Hussey:** And - that intent was that homestead associations, again - this is a research supposition that communities around homesteads are healthier and provide support for 'ohana, mo'omeheu and 'āina.

So, these grants are meant to have homestead associations. Have projects in there that benefit and support the homestead, but we also know benefits the larger community as well. So, it is a first foray into that. As you can imagine there are beneficiaries who think that it should be three times that amount, but we're in our first year of awarding - that the Trustees approved.

**Counsel Ohta:** If I could just kind of follow up on that requested information. So, the MOA with DHHL was executed in 2008. OHA committed to an annual bond payment of \$3 million for the debt service on those bonds that were pulled by DHHL.

In 2017, DHHL saw a refunding of those 2008 bonds that resulted in a reduction of the overall commitment of OHA by a little bit over seven years. So, the annual amount, in terms of servicing paid by DHHL, has remained stable at that \$3 million amount - but the overall period of bond payments has been reduced by approximately seven years – due to that 2017 refunding.

**Chair Waihe'e:** Thanks, Everett.

**Trustee Lee:** Sylvia - just to piggyback on what Trustee Keola Lindsey said and to extent what Trustee Hulu Lindsey said about the community associations - I know this isn't a decision for now, but I just want to make sure that I put this on the radar for Administration and for Grants - there are, as we are all aware, multiple community associations, and multiple associations claim jurisdiction on single homesteads. So, I just want to make sure, and I'll use Waimea as an example, that we don't give grant money to the Waimea Homestead Association and then another statewide association who claims jurisdiction over Waimea because they have one member from Waimea who belongs to their association. So, we're not giving the same pae 'āina money because we're giving it to two different associations who are claiming jurisdiction over one homestead.

*Does that make sense?*

**Pouhana Hussey:** It does. It does and I think if we go back to the awarding, these were modest first attempts. These are, definitely - individual homestead associations that applied.

**Trustee Lee:** That may not be the case going on. I'm sure the Grants department is aware of it, but I would be remiss if I didn't mention it. So, thank you, Chair.

**Trustee Hulu Lindsey:** In the COVID grants; a good example is we received seven groups that qualified for the COVID grants on O'ahu, but we only gave out four.

My question is - *why didn't we share the money for O'ahu, among the seven and even if they don't go all the year?*

Using that money, even if part way of the year helping different communities is fairer, I think, then helping just four out of seven. So, I just wondered if *Grants* would have an answer to that.

**Pouhana Hussey:** So, if it's okay to defer that question to this afternoon's meeting, but generally the process is the applications come in external reviewers' review, and then it gets scored.

Based on score, and then the dollar amounts get determined, and we've seen where the fourth score, gets partial because the budget isn't sufficient.

You'll also notice that the scores are really high, 95-90; so, part of the challenge with the grants process is that also you have to see what the minimum score is, because what if with all seven, you had a cluster up here and then the rest were like below 50%. So that's also part of the responsibility of the grant reviewers as you rank.

*Is there a line where this is not a quality application for funding?*

Unless the philosophy is going to be award everybody. The current philosophy and practice are that there is a ranking of the scores by the external reviewers and then there is a point at which that other unawarded may not have been a recommendation by the external reviewers. Yeah, but Maile can provide more detail this afternoon.

**Trustee Hulu Lindsey:** Okay, I understand that. I just know for a fact that seven entities were approved by the outside committees, but only four were given money. I'm just saying that it's better for seven to get some money than only four.

*Because - how do you explain to the three that passed the muster that they didn't get any money?*

That's just my question, it's coming to me from beneficiaries.

**Pouhana Hussey:** Okay. *If it's okay, can we hold that discussion and explanation for this afternoon?*

**Trustee Hulu Lindsey:** Yeah, it is okay.

**Pouhana Hussey:** Okay. Thank you.

**Trustee Keola Lindsey:** I just want to note that on that same topic - I think Hawai'i Island was six out of eight. I'll be interested to know more about the philosophy as well.

**Pouhana Hussey:** Sure.

**Trustee Keola Lindsey:** Thank you.

**Pouhana Hussey:** If no more questions on Table 9, then table 10 is the last; it's the sponsorship table. You'll notice that we, Administration, inserted back in the 200 and 6,000 of BOT and Kaiāulu Sponsorships. Those are the moratorium sponsorships from the 2018 moratorium by the Ad hoc committee. So, because that committee needs to finish its work, we just put in those dollars so that they could be resolved.

Whatever the Board decides and the recommendations from the Ad hoc committee, then you can decide what will happen. In the past, we have swept these dollars when they're not used, and swept it into COVID-19 or other grants to utilize this additional authorization. My understanding is this is going to get resolved this year.

So, the Board will determine where these dollars go. Whether they get revived again or get dispersed; that will be the Board's decision. The rest of them are what was classified as programmatic sponsorships, which were not on-hold and so you'll see some of the same programmatic sponsorships for events. They include the ones that the Board just approved in Budget Realignment #3, a couple of weeks ago.

The new ones are the Polynesian Voyaging Society line, and then this Rural Community-based sponsorship. Administration put in a placeholder for discussion for Trustees - that in communities smaller amounts - we put here under \$1,000, for sponsorship of 'Ōlelo Hawaii, first place or a small communities-sponsorship or health, or kupuna-kind of sponsorship of a kupuna event or something like that. So Administration, just put in some placeholder dollars, to say, "okay, we have six island communities; generally. These are for sponsorships less than \$1,000. Let's just start at \$10,000 per community and see how it goes."

This would all be required to have Board approval. Yet, the process could be that through the community engagement, we could aggregate these sponsorships, and then bring it forward. Put in on an agenda, make recommendations, have criteria, but bring it forward on a more rapid basis so that the Trustees can approve these sponsorships. So again, this was just placed by Administration as a thought starter having heard from several community members.

I don't know if neighbor island Trustees, have some mana'o about what you're seeing and experiencing, or what beneficiaries are sharing with you.

**Trustee Keola Lindsey:** I guess - *is there a definition of Rural community? Are we running-off of our own definition?*



**Pouhana Hussey:** So, what this would require is if the Trustees approved this line item, Administration would need to come back with the program details.

- *What's the process?*
- *What's the application?*
- *What's the criteria?*
- *What's the timing of this?*
- *How do we communicate that to the community so that it's fair, and it's not perceived as family and friends?*

So that it's broad, but there is a consistent process and that there's a process for approval.

It might be once a month you have a cut off. All the sponsorships that come in for that community, it has an interior process to make sure that it meets the criteria, and then bring it.

So that kind of program design, we would bring back to the Trustees in terms of what that might look like. So, approving the budget doesn't mean approving the launch of the program, it just means that we have some design work to bring back to the Trustees.

**Trustee Keola Lindsey:** I like the concept. I think it would provide - as long as we can provide the framework for how they'd be awarded - the processes and make sure it's being used appropriately and really helping some of the group's rural areas. I like where it's going. I appreciate the effort, thank you.

**Pouhana Hussey:** The rest of Table 10 is the Papahānaumokuākea Sponsorship lines as well as the Federal Indigenous Sponsorship that historically OHA has participated at the National level. So, these are the Federal organizations that we partner with at the National level. Those haven't changed and they're classified as programmatic as well. *Any other questions?*

There are none.

**Pouhana Hussey:** The only other point Trustees - I'd like to just maybe highlight and comment on is in the contracts. In the contracts budgets are additional budgets for the internal audit function, as well as the general funds work for the CLA; that additional 200,000 that came as a result of the budget bill. Those are the additional contract increases, and those contracts dollars are put in the Trustees cost centers, because those are contracts managed by the Trustee suite.

Obviously, Administration will help with all of the procurement and the processing, but as contract monitors, the Trustees would be the contract monitors for those.

Then overall, that's the majority - the core budgets, the non-core budgets are a little steady state. Commercial properties are a very steady state, no reflection of any kind of development until the Trustees actions and work is implemented.

Then of course, federal funding on the Native Hawaiian Revolving Loan Fund and the Hālawā-Luluku Interpretative Development is also a steady state. I think last year, there was an excitement because the program thought that there was going to be spending the bulk of the money because of timelines, and that did not really manifest itself.

**Pouhana Hussey:** So, what we have done is conservatively just take some modest expenditures, and in the event, there is a large expenditure because of an agreement with the federal highways, then we will come back for a budget realignment. Budget realignment for non-core is a little easier than, the core side of it. So, the non-core budgets are our steady state. That is my term of it's just kind of there and we adjust when those decisions are made.

**Trustee Hulu Lindsey:** *Where in the budget did you put the 200,000 that the legislature mandated us to upgrade the CLA audit?*

**Pouhana Hussey:** It should be in the contracts budget, starting on Table 11 and then Table 12. I'm going to ask Grace and Mona to confirm. That is here, in footnote one at Table 12, footnote one is where the Internal Audit and CLA contract dollars are budgeted. Page A-39 at the bottom of Table 12, footnote one.

**Trustee Hulu Lindsey:** Thank you.

**Pouhana Hussey:** The rest of the budget like we shared in the pre-beneficiary sharing are pretty, common. Our rent, our program type expenditures, the fiscal stabilization of 500,000 for COVID-19 responses, that still has about 321,000 in there. Most of the costs and expenses have been for laptops, while we're in telework, as well as the Boardroom work; for the sound, for the plexiglass and for ensuring that social distancing can occur.

So, in the event, that those dollars are not used for COVID-19 purposes, then we would come back to the Board to un-designate those dollars and take that out of the fiscal stabilization. But we wanted to see what additional costs would be needed for social distancing as we prepare to return. *Any other questions?*

There are none.

**Pouhana Hussey:** If no more questions on the core, non-labor sections; Trustees, Administration is ready to go into Executive Session for discussion - if that is the desire.

**Chair Waihe'e:** Thank you Pouhana.

## V. NEW BUSINESS

None

**VI. EXECUTIVE SESSION‡**

- A. Consultation with Board Counsel Robert G. Klein, OHA Sr. Legal Counsel Raina Gushiken, and Anna Elento-Sneed, Esq. re: questions and issues pertaining to the Board’s powers, duties, privileges, immunities, and liabilities with respect to reorganization activities and related costs, pursuant to HRS§92-5(4)**

Trustee Hulu Lindsey moves to resolve into Executive Session pursuant to *HRS§92-5(a)(4)*.

Trustee Akaka seconds the motion.

Chair Waihe’e asks if there is any discussion. There is none.

Chair Waihe’e calls for a **ROLL CALL VOTE**.

						11:56 a.m.
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA			X			
DAN			X			
KALEIHIKINA		2	X			
KELI'I			X			
VICE-CHAIR LUANA			X			
BRENDON KALEI'ĀINA			X			
CARMEN HULU	1		X			
KEOLA			X			
CHAIR JOHN			X			
<b>TOTAL VOTE COUNT</b>			<b>9</b>	<b>0</b>	<b>0</b>	<b>0</b>

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

Chair Waihe’e notes for the record that all members present vote 'AE (YES) and the **MOTION CARRIES**.

The committee resolved into Executive Session at 11:56 a.m. to discuss:

**VI. EXECUTIVE SESSION‡**

- A. Consultation with Board Counsel Robert G. Klein, OHA Sr. Legal Counsel Raina Gushiken, and Anna Elento-Sneed, Esq. re: questions and issues pertaining to the Board’s powers, duties, privileges, immunities, and liabilities with respect to reorganization activities and related costs, pursuant to HRS§92-5(4)*

The committee returned to Open Session at 1:05 p.m.

**VII. ANNOUNCEMENTS**

None

**VIII. ADJOURNMENT**

Trustee Hulu Lindsey moves to adjourn the RM meeting.

Trustee Ahu Isa seconds the motion.

Chair Waihe'e asks if there is any discussion. There is none.

Chair Waihe'e calls for a **ROLL CALL VOTE**.

TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	1:07 p.m. EXCUSED
LEINA'ALA	AHU ISA		2	X			
DAN	AHUNA			X			
KALEIHIKINA	AKAKA			X			
KELI'I	AKINA			X			
VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY	1		X			
KEOLA	LINDSEY			X			
CHAIR JOHN	WAIHE'E			X			
<b>TOTAL VOTE COUNT</b>				<b>9</b>	<b>0</b>	<b>0</b>	<b>0</b>

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

Chair Waihe'e adjourns the RM meeting at 1:07p.m.

**Attachments:**

- 1) Written Testimony - Wai'oli Valley Taro Hui
- 2) Written Testimony - D. Kapua'ala Sproat

Respectfully submitted,

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Melissa Wennihan  
Trustee Aide  
Committee on Resource Management

As approved by the Committee on Resource Management (RM) on July 22, 2021.

---

Trustee John Waihe'e, IV  
Chair  
Committee on Resource Management

June 22, 2021

Re: June 23, 2021 RM Meeting – Agenda Item IV.A. OHA Biennium Budget

Aloha mai e nā Trustees,

Mahalo for this opportunity to testify in support of the proposed biennium budget and the A‘o Aku A‘o Mai Initiative in particular. As you may know, we are the Wai‘oli Valley Taro Hui, a hui of small family farmers in Wai‘oli, Kaua‘i that have been stewarding our natural and cultural resources for generations. With OHA’s support and significant help from Ka Huli Ao Center for Excellence in Native Hawaiian Law’s legal clinics, we are comforted that the future of kalo cultivation in Wai‘oli will be protected for future generations.

Our farms and lifeways were devastated by the 2018 floods that ravaged Kaua‘i’s North Shore. Disaster recovery efforts revealed that our Native Hawaiian irrigation system that has taken water from Wai‘oli Stream for centuries was on conservation land and would now be subject to a slew of permitting and other requirements, including HRS 171-58 regarding water leases. Since 2019, the Environmental and Native Hawaiian Law Clinics at the William S. Richardson School of Law have been working diligently to comply with all of the requirements of HRS 171-58. In fact, over the course of those 2 years, we have been told that 33 students and 4 attorneys have spent thousands of hours supporting our humble Hui. They have helped us create a state non-profit with 501(c)(3) tax exempt status, apply for and secure a right of entry and easement, as well as a revocable permit for our water use. In addition, the clinics have helped us to complete beneficiary consultation with the Department of Hawaiian Home Lands, submit a draft watershed plan, pass a concurrent resolution at the Hawai‘i State Legislature authorizing direct negotiation on a long-term water lease, finalize and publish a Chapter 343 draft environmental assessment, and secure an amended interim instream flow standard for Wai‘oli Stream with the Commission on Water Resource Management.

We are so grateful for all of the students’ hard work and aloha. Their work will have a lasting impact on Wai‘oli. It not only helps secure our practice in the present, but more importantly, for the future. Their collective mana is connected to Wai‘oli forever.

Finally, we are deeply grateful for OHA’s support of incredible initiatives and want you to know that so many of us benefit in Wai‘oli and throughout Kaua‘i. Programs like the A‘o Aku A‘o Mai Initiative have lasting impacts on communities and beneficiaries across Hawai‘i nei. These programs train our future attorneys, protect traditional and customary Native Hawaiian practices, build capacity in our community, and ensure: aia i Wai‘oli ke aloha ‘āina – that aloha ‘āina lives here at Wai‘oli and beyond.

Mahalo nui,

The Wai‘oli Valley Taro Hui  
waiolivalleytarohui@gmail.com



UNIVERSITY  
of HAWAII®  
MĀNOA

## Attachment 2

The William S. Richardson School of Law  
Ka Huli Ao Center for Excellence in Native Hawaiian Law

**D. Kapua'ala Sproat**  
Professor of Law  
Director, Ka Huli Ao  
Director, Native Hawaiian Rights Clinic

### VIA ELECTRONIC TRANSMITTAL

June 22, 2021

Office of Hawaiian Affairs Board of Trustees  
Committee on Resource Management  
560 North Nimitz Highway  
Honolulu, Hawai'i 96817  
Email: [BOTmeetings@oha.org](mailto:BOTmeetings@oha.org)

**Re: Testimony in Support of Agenda Item IV(A), FY 22/FY 23 Biennium Budget**

Aloha mai kākou!

For the last decade, it has been an honor to partner with OHA on the A'ō Aku A'ō Mai Initiative. This contract enables Ka Huli Ao to provide direct legal services to OHA beneficiaries with the greatest needs. We kōkua rural neighbor island communities through our Native Hawaiian Rights and Environmental Law Clinics, which are classes that offer upper division law students and one Post JD Fellow “experience” practicing law. This partnership leverages resources by imparting clinicians with vital training in Native Hawaiian and Environmental Law and serving our lāhui, while simultaneously providing free assistance to OHA beneficiaries.

The A'ō Aku A'ō Mai Initiative was started in 2011 at OHA's request. In a lawsuit to clear title to ancestral land on Moloka'i (*Bartell v. Heirs or Assigns of Manuela*), more than twenty beneficiaries were named as defendants and contacted OHA for legal representation. Over the course of four semesters, our law students and Post JD Fellow assisted 156 pro se defendants (individuals representing themselves in a court case without the assistance of an attorney) and their 'ohana in two different cases, published *E 'Onipa'a I Ke Kūlaiwi: A Legal Primer for Quiet Title and Partition Law in Hawai'i*, and facilitated thirteen workshops on the Quiet Title and Partition Process and the primer in particular. The Initiative also trained roughly 40 law students and one Post JD Legal Fellow in these highly specialized legal areas.

Given our strong partnership and success, the Initiative's focus has expanded to assist OHA beneficiaries in rural communities through free trainings, the distribution of legal primers, and direct services on a range of issues including but not limited to completing water use permit applications in Nā Wai 'Ehā, Maui, securing a marine reserve in Ka'ūpūlehu, North Kona, and the current project navigating the long-term water lease application process on behalf of the Wai'oli Valley Taro Hui on Kaua'i. These projects provide free legal services to OHA beneficiaries on the front lines of preserving Native Hawaiian culture and traditions, while training and inspiring law students and recent law graduates to continue this important work.

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[www.law.hawaii.edu](http://www.law.hawaii.edu)

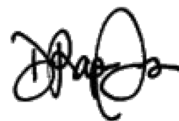
To provide insight into the Initiative's significant benefits, consider the work that our clinicians have been able to do for the Wai'oli Valley Taro Hui on Kaua'i. These third to fifth generation kalo farmers have been devastated by severe flooding since 2019. To add insult to injury, disaster recovery efforts determined that their mānowai, the intake for the lo'i kalo irrigation system that has borrowed water from Wai'oli Stream for centuries, was on conservation land and would now be subject to permitting and other requirements, including Hawai'i Revised Statutes chapter 171, the Department of Land and Natural Resources' complex water licensing provision. This semester, law students and fellows completed a 300+ page Draft Environmental Assessment, presented before the Water Commission and ultimately secured a numeric interim instream flow standard for Wai'oli Stream, advocated for the passage of a Concurrent Resolution authorizing direct negotiation of a long-term water lease (after 13 legislative hearings and more than 121 written testimonies), facilitated meetings with Governor Ige, Mayor Kawakami, and Congressman Kai Kahele to support the farmers, and more. During the Spring 2021 semester alone, eleven law students and two attorneys spent more than a thousand hours working on the Hui's behalf before administrative agencies, at the legislature, and beyond. And the work continues this summer as several of the clinicians were so inspired by the project that they are continuing to support the farmers through fellowships and pro bono efforts (volunteer legal work).

In addition to these direct benefits for OHA beneficiaries in Wai'oli, Kaua'i, clinicians have helped to build capacity and raise awareness about the impacts of permitting and other processes on Native Hawaiian practitioners and kalo farmers in particular, which has inspired several legislators to commit to introducing bills to address these issues during the next legislative session. Perhaps most importantly, this partnership is helping to ensure that the vital practice of kalo cultivation can survive the transition into the modern legal era and that Wai'oli farmers can continue supplying kalo pa'a and poi (especially via the Waipā Foundation) to feed our lāhui physically and spiritually.

This work is also transformative for our law students and recent graduates; as one clinician explained: "[h]elping the community on Kaua'i was one of my most memorable experiences at Richardson. Knowing our work really made an impact for the kalo farmers and the community at large will be something I will draw motivation from for the rest of my career." The A'o Aku A'o Mai Initiative is also improving the lives of your beneficiaries. One Wai'oli farmer noted, "[t]here aren't enough words or ways to say MAHALO to ALL the students for spending endless hours and weekends working on our stuff! Your collective mana is connected to Wai'oli forever!" Another shared, "you all really impacted our lives in a positive way and it makes the future look so much brighter for taro farming in Wai'oli Valley."

It has been an honor and a privilege to partner with OHA on the A'o Aku A'o Mai Initiative and we hope to continue these efforts once the FY 22/23 Biennium Budget is approved.

Me ka ha'aha'a



D. Kapua'ala Sproat



PHONE (808) 594-1888  
Committee on Resource Management  
Trustee John Waihe'e IV, *At-Large* - Chair  
Trustee Luana Alapa, *Moloka'i / Lāna'i* - Vice Chair  
Members

Trustee Leina'ala Ahu Isa, *At-Large*  
Trustee Dan Ahuna, *Kaua'i / Ni'ihau*  
Trustee Kaleihikina Akaka, *O'ahu*  
Trustee Keli'i Akina, *At-Large*  
Trustee Brendon Kalei'aina Lee, *At-Large*  
Trustee Carmen Hulu Lindsey, *Maui*  
Trustee Keola Lindsey, *Hawai'i Island*



FAX (808) 594-1865

**STATE OF HAWAII'  
OFFICE OF HAWAIIAN AFFAIRS**

**MEETING OF THE  
COMMITTEE ON RESOURCE MANAGEMENT (RM)**

**DATE:** Thursday, July 22, 2021

**TIME:** 1:30 p.m.

**PLACE:** Virtual Meeting

Viewable at [www.oha.org/livestream](http://www.oha.org/livestream) OR

Listen by phone: (213) 338-8477, Webinar ID: 949 3309 0127

**Due to the threat of COVID-19, Governor Ige issued the recent Emergency Twenty-First Supplementary Proclamation dated June 7, 2021 that suspends parts of Hawai'i Revised Statutes Chapter 92, Public Agency Meetings and Records to, among other things, enable boards to conduct business without any board members or members of the public physically present at the same location.**

**The OHA Board of Trustees and its Standing Committees will hold virtual meetings until further notice. The virtual meetings can be viewed and observed via livestream on OHA's website at [www.oha.org/livestream](http://www.oha.org/livestream) or listen by phone: (213) 338-8477, Webinar ID: 949 3309 0127**

**AGENDA**

**I. Call to Order**

**II. Public Testimony on Items Listed on the Agenda\***

(Please see page 2 on how to submit written testimony or provide oral testimony online.

Oral testimony by telephone/landline **will not** be accepted)

**III. Approval of Minutes**

A. June 23, 2021

B. June 24, 2021

C. June 30, 2021

**IV. Unfinished Business**

None

**V. New Business**

A. ACTION ITEM RM #21-09: Approve OHA's Intent to Apply to the Administration for Children and Families, Administration for Native Americans, American Rescue Plan Act Emergency Native Language Funding Opportunity for Native Hawaiians and Pacific Islanders for \$250,000

B. WORKSHOP: Amendments to the Native Hawaiian Trust Fund Investment Policy Statement and the Debt Management Policy Implementation Procedures

**VI. Executive Session‡**

A. Consultation with Board Counsel Robert G. Klein and Everett Ohta, OHA Assistant Senior Legal Counsel, re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities with respect to updates by Administration regarding potential acquisition of commercial properties, pursuant to HRS§92-5(4)

**VII. Announcements**

**VIII. Adjournment**

**STATE OF HAWAI‘I  
OFFICE OF HAWAIIAN AFFAIRS  
560 N. NIMITZ HIGHWAY, SUITE 200  
(VIRTUAL MEETING - VIA ZOOM WEBINAR)  
COMMITTEE ON RESOURCE MANAGEMENT  
MINUTES**

**June 24, 2021 10:00 a.m.**

**ATTENDANCE:**

Chairperson John Waihe‘e, IV  
Vice-Chairperson Luana Alapa  
Trustee Leina‘ala Ahu Isa  
Trustee Dan Ahuna  
Trustee Kaleihikina Akaka  
Trustee Keli‘i Akina  
Trustee Brendon Kalei‘āina Lee  
Trustee C. Hulu Lindsey  
Trustee Keola Lindsey

**COUNSEL:**

Anna Elento-Sneed, Esq.  
Robert G. Klein, Esq.

**BOT STAFF:**

Crayn Akina  
Melissa Wennihan

**ADMINISTRATION STAFF:**

Sylvia Hussey, CEO / Ka Pouhana / Administrator  
Casey Brown, COO / Ka Pou Nui  
Erin Nakama, IT  
Everett Ohta, Corporation Counsel  
Kai Mana Peres-David, HR  
Raina Gushiken, Corporation Counsel  
Ramona Hinck, CFO  
Tiger Li, IT

**GUESTS:**

Daniel Kanahale  
Germaine Meyers

**I. CALL TO ORDER**

**Chair Waihe‘e** calls the Committee on Resource Management meeting for Thursday, June 24, 2021, to order at **10:00 a.m.**

**Chair Waihe‘e** notes for the record that **PRESENT** are:

MEMBERS			AT CALL TO ORDER (10:00 a.m.)	TIME ARRIVED
CHAIR	JOHN	WAIHE‘E, IV	PRESENT	
VICE CHAIR	LUANA	ALAPA	PRESENT	
TRUSTEE	LEINA‘ALA	AHU ISA	PRESENT	
TRUSTEE	DAN	AHUNA	PRESENT	
TRUSTEE	KALEIHIKINA	AKAKA	PRESENT	
TRUSTEE	KELI‘I	AKINA	PRESENT	
TRUSTEE	BRENDON KALEI‘ĀINA	LEE	PRESENT	
TRUSTEE	CARMEN HULU	LINDSEY	PRESENT	
TRUSTEE	KEOLA	LINDSEY	PRESENT	

At the Call to Order, **NINE (9) Trustees are PRESENT**, thereby constituting a quorum.

## II. PUBLIC TESTIMONY on Items Listed on the Agenda\*

**RM Staff Crayn Akina:** We do have two oral testifiers today. I wanted to also state for the record two written testifiers who submitted testimony for yesterday's meeting – both testimonies also stand for submission for today's meeting as well - Wai'oli Valley Taro Hui and D. Kapua'ala Sproat.

**Germaine Meyers:** Aloha. Thank you. My name is Germaine Meyers. I'm a beneficiary, for beneficiary advocacy and empowerment. I'm also a Nānākuli Hawaiian homestead lessee.

Thank you Chair Waihe'e, Vice-Chair Alapa, Administration and Lāhui. Today, I come before you to speak about the biennium budget that is before today's agenda. I had listened to yesterday's workshop on the biennium budget, and I had expressed to you yesterday regarding my concerns about the Grants Department specifically; and I echo that concern today.

After listening to the Joint BAE-RM Committee meeting and the responses by the Grant Manager, which I feel did not answer the questions honestly, directly, and clearly - I again assert my concerns about the biennium budget grants portion of it being inflated, when we have a situation where the Grants department process is, in my perspective, questionable.

When I look at Hawai'i Revised Statutes §10-14.5(b) it says that *the board shall provide opportunities for beneficiaries in every county to participate in the preparation of each biennial and supplemental budget of the office of Hawaiian affairs;* that I wholeheartedly know has been fulfilled.

I participated in my county when the Administrator, as well as the Chair, and the Chair of the BAE Committee had come to my neighborhood board meeting. I felt that it was feral in telling us the budget, and we'd supported it wholeheartedly as a neighborhood board.

Right now, I express to you my personal views and I feel that after getting feedback from some of the Trustees, I feel that there's a misunderstanding about the roles of the Trustees and the Board, as compared to the Administrator or the CEO, as it's been retitled. The separation in our understanding, and especially I hear some of the Trustees say on the Board; "*oh, we're only policymakers.*" That's not true.

I think there needs to be a revisit of the Hawai'i Revised Statutes regarding Chapter 10 and there's a difference between *shall* and *may*. *Shall* is mandatory *thou shall* and for example, it says *shall* appoint an Administrator who *shall* serve, but *may* is optional, it's discretionary.

You *may* or you *may not*. You *may* choose to do this or you *may not*. So, whenever I hear *shall* in Chapter 10, especially regarding the Board's responsibilities - that is mandatory.

I had gone and check with legal counsel in my community, Senator Maile Shimabukuro. She's the Chairman of the Hawaiian Affairs Committee, and she's also a lawyer. I checked with her regarding the difference between *shall* and *may* and I'm correct - *shall* is mandatory - *may* is optional, discretionary.

So, there's another part two on the Hawai'i Revised Statutes regarding the biannual budget and it says this; *these opportunities shall include (shall include) an accounting by trustees of the funds expended, and of the effectiveness of programs undertaken.*

**Germaine Meyers:** Now the effectiveness of programs undertaken by the Grants department, or grants given in the past is not what is being shown in the annual report. In the annual report put out by OHA, it's an accounting of who got monies and what they plan to do, what they *may* do - what they hope to do, what they define that they will do.

At no point for each of those dollars of trust funds have the Trustees given an accountability as it states here; *an accounting by trustees of the funds expended*. That's part one, which you've done in the annual report, but it also says Part Two and of the effectiveness of the programs undertaken. Now we see that CNHA hasn't provided reports. The Grants department owes us quarterly reports if they're not going to provide an annual report - an update. I see that my time is coming-to-a-close. I feel that the Board of Trustees should require; make it mandatory; that the Grants department provide updates to you on-a-monthly-basis, if not quarterly. Thank you for your time. A hui hou, have a nice day.

**Chair Waihe'e:** Thank you Germaine.

**Daniel Kanahale:** Good morning Chair Waihe'e, Trustees, members, and staff. My name is Daniel Kanahale, I'm testifying as an individual on the biennium budget. I'm a resident of South Maui. I live in the moku of Honua'ula.

I come to take a second bite at the apple. I'm here once again to defend the Compliance Enforcement program. I do not want the Compliance Enforcement team to be streamlined out of existence under the new budget. I hope Compliance Enforcement remains 'as is'; because there is so much work to do in our moku, Honua'ula. We are at a crucial stage in Honua'ula and we cannot afford to have advocacy stopped or interrupted.

In fact, all hands are needed on deck at this time. There are thousands of cultural property sites and features at risk of being destroyed because of ongoing and proposed development in Wailea and Makena. The Compliance Enforcement team has been in the trenches with us beneficiaries for years.

When I say us, I mean Justin Kekiwi, Jacob Adolpho, Ashford DeLima, Tanya Lee-Greig, Ka'onohi Lee, Maile Lu'uwai, Ka'ena Elaban, Ke'eaumoku Kapu, Cody Nemet - just to name a few.

The compliance enforcement team has helped we beneficiaries, to save hundreds of sites and features in our moku. They have been in the trenches with us at Makena H-2 residential project at the Wailea Resort phase two expansion, at Honua'ula or Wailea 670 at the Makena Resort expansion, at the Grand Wailea expansion. They have helped to save many, many sites.

With regards to Wailea 670 or Honua'ula; when this project received its zoning approval in 2008 by the County Council, there was a condition imposed on the project that the Historic Resources Preservation Plan (HRPP) would have to be approved by not only SHPD, but by the Office of Hawaiian Affairs.

Now, we beneficiaries, feel that the HRPP is inadequate because it's based on an inadequate archaeological inventory survey. We have been arguing this for decades and our work has proved this right many, many, many times. Thanks to this condition, OHA has been able to advocate our concerns with the developers for the last two years holding their feet to the fire and making things happen in a way that could not otherwise happen without the compliance enforcement team's help.

Particularly Kamakana Ferreira and Lauren Morawski; the compliance archaeologists. They have been instrumental, and we're so grateful to them, we're grateful to Kai Markell and his team.

So, the question I would like to ask Chair Lindsey, and the Board of Trustees –

*Is that your intention to get rid of Kai Markell, and the compliance team?*

If the answer is no. Please assure us that this is not the case and do so outside of Executive Session.

I would also like to ask Administration, if –

*Is it your intention to get rid of Kai Markell and the compliance section?*

and if so - *Why?*

The beneficiaries in Honua'ula would like to know. They have been extremely helpful to us in our historic preservation efforts in the Honua'ula Moku and we would like them to continue advocating for us as beneficiaries here. They are important to historic preservation. They have been important to historic preservation in the past. They are important to historic preservation of our cultural sites now, and I believe they will be important to that effort in the future.

Mahalo for the opportunity to testify this morning.

**Chair Waihe'e:** Thank you, Daniel. *Members, were there any questions or comments for Daniel?*

There are none.

**Chair Waihe'e:** Ok, I think some of Daniel's questions will be addressed during the Action Item portion of the agenda.

### **III. APPROVAL OF MINUTES**

None

### **IV. UNFINISHED BUSINESS**

None

**Trustee Lee moves to take agenda Item VI. Executive Session out of order.**

**Trustee Lee:** Given that the Executive Session, if scheduled to talk about reorganization activities and their related costs, and that's currently scheduled - after we vote on the budget. I believe it's proper for us to discuss those things before we vote on the budget.

**Trustee Keola Lindsey seconds the motion.**

**Chair Waihe'e:** I have no problem with that. *Is there is any discussion?*

There is none.

**Chair Waihe'e calls for a ROLL CALL VOTE.**

							10:16 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	<b>AHU ISA</b>			X			
DAN	<b>AHUNA</b>			X			
KALEIHIKINA	<b>AKAKA</b>			X			
KELI'I	<b>AKINA</b>			X			
VICE-CHAIR LUANA	<b>ALAPA</b>			X			
BRENDON KALEI'ĀINA	<b>LEE</b>	1		X			
CARMEN HULU	<b>LINDSEY</b>			X			
KEOLA	<b>LINDSEY</b>		2	X			
CHAIR JOHN	<b>WAIHE'E</b>			X			
<b>TOTAL VOTE COUNT</b>				<b>9</b>	<b>0</b>	<b>0</b>	<b>0</b>

**VOTE: [ X ] UNANIMOUS [ ] PASSED [ ] DEFERRED [ ] FAILED**

**Chair Waihe'e** notes for the record that all members present vote 'AE (YES) and the **MOTION CARRIES**.

**VI. EXECUTIVE SESSION‡**

- A. Consultation with Board Counsel Robert G. Klein, OHA Sr. Legal Counsel Raina Gushiken, and Anna Elento-Sneed, Esq. re: questions and issues pertaining to the Board’s powers, duties, privileges, immunities, and liabilities with respect to reorganization activities and related costs, pursuant to HRS§92-5(4)**

**Trustee Ahu Isa moves to resolve into Executive Session pursuant to HRS§92-5(a)(4).**

**Trustee Hulu Lindsey seconds the motion.**

**Chair Waihe’e asks if there is any discussion. There is none.**

**Chair Waihe’e calls for a ROLL CALL VOTE.**

							10:17 a.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	<b>AHU ISA</b>	1		X			
DAN	<b>AHUNA</b>			X			
KALEIHIKINA	<b>AKAKA</b>			X			
KELI'I	<b>AKINA</b>			X			
VICE-CHAIR LUANA	<b>ALAPA</b>			X			
BRENDON KALEI'ĀINA	<b>LEE</b>			X			
CARMEN HULU	<b>LINDSEY</b>		2	X			
KEOLA	<b>LINDSEY</b>			X			
CHAIR JOHN	<b>WAIHE'E</b>			X			
<b>TOTAL VOTE COUNT</b>				<b>9</b>	<b>0</b>	<b>0</b>	<b>0</b>

**VOTE: [ X ] UNANIMOUS [ ] PASSED [ ] DEFERRED [ ] FAILED**

**Chair Waihe’e notes for the record that all members present vote 'AE (YES) and the MOTION CARRIES.**

The committee resolved into Executive Session at 10:17 a.m. to discuss:

**VI. EXECUTIVE SESSION‡**

- A. Consultation with Board Counsel Robert G. Klein, OHA Sr. Legal Counsel Raina Gushiken, and Anna Elento-Sneed, Esq. re: questions and issues pertaining to the Board’s powers, duties, privileges, immunities, and liabilities with respect to reorganization activities and related costs, pursuant to HRS§92-5(4)**

The committee returned to Open Session at 12:14 p.m.

**V. NEW BUSINESS**

**A. ACTION ITEM RM #21-07A: OHA Biennium Budget for the Fiscal Biennium  
Periods 2021-2022 (FY22) and 2022-2023 (FY23)**

**MAIN MOTION**

**Trustee Hulu Lindsey** moves to approve the Fiscal Biennium Period 2021-2022 (FY22) and 2022-2023 (FY23) as outlined in our Attachment.

**Trustee Akina** seconds the motion.

**Chair Waihe'e** asks if there is any discussion.

**AMENDMENT (ONE)**

**Trustee Lee** moves to amend the motion to stipulate that it is Attachment #2.

*I would like to make an amendment to the motion. Since the main motion does not stipulate, then my amendment will so stipulate, I would like to amend the main motion to stipulate that it's Attachment #2. I don't want to muddy the amendment, so I will offer a further amendment should this prevail.*

**Trustee Keola Lindsey** seconds the amendment to the motion.

**Chair Waihe'e:** *Sorry, what is Attachment #2?* I wouldn't be against supporting it, I'm just looking for it.

**Trustee Lee:** There are two attachments that were provided for two separate budgets. Ka Pouhana talked about it during Executive Session.

**Chair Waihe'e:** Okay.

**Trustee Hulu Lindsey:** Ka Pouhana can you explain.

**Pouhana Hussey:** Trustees on page two of the Action Item; the recommended action from Administration is as outlined in Attachment #1. Attachment #2 as referenced by Trustee Lee is an alternate action for the Board's consideration. Administration's recommendation is Attachment #1.

**Trustee Lee:** That's correct, but the main motion just stated 'attachment'; it did not specify so my amendment is specifying.

**Trustee Akina:** *May we ask Ka Pouhana to concisely explain what the impact of Attachment #2 will be?*



**Pouhana Hussey:** So, Attachment #1, as the Administration's recommendation, reflects the Biennium Budget with reorganized positions of 153 positions versus Attachment #2 as the alternate action reflects an 'as-is' budget of 179 positions and just the related personnel differences in there not reflecting any reorganization.

The difference also is that in Attachment #1, it reflects a Beneficiary and Community Investment of \$15.1 million, whereas Attachment #2 reflects a lower amount of \$13 million - which is the difference in the two attachments from the labor line. So, the two attachments are the same - except with those two differences.

**Trustee Lee:** And as I stated, Mr. Chair, I have a further amendment to this, but I didn't want to muddy it. So, I was going to take each amendment up separately.

**Chair Waihe'e:** Okay. *Is there any discussion on the amendment members?*

**Trustee Akina:** Yes, Mr. Chair, thank you very much. As I understand it, if we vote for the amendment that has been proposed, we will be voting down at least for the time being - the plan of reorganization, in which case I speak to that and I say that we should not adopt that amendment, because we have good reasons to move forward with the reorganization.

**Trustee Lee:** I do not see how approving Attachment #2 prevents the reorganization. I see the approval of Attachment #2 as providing administration more time to do the reorganization; and that's not the same as voting down the reorganization - as was stated by the last trustee. Thank you, Mr. Chair.

**Trustee Akina:** I will concede to my colleague Trustee Lee that my language was more absolute than it should be. To be more precise; the reason I do not want us to support this amendment is so that Administration may proceed at this time with the putting-into-effect, the plans for the reorganization. Thank you and thank you, Trustee Lee.

**Trustee Lee:** Point of Information, Mr. Chair.

**Chair Waihe'e:** Please state your point of information Trustee Lee.

**Trustee Lee:** *Can Trustee Akina, please share with me that plan; and then maybe I'll withdraw my amendment?*

**Trustee Akina:** Trustee Lee - we've had many months and we've had extensive discussion in Executive Session to supplement our open discussions. I believe that sufficient information has been presented. I appreciate your interest in further information, but I believe it has been provided and I'm satisfied with the level of information that the Administration has given to us.

**Trustee Lee:** Mr. Chair, and I appreciate that he's satisfied with that. So, I'm asking him to please share it with me; I didn't bring it up, Mr. Chair, he did. So, I'm asking him to please share it with me and if it's satisfactory to me - like it is to Trustee Akina, I will be happy to withdraw my amendment.

**Trustee Akina:** Mr. Chair, I'm not asking Trustee Lee to take any action or to withdraw his amendment. Therefore, I don't feel it's necessary to satisfy his question. I believe with all my heart that the information is there, and Trustee Lee has had ample opportunity in Executive Session and elsewhere to explore it to the extent that he would care to do so.

**Chair Waihe'e:** Okay. *Is there any other discussion members?*

**Trustee Hulu Lindsey:** **Call for the question.**

**Chair Waihe'e:** Okay, if there are no further comments...

**Trustee Lee:** Mr. Chair, Trustee Hulu Lindsey called for the question, which means she's asking for debate to be ended, which means you now need to take a vote of the members present on whether to end debate or not.

**Chair Waihe'e:** If she made a motion to call for the question that requires six votes to do so.

**Trustee Lee:** That's correct; and that would end debate. That's not the question, that's just to end debate.

**Chair Waihe'e:** Okay.

**Trustee Lee:** So, the question has been called Mr. Chair, no second is necessary. A vote needs to take place.

**Chair Waihe'e** calls for a **ROLL CALL VOTE.**

<b>CALL FOR THE QUESTION - END DEBATE</b>							<b>12:24 p.m.</b>
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED	
LEINA'ALA <b>AHU ISA</b>				2 - X	1 – KANALUA;		
DAN <b>AHUNA</b>				2 - X	1 – KANALUA;		
KALEIHIKINA <b>AKAKA</b>			X				
KELI'I <b>AKINA</b>			X				
VICE-CHAIR LUANA <b>ALAPA</b>			X				
BRENDON KALEI'ĀINA <b>LEE</b>				X			
CARMEN HULU <b>LINDSEY</b>	1		X				
KEOLA <b>LINDSEY</b>				X			
CHAIR JOHN <b>WAIHE'E</b>				X			
<b>TOTAL VOTE COUNT</b>			<b>4</b>	<b>5</b>	<b>0</b>	<b>0</b>	

**VOTE: [ ] UNANIMOUS [ ] PASSED [ ] DEFERRED [ X ] FAILED**

**Chair Waihe'e** notes for the record that 4 members present vote 'AE (YES) and 5 members present vote A'OLE (NO) and the **MOTION TO END DEBATE FAILS.**

**Chair Waihe'e:** *Is there any more discussion on the amendment?*

**Trustee Keola Lindsey:** Mr. Chair, I agree with the earlier comment, which was that we've had months to consider the reorg. portion of our budget. I wholeheartedly agree with that; there have been many questions asked. I support the amendment to the motion that Trustee Lee made, because I feel that there still remains 'unknowns' about the proposed reorg. and more time is needed.

I think a reorg. of OHA is necessary to provide more services to our beneficiaries, but we're not there yet, and more time is needed to get there. Thank you, Mr. Chair.

**Chair Waihe'e:** Thank you, Trustee Lindsey. *Any further discussion members?*

**Trustee Ahu Isa:** *We are talking about Action Item RM #21-07B?*

**Chair Waihe'e:** No, RM #21-07A, Attachment #2.

**Trustee Ahu Isa:** Okay.

**Chair Waihe'e** asks if there is any further discussion.

There is no further discussion.

**Chair Waihe'e** calls for a **ROLL CALL VOTE.**

AMENDMENT (ONE)						AMENDMENT: 12:17 p.m. VOTE: 12:27 p.m.
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA			X			
DAN			2 - X		1 - KANALUA;	
KALEIHIKINA				X		
KELI'I				X		
VICE-CHAIR LUANA				X		
BRENDON KALEI'ĀINA	1		X			
CARMEN HULU						NOT PRESENT AT TIME OF VOTE
KEOLA		2	X			
CHAIR JOHN			X			
<b>TOTAL VOTE COUNT</b>			5	3	0	1

**VOTE: [ ] UNANIMOUS [ X ] PASSED [ ] DEFERRED [ ] FAILED**

**Chair Waihe'e** notes for the record that 5 members present vote 'AE (YES) and 3 members present vote A'OLE (NO) and the **AMENDMENT (ONE) PASSES.**

**AMENDMENT (TWO)**

**Trustee Lee** moves to amend the new motion to add in that Administration add to the budget, the line for the compensation packages from Attachment A to fulfill the suggestion of raising our investment in beneficiaries to the \$15 million.

**Trustee Ahu Isa** seconds the amendment to the new motion.

**Trustee Lee:** The purpose of this amendment is obviously, as we have all stated, we believe in being able to and that we should be investing in our beneficiaries more. So given that the funds are there, at least for the first fiscal year - and again, as stated for the *original* amendment; this gives administration more time for the reorganization.

At least in this way, we are fulfilling that part of investing more into our beneficiaries and raising it from what Attachment #2 has as the 13 million - up to what Attachment #1 originally had of the 15 million. So, that we are in fact, giving out more grants and investing more in our beneficiaries. Thank you, Mr. Chair.

**Trustee Akina:** I'd like to ask Ka Pouhana if she could explain what the impact of this motion - if passed - would be upon reorganization.

**Pouhana Hussey:** Thank you, Trustee Akina. I want to be sure I understand the motion and the intent of the motion, Trustee Lee.

*So, it's to direct Administration to basically take from Attachment #2 on the line 13.7 - restore that to 15.1 - and somehow balance the budget in some other line?*

**Trustee Lee:** It was my understanding from other discussions that I won't go into right now - because they were all in executive session - that those funds are available in the line that was designated for the benefit packages. *Should we go through with the reorg.?*

**Pouhana Hussey:** As a result of Budget Realignment #3 - that the Board took action-on earlier this month - from FY21, there is about a million dollars of unspent, uncommitted unencumbered from FY21. Funds that could be utilized to pay for reorganization related costs, but that's about a million dollars that can certainly be repurposed for other items...

**Trustee Lee:** I'm sorry Ka Pouhana, you're cutting in and out.

*Can I respectfully request for everyone else to mute their mics because they're cutting into Ka Pouhana?*

**Pouhana Hussey:** Oh, okay. I just want to clarify my understanding in Budget Realignment #3 that the Board approved a couple of weeks ago, in unspent, unencumbered, uncommitted dollars from FY21 - there is a sum of one million dollars to be able to reallocate for reorganization costs or for other things as well.

It was proposed that million dollars be utilized for any reorganization costs impacts; but the Trustees can certainly redirect that amount to any other purpose. So, if I'm hearing correctly, *are you redirecting it to the grants line?*

**Trustee Lee:** I believe that's what I was doing. I was trying to do it in this form, so that we didn't have to take up another issue at all at a later date of redirecting it that way. *Does that makes sense?*

**Pouhana Hussey:** Okay. It does. I just want to be sure to gain clarity of what the action is, because that's a very specific action. *Taking FY21 funds and carrying it over is basically what the Board is asking Administration to do?*

**Trustee Lee:** Correct; and if Legal comes back after this and says that we cannot legally do that, that we must take up another Action - then so be it. The attempt right now, by this amendment, is to effectively do that today for the budget.

**Pouhana Hussey:** Okay. So, from FY21, to apply to FY22 to increase the beneficiary; retaining that, which means reorganization activities aren't authorized. *Is that correct?*

**Trustee Lee:** Well, that's what the Attachment #2 is. *Correct?*

**Pouhana Hussey:** Correct.

**Trustee Lee:** Right; and as stated, in the debate for the *original* amendment, it's not to stop reorganization, it's to give Administration more time for the reorganization.

**Pouhana Hussey:** *So that would imply coming back to the Board for reorganization related activities? Implementation, that we have an implementation plan, is that my understanding?* I want to make sure so that Administration comes back with what we are supposed to come back with.

**Trustee Lee:** I will yield to Trustee Keola Lindsey, as I contemplate my response to that.

**Trustee Keola Lindsey:** Thank you. Like I touched on earlier over the months of discussion that we've had on the proposed reorg., a very specific part of this budget, speaking for myself in reviewing it – it is understanding how the reorg. is going to specifically address identified problems in providing services to our beneficiaries and resolve those problems to increase services to our people.

Those are some of the details I still want to see regarding the proposed reorg. I don't know if that was the exact question Ka Pouhana asked Trustee Lee. That's my response to what information I would like to see. Thank you, Mr. Chair.

**Trustee Lee:** For myself Ka Pouahana, I will suffice it to say this, the numerous times that I've been offered by Administration to meet with them about the reorg. and the budget; on the record, my response has been - I don't know what to ask because I don't understand it.

So, with that being said - should this prevail Ka Pouhana, I will commit that within the next two weeks I will schedule a meeting at the convenience of Administration to meet with them. Even if that meeting is me sitting across from them saying, I don't understand, then that's what that meeting starts with, but I will not put off and say "I don't know what to ask. I'm not going to meet with you."

**Trustee Akina:** Thank you. I want to go back and continue my question to CEO Sylvia.

If we do go ahead and have the reallocation of funds that is proposed by the amendment that is on the floor:

*How could that potentially delay or impact your plans for moving forward with reorganization?*

*In part, my question is asking, aren't these funds necessary for that to be done in an expeditious way?*

**Pouhana Hussey:** Yes, Administration doesn't have the authority to offer any separation in the reorganization, because implicit in that action is the proposed separation costs and that refers to the next action item, which Trustee Ahu Isa flagged.

That action item and that discussion is the totality of the costs of the separation pieces. So, if that is not funded, then that activity doesn't go forward. We don't have any information to provide forward to impacted employees. So, it's a little 'chicken/eggy', but that's how integrated the two action items are.

**Trustee Akina:** So, if we vote 'yes' on this amendment - *we are in essence delaying to some extent, your ability to move forward on reorganization?*

**Trustee Ahu Isa:** I don't think it delays. It doesn't say she doesn't do the reorganization. It's just telling people that they're not going to have the job, but she can go ahead and lead the organization because we have to September 1.

I wish you would read my article in July, I wrote a Ka Wai Ola article in July with the CEO. Stating how CEOs in our present situation - after COVID – it is affecting all organizations. CEO jobs are becoming more and more tenuous. In 1992, CEOs had a 36% chance of holding on to their job for five years in 2009. After COVID only 15% of CEOs positions; they have turned over yearly.

Now that things have grown more-and-more slippery, where the buck stops with her (I'm going to use "her"); that it's imperative that the CEOs be given consideration after COVID. Mahalo.

**Trustee Hulu Lindsey:** Mr. Chair, I apologize. I had to go to the restroom, and everything happened while I was gone.

*Could you explain to me what action was taken in my absence, what was the amendment?*

**Chair Waihe'e:** It was to approve Attachment #2.

**Trustee Hulu Lindsey:** So, I want to re-amend it to approve...

**Chair Waihe'e:** There's currently another amendment on the table right now.

**Trustee Hulu Lindsey:** I'll wait then.

**Trustee Lee:** Just for clarification for Trustee Hulu Lindsey, the current amendment that is on the table is to add-in to the Attachment #2 budget, the funds from the benefits package to increase the beneficiary investment.

In other words, the grants back up to the \$15 million, so that it's not the \$13 million as stipulated in Attachment #2; so, they would raise it up to the 15 that was in Attachment #1.

After that clarification, Mr. Chair, to Trustee Akina's question - the intent of these amendments is not to stop the reorganization. I fully acknowledge and agree that a reorganization is necessary. This is simply just to give everybody, not just Administration, but the Trustees as well - to give everybody more time.

That's it, Mr. Chair. It gives us all more time to ask more questions, to understand this better. I'm happy to hear that some of the Trustees understand it and I'm hoping that this time will either allow the rest of us to get more clarity from either Administration or those Trustees. We can meet as trustees in pairs of two without violating sunshine, or even scheduling agendas with more workshops.

We have a year. So, that's the intent of this, Mr. Chair - is just to give us time. Thank you, Mr. Chair.

**Chair Waihe'e:** Thank you.

**Trustee Akina:** Going back a bit to Trustee Ahu Isa's comment, I appreciate what my colleague has said in that the amendment before us doesn't prevent the Administration from exercising leadership toward reorganization. I do want to go back to the CEO's point - that if the money that has been set aside for benefits and separation is reallocated, that will have a delaying effect on being able to go forward because we cannot complete the reorganization without that piece of it. That's what would happen if we do vote 'yes' on this amendment.

**Chair Waihe'e** asks if there is any further discussion.

There is no further discussion.

Chair Waihe'e calls for a ROLL CALL VOTE.

AMENDMENT (TWO)							Amendment: 12:28 p.m. Vote: 12:44 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA		2	X			
DAN	AHUNA			X			
KALEIHIKINA	AKAKA				X		
KELI'I	AKINA				X		
VICE-CHAIR LUANA	ALAPA				X		
BRENDON KALEI'ĀINA	LEE	1		X			
CARMEN HULU	LINDSEY				X		
KEOLA	LINDSEY			X			
CHAIR JOHN	WAIHE'E			X			
<b>TOTAL VOTE COUNT</b>				<b>5</b>	<b>4</b>	<b>0</b>	<b>0</b>

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

Chair Waihe'e notes for the record that 5 members present vote 'AE (YES) and 4 members present vote A'OLE (NO) and the **AMENDMENT (TWO) PASSES.**

Chair Waihe'e: *Members, we have a motion on the table still, is there any further discussion?*

Trustee Keola Lindsey: Mr. Chair, just for my own understanding - *what is the remaining motion on the table?*

Chair Waihe'e: The budget as outlined in Attachment #2 and also with \$15 million for grants.

Trustee Keola Lindsey: Okay. Thank you, Mr. Chair.

Trustee Lee: *Would it please the Chair if I restated the main motion as amended?*

Chair Waihe'e: Yes.

Trustee Lee: The main motion is now as amended, which is RM #21-07A:

**To approve OHA Biennium Budget for the Fiscal Biennium Period 2021-2022 (FY22) and 2022-2023 (FY23) as outlined in Attachment #2. With the addition of the line from Attachment #1 for the funds for the benefit separation packages from the reorganization to increase the grants line in Attachment #2 to \$15,173,500.**

Trustee Hulu Lindsey moves to amend the motion to read 'Attachment #1'.

Trustee Lee: I just want to understand the amendment, Mr. Chair. Oh, actually - I'll wait Mr. Chair.

Trustee Akina seconds the amendment to the motion *for the sake of discussion.*

Chair Waihe'e asks if there is any discussion.



**Trustee Lee:** Point of clarification, Mr. Chair. So, the amendment now would be to approve the... I won't read the exact verbiage but to approve the budget as outlined in attachment to adding in the...

**Trustee Hulu Lindsey:** No.

**Trustee Lee:** Well, that's why I'm asking for clarification.

**Trustee Hulu Lindsey:** I made the first motion to approve the budget, but I said 'attachment'. So, you added the first amendment to Attachment #2.

**Trustee Lee:** Which has already passed Trustee. So, any amendment that you're going to add-on now is added on to what has already been passed, which is why I'm trying to...

**Trustee Hulu Lindsey:** So that's what was passed when I went to the restroom. *Is that what you're saying?* Because it was not while I was here...

**Trustee Lee:** Okay, I don't recall anybody asking for a recess.

**Trustee Hulu Lindsey:** I didn't.

**Trustee Lee:** Mr. Chair, so it's been moved and seconded. I would like to understand the amendment. So, it's to pass the budget.

**Chair Waihe'e:** She wants to replace Attachment #2 with Attachment #1.

**Trustee Lee:** Well, then the motion is out of order, because Attachment #2 has already been approved by a majority of the Committee.

**Chair Waihe'e:** Okay.

**Trustee Hulu Lindsey:** *Did we vote on that proposed action?*

**Trustee Lee:** Yes, we did, and it passed with five votes.

**Chair Waihe'e:** It did.

**Trustee Lee:** So, if that is the intention of Trustee Hulu Lindsey, then this motion is out of order. That is not how that is accomplished. That is out of order, Attachment #2 has already been approved. Mr. Chair.

**Trustee Hulu Lindsey:** Okay.

**Chair Waihe'e:** All right.

**Trustee Akina:** As Trustee Lee points out, what Trustee Hulu intends is not going to be accomplished by her motion. Perhaps we could ask for consultation of counsel as to how we could accomplish what Trustee Hulu wants to do.

**Trustee Lee:** Point of order, Mr. Chair. I am not aware of either Corporation Counsel or Board Counsel's credentials to answer what I'm assuming is a point of parliamentary inquiry.

If the Chair would like to rule me out of order and allow them to answer if they so wish; I will consider my options beyond that, but I am not aware of their credentials to answer a point of parliamentary inquiry.

**Chair Waihe'e** asks if there is any further discussion.

**Trustee Hulu Lindsey:** Board Counsel, it's your call. The trustee is calling on you.

**Board Counsel Klein:** Mahalo, Chair. Well, what you have is a parliamentary debate here over how you can accomplish something through voting. It's clear to me that when the motion was made, the amendments were passed; one to cancel debate which ended on its own.

The other one was the move to \$15 million; that passed. So that's what we have now in front of us and that was, I would call it 'alternative one', that passed with a 5-to-4 vote.

So here we are, basically undoing an amendment that was passed by a majority of the Committee by raising the issue of passing an alternative. That is not a legal issue, that is a parliamentary issue. I don't have the experience to tell you how to accomplish it. So, I'll defer. If Raina wants to step in, that's fine, but I can't give you any authority on that.

**Trustee Hulu Lindsey:** I will recognize Trustee Lee's authority as a Parliamentarian and...

**Trustee Lee:** Point of order, Mr. Chair. I am not a Parliamentarian, nor do I claim to be a Parliamentarian. I was questioning the expertise of those that were called upon to make a point of parliamentary inquiry.

**Trustee Akina:** I don't have the parliamentary knowledge with which to frame what Trustee Hulu Lindsey is proposing, but I believe that you as Chair over this committee has some discretion. While we don't have the technical expertise immediately, what we really want to do is allow the vote to be retaken or in some way....

**Trustee Ahu Isa:** Call for the question.

**Chair Waihe'e** calls for a **ROLL CALL VOTE**.

CALL FOR THE QUESTION - END DEBATE							12:53 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	<b>AHU ISA</b>	1		X			
DAN	<b>AHUNA</b>			2 - X		1 - KANALUA;	
KALEIHIKINA	<b>AKAKA</b>			X			
KELI'I	<b>AKINA</b>				X		
VICE-CHAIR LUANA	<b>ALAPA</b>				2 - X	1 - KANALUA;	
BRENDON KALEI'ĀINA	<b>LEE</b>			X			
CARMEN HULU	<b>LINDSEY</b>				X		
KEOLA	<b>LINDSEY</b>			X			
CHAIR JOHN	<b>WAIHE'E</b>				X		
<b>TOTAL VOTE COUNT</b>				<b>5</b>	<b>4</b>	<b>0</b>	<b>0</b>

**VOTE:** [ ] UNANIMOUS [ X ] PASSED [ ] DEFERRED [ ] FAILED

**Chair Waihe'e** notes for the record that 5 members present vote 'AE (YES) and 4 members present vote A'OLE (NO) and the **MOTION TO END DEBATE PASSES**.

Chair Waihe'e calls for a **ROLL CALL VOTE ON THE MAIN MOTION, AS AMENDED.**

**MAIN MOTION, AS AMENDED**

To approve the OHA Biennium Budget for the Fiscal Biennium Period 2021-2022 (FY22) and 2022-2023 (FY23) as outlined in Attachment #2. With the addition of the line from Attachment #1 for the funds for the benefit separation packages from the reorganization to increase the grants line in Attachment #2 to \$15,173,500.

V. A. – RM #21-07A MAIN MOTION, AS AMENDED						MAIN MOTION: 12:16 p.m. VOTE: 12:55 p.m.	
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA			2 - X		1 – KANALUA;	
KALEIHIKINA	AKAKA				X		
KELI'I	AKINA		2		X		
VICE-CHAIR LUANA	ALAPA				2 - X	1 – KANALUA;	
BRENDON KALEI'ĀINA	LEE			X			
CARMEN HULU	LINDSEY	1			X		
KEOLA	LINDSEY			X			
CHAIR JOHN	WAIHE'E				X		
<b>TOTAL VOTE COUNT</b>				<b>4</b>	<b>5</b>	<b>0</b>	<b>0</b>

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

Chair Waihe'e notes for the record that 4 members present vote 'AE (YES) and 5 members present vote A'OLE (NO) and the **MAIN MOTION, AS AMENDED FAILS.**

**V. NEW BUSINESS**

**B. ACTION ITEM RM #21-07B: OHA Biennium Budget for the Fiscal Biennium  
Periods 2021-2022 (FY22) and 2022-2023 (FY23),  
Fiscal Stabilization Policy**

Trustee Hulu Lindsey moves to

- A. Reserve and designate an amount of \$1,000,000 in unspent, uncommitted, unencumbered funds from FY 2021 for the purpose of addressing projected reorganization related costs; this action authorizes Administration to carryover (e.g., accrue, encumber), \$1,000,000 FY 2021 authorization to fund reorganization related costs (e.g., accrued vacation, health insurance premiums, separation pay, other) post FY2021;
- B. Expect, if necessary, an action item recommendation, to fund reorganization related costs in excess of \$1,000,000, in accordance with the Budget Management Policy or the Fiscal Stabilization Policy, as appropriate; and
- C. Authorize the projected balance of \$321,000, as of June 30, 2021, of the unspent, previously designated amount of \$500,000, continue to be available (i.e., carryover) to address operational changes needed to address impacts of COVID-19 as intended.

Trustee Akaka seconds the Motion.

Chair Waihe'e asks if there is any discussion.

**Trustee Keola Lindsey:** I'm going to ask for clarification on how the vote on this action item relates to the failed vote on OHA's Budget because we don't have a... the effort to approve a budget just failed.

*Right?*

*So, what happens?*

*How does this action relate to what I think is a mandate for this Board to approve a budget?*

Thank you, Mr. Chair. Sorry if I'm the only one.

**Trustee Lee:** Point of clarification, Mr. Chair. The approval of carrying over these funds is unrelated to the budget. Although it is related to it; one has nothing to do with the other. We can approve this without having the budget. Which we currently don't have - an approved budget because that failed - and we moved on in the calendar. So, we can approve this Mr. Chair, or not approve it - however the will of the committee is.

Chair Waihe'e asks if there is any further discussion.

There is no further discussion.

**Chair Waihe'e** calls for a **ROLL CALL VOTE**.

V.B. – RM #21-07B							MOTION: 1:00 p.m. VOTE: 1:03 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	<b>AHU ISA</b>			2 - X		1 - KANALUA;	
DAN	<b>AHUNA</b>					1 - KANALUA; 2 - KANALUA = ABSTAIN	
KALEIHIKINA	<b>AKAKA</b>		2	X			
KELI'I	<b>AKINA</b>			X			
VICE-CHAIR LUANA	<b>ALAPA</b>			X			
BRENDON KALEI'AINA	<b>LEE</b>				X		
CARMEN HULU	<b>LINDSEY</b>	1		X			
KEOLA	<b>LINDSEY</b>				X		
CHAIR JOHN	<b>WAIHE'E</b>			X			
<b>TOTAL VOTE COUNT</b>				<b>6</b>	<b>2</b>	<b>1</b>	<b>0</b>

**VOTE: [ ] UNANIMOUS [ X ] PASSED [ ] DEFERRED [ ] FAILED**

**Chair Waihe'e** notes for the record that 6 members present vote 'AE (YES), 2 members present vote A'OLE (NO), and 1 member present ABSTAINED the **MOTION PASSES**.

**VII. ANNOUNCEMENTS**

None

**VIII. ADJOURNMENT**

Trustee Lee moves to adjourn the RM meeting.

Trustee Ahuna seconds the motion.

Chair Waihe'e asks if there is any discussion. There is none.

Chair Waihe'e calls for a **ROLL CALL VOTE**.

TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	1:04 p.m. EXCUSED
LEINA'ALA	AHU ISA			X			
DAN	AHUNA		2	X			
KALEIHIKINA	AKAKA			X			
KELI'I	AKINA			X			
VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE	1		X			
CARMEN HULU	LINDSEY			X			
KEOLA	LINDSEY			X			
CHAIR JOHN	WAIHE'E			X			
<b>TOTAL VOTE COUNT</b>				<b>9</b>	<b>0</b>	<b>0</b>	<b>0</b>

**VOTE: [ X ] UNANIMOUS [ ] PASSED [ ] DEFERRED [ ] FAILED**

Chair Waihe'e adjourns the RM meeting at 1:04 p.m.

**Attachments:**

- 1) Written Testimony - Wai'oli Valley Taro Hui
- 2) Written Testimony - D. Kapua'ala Sproat

Respectfully submitted,

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Melissa Wennihan  
Trustee Aide  
Committee on Resource Management

As approved by the Committee on Resource Management (RM) on July 22, 2021.

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Trustee John Waihe'e, IV  
Chair  
Committee on Resource Management



June 22, 2021

Re: June 24, 2021 RM Committee Meeting – Agenda Item V. OHA Biennium Budget

Aloha mai e nā Trustees,

Mahalo for this opportunity to testify in support of the proposed biennium budget and the A‘o Aku A‘o Mai Initiative in particular. As you may know, we are the Wai‘oli Valley Taro Hui, a hui of small family farmers in Wai‘oli, Kaua‘i that have been stewarding our natural and cultural resources for generations. With OHA’s support and significant help from Ka Huli Ao Center for Excellence in Native Hawaiian Law’s legal clinics, we are comforted that the future of kalo cultivation in Wai‘oli will be protected for future generations.

Our farms and lifeways were devastated by the 2018 floods that ravaged Kaua‘i’s North Shore. Disaster recovery efforts revealed that our Native Hawaiian irrigation system that has taken water from Wai‘oli Stream for centuries was on conservation land and would now be subject to a slew of permitting and other requirements, including HRS 171-58 regarding water leases. Since 2019, the Environmental and Native Hawaiian Law Clinics at the William S. Richardson School of Law have been working diligently to comply with all of the requirements of HRS 171-58. In fact, over the course of those 2 years, we have been told that 33 students and 4 attorneys have spent thousands of hours supporting our humble Hui. They have helped us create a state non-profit with 501(c)(3) tax exempt status, apply for and secure a right of entry and easement, as well as a revocable permit for our water use. In addition, the clinics have helped us to complete beneficiary consultation with the Department of Hawaiian Home Lands, submit a draft watershed plan, pass a concurrent resolution at the Hawai‘i State Legislature authorizing direct negotiation on a long-term water lease, finalize and publish a Chapter 343 draft environmental assessment, and secure an amended interim instream flow standard for Wai‘oli Stream with the Commission on Water Resource Management.

We are so grateful for all of the students’ hard work and aloha. Their work will have a lasting impact on Wai‘oli. It not only helps secure our practice in the present, but more importantly, for the future. Their collective mana is connected to Wai‘oli forever.

Finally, we are deeply grateful for OHA’s support of incredible initiatives and want you to know that so many of us benefit in Wai‘oli and throughout Kaua‘i. Programs like the A‘o Aku A‘o Mai Initiative have lasting impacts on communities and beneficiaries across Hawai‘i nei. These programs train our future attorneys, protect traditional and customary Native Hawaiian practices, build capacity in our community, and ensure: aia i Wai‘oli ke aloha ‘āina – that aloha ‘āina lives here at Wai‘oli and beyond.

Mahalo nui,

The Wai‘oli Valley Taro Hui  
waiolivalleytarohui@gmail.com



UNIVERSITY  
of HAWAII®  
MĀNOA

The William S. Richardson School of Law  
Ka Huli Ao Center for Excellence in Native Hawaiian Law

**D. Kapua'ala Sproat**  
Professor of Law  
Director, Ka Huli Ao  
Director, Native Hawaiian Rights Clinic

**VIA ELECTRONIC TRANSMITTAL**

June 23, 2021

Office of Hawaiian Affairs Board of Trustees  
Committee on Resource Management  
560 North Nimitz Highway  
Honolulu, Hawai'i 96817  
Email: [BOTmeetings@oha.org](mailto:BOTmeetings@oha.org)

**Re: Testimony in Support of Agenda Item V, FY 22/FY 23 Biennium Budget**

Aloha mai kākou!

For the last decade, it has been an honor to partner with OHA on the A'ō Aku A'ō Mai Initiative. This contract enables Ka Huli Ao to provide direct legal services to OHA beneficiaries with the greatest needs. We kōkua rural neighbor island communities through our Native Hawaiian Rights and Environmental Law Clinics, which are classes that offer upper division law students and one Post JD Fellow “experience” practicing law. This partnership leverages resources by empowering clinicians with vital training in Native Hawaiian and Environmental Law and serving our lāhui, while simultaneously providing free assistance to OHA beneficiaries.

The A'ō Aku A'ō Mai Initiative was started in 2011 at OHA's request. In a lawsuit to clear title to ancestral land on Moloka'i (*Bartell v. Heirs or Assigns of Manuela*), more than twenty beneficiaries were named as defendants and contacted OHA for legal representation. Over the course of four semesters, our law students and Post JD Fellow assisted 156 pro se defendants (individuals representing themselves in a court case without the assistance of an attorney) and their 'ohana in two different cases, published *E 'Onipa'a I Ke Kūlaiwi: A Legal Primer for Quiet Title and Partition Law in Hawai'i*, and facilitated thirteen workshops on the Quiet Title and Partition Process and the primer in particular. The Initiative also trained roughly 40 law students and one Post JD Legal Fellow in these highly specialized legal areas.

Given our strong partnership and success, the Initiative's focus has expanded to assist OHA beneficiaries in rural communities through free trainings, the distribution of legal primers, and direct services on a range of issues including but not limited to completing water use permit applications in Nā Wai 'Ehā, Maui, securing a marine reserve in Ka'ūpūlehu, Hawai'i Island, and the current project navigating the long-term water lease application process on behalf of the Wai'oli Valley Taro Hui on Kaua'i. These clinics provide free legal services to OHA beneficiaries on the front lines of preserving Native Hawaiian culture and traditions, while training and inspiring law students and recent law graduates to continue this important work.

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Honolulu, Hawai'i 96822  
[www.law.hawaii.edu](http://www.law.hawaii.edu)

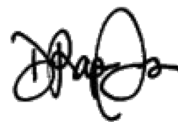
To provide insight into the Initiative's significant benefits, consider the work that our clinicians have been able to do for the Wai'oli Valley Taro Hui on Kaua'i. These third to fifth generation kalo farmers have been devastated by severe flooding since 2019. To add insult to injury, disaster recovery efforts determined that their mānowai, the intake for the lo'i kalo irrigation system that has borrowed water from Wai'oli Stream for centuries, was on conservation land and would now be subject to permitting and other requirements, including Hawai'i Revised Statutes chapter 171, the Department of Land and Natural Resources' complex water licensing provision. This semester, law students and fellows completed a 300+ page Draft Environmental Assessment, presented before the Water Commission and ultimately secured a numeric interim instream flow standard for Wai'oli Stream, advocated for the passage of a Concurrent Resolution authorizing direct negotiation of a long-term water lease (after 13 legislative hearings and more than 121 written testimonies), facilitated meetings with Governor Ige, Mayor Kawakami, and Congressman Kai Kahele to support the farmers, and more. During the Spring 2021 semester alone, eleven law students and two attorneys spent more than one thousand hours working on the Hui's behalf before administrative agencies, at the legislature, and beyond. And the work endures this summer as several of the clinicians were so inspired by the project that they are continuing to support the farmers through fellowships and pro bono efforts (volunteer legal work).

In addition to these direct benefits for OHA beneficiaries in Wai'oli, Kaua'i, clinicians have helped to build capacity and raise awareness about the impacts of permitting and other processes on Native Hawaiian practitioners and kalo farmers in particular, which has, for example, inspired representatives to commit to introducing bills to address these issues during the next legislative session. Perhaps most importantly, this partnership is helping to ensure that the vital practice of kalo cultivation can survive the transition into the modern legal era and that Wai'oli farmers can continue supplying kalo pa'a and poi (especially via the Waipā Foundation) to feed our lāhui physically and spiritually.

This work is also transformative for our law students and recent graduates; as one clinician explained: "[h]elping the community on Kaua'i was one of my most memorable experiences at Richardson. Knowing our work really made an impact for the kalo farmers and the community at large will be something I will draw motivation from for the rest of my career." The A'o Aku A'o Mai Initiative is also improving the lives of your beneficiaries. One Wai'oli farmer noted, "[t]here aren't enough words or ways to say MAHALO to ALL the students for spending endless hours and weekends working on our stuff! Your collective mana is connected to Wai'oli forever!" Another shared, "you all really impacted our lives in a positive way and it makes the future look so much brighter for taro farming in Wai'oli Valley."

It has been an honor and a privilege to partner with OHA on the A'o Aku A'o Mai Initiative and we hope to continue these efforts once the FY 22/23 Biennium Budget is approved.

Me ka ha'aha'a



D. Kapua'ala Sproat

PHONE (808) 594-1888  
Committee on Resource Management  
Trustee John Waihe'e IV, *At-Large* - Chair  
Trustee Luana Alapa, *Moloka'i / Lāna'i* - Vice Chair  
Members

Trustee Leina'ala Ahu Isa, *At-Large*  
Trustee Dan Ahuna, *Kaua'i / Ni'ihau*  
Trustee Kaleihikina Akaka, *O'ahu*  
Trustee Keli'i Akina, *At-Large*  
Trustee Brendon Kalei'aina Lee, *At-Large*  
Trustee Carmen Hulu Lindsey, *Maui*  
Trustee Keola Lindsey, *Hawai'i Island*



FAX (808) 594-1865

**STATE OF HAWAII'  
OFFICE OF HAWAIIAN AFFAIRS**

**MEETING OF THE  
COMMITTEE ON RESOURCE MANAGEMENT (RM)**

**DATE:** Thursday, July 22, 2021

**TIME:** 1:30 p.m.

**PLACE:** Virtual Meeting

Viewable at [www.oha.org/livestream](http://www.oha.org/livestream) OR

Listen by phone: (213) 338-8477, Webinar ID: 949 3309 0127

**Due to the threat of COVID-19, Governor Ige issued the recent Emergency Twenty-First Supplementary Proclamation dated June 7, 2021 that suspends parts of Hawai'i Revised Statutes Chapter 92, Public Agency Meetings and Records to, among other things, enable boards to conduct business without any board members or members of the public physically present at the same location.**

**The OHA Board of Trustees and its Standing Committees will hold virtual meetings until further notice. The virtual meetings can be viewed and observed via livestream on OHA's website at [www.oha.org/livestream](http://www.oha.org/livestream) or listen by phone: (213) 338-8477, Webinar ID: 949 3309 0127**

**AGENDA**

**I. Call to Order**

**II. Public Testimony on Items Listed on the Agenda\***

(Please see page 2 on how to submit written testimony or provide oral testimony online.

Oral testimony by telephone/landline **will not** be accepted)

**III. Approval of Minutes**

A. June 23, 2021

B. June 24, 2021

**C. June 30, 2021**

**IV. Unfinished Business**

None

**V. New Business**

A. ACTION ITEM RM #21-09: Approve OHA's Intent to Apply to the Administration for Children and Families, Administration for Native Americans, American Rescue Plan Act Emergency Native Language Funding Opportunity for Native Hawaiians and Pacific Islanders for \$250,000

B. WORKSHOP: Amendments to the Native Hawaiian Trust Fund Investment Policy Statement and the Debt Management Policy Implementation Procedures

**VI. Executive Session‡**

A. Consultation with Board Counsel Robert G. Klein and Everett Ohta, OHA Assistant Senior Legal Counsel, re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities with respect to updates by Administration regarding potential acquisition of commercial properties, pursuant to HRS§92-5(4)

**VII. Announcements**

**VIII. Adjournment**

**STATE OF HAWAI'I  
OFFICE OF HAWAIIAN AFFAIRS  
560 N. NIMITZ HIGHWAY, SUITE 200  
(VIRTUAL MEETING - VIA ZOOM WEBINAR)  
COMMITTEE ON RESOURCE MANAGEMENT  
MINUTES**

**June 30, 2021 10:00 a.m.**

**ATTENDANCE:**

Chairperson John Waihe'e, IV  
Vice-Chairperson Luana Alapa  
Trustee Leina'ala Ahu Isa  
Trustee Dan Ahuna  
Trustee Kaleihikina Akaka  
Trustee Keli'i Akina  
Trustee Brendon Kalei'aina Lee  
Trustee C. Hulu Lindsey  
Trustee Keola Lindsey

**BOT STAFF:**

Crayn Akina  
Melissa Wennihan

**ADMINISTRATION STAFF:**

Sylvia Hussey, CEO / Ka Pouhana / Administrator  
Casey Brown, COO / Ka Pou Nui  
Erin Nakama, IT  
Everett Ohta, Corporation Counsel  
Kevin Chak, IT  
Raina Gushiken, Corporation Counsel  
Ramona Hinck, CFO

**EXCUSED:**

Trustee Leina'ala Ahu Isa

**GUESTS:**

Germaine Meyers

**COUNSEL:**

Anna Elento-Sneed, Esq.  
Robert G. Klein, Esq.

**I. CALL TO ORDER**

**Chair Waihe'e** calls the Committee on Resource Management meeting for Wednesday, June 30, 2021, to order at **10:00 a.m.**

**Chair Waihe'e** notes for the record that **PRESENT** are:

MEMBERS			AT CALL TO ORDER (10:00 a.m.)	TIME ARRIVED
CHAIR	JOHN	WAIHE'E, IV	PRESENT	
VICE CHAIR	LUANA	ALAPA	PRESENT	
TRUSTEE	DAN	AHUNA	PRESENT	
TRUSTEE	KALEIHIKINA	AKAKA	PRESENT	
TRUSTEE	KELI'I	AKINA	PRESENT	
TRUSTEE	BRENDON KALEI'AINA	LEE	PRESENT	
TRUSTEE	CARMEN HULU	LINDSEY	PRESENT	
TRUSTEE	KEOLA	LINDSEY	PRESENT	

At the Call to Order, **EIGHT (8) Trustees are PRESENT**, thereby constituting a quorum.

**EXCUSED from the RM Meeting** are:

MEMBERS			COMMENT
TRUSTEE	LEINA'ALA	AHU ISA	MEMO – REQUESTING TO BE EXCUSED

## II. PUBLIC TESTIMONY on Items Listed on the Agenda\*

**Germaine Meyers:** Mahalo. Aloha Chair Waihe'e, Vice-Chair Alapa, Trustees, Ka Pouhana, and Lāhui. My name is Germaine Meyers, and I am an OHA beneficiary for Beneficiary, Advocacy and Empowerment. I'm also a Nānākuli Hawaiian homestead lessee. At first, I was confused as to why OHA's Biennium Budget is still pending approval on the last day of fiscal year 20-21. I noticed the difference between attachment number one and attachment number two.

For the Lāhui, the beneficiaries that are watching this meeting, it comes down to the following:

- Attachment number one; reorganization, more monies in grants to reach the community, less money in personnel; less personnel.
- Attachment number two; more monies in personnel, keeping things as is, no additional monies in grants to reach the community.

Yet the strategic plan that was created and approved by all of you focuses on the needs of the community.

*OHA's Strategic Plan; strength to wellbeing includes three foundations: 'Ohana (family), mo'omeheu (culture) and 'āina (land and water), OHA recognizes these foundations have the power to affect the wellbeing of Native Hawaiians. Therefore, they are woven into OHA's plans to affect change in the areas of education, health, housing, and economics. These four directions will be used to guide OHA's work to better the conditions of Native Hawaiians. Over the next 15 years, OHA will be implementing strategies, aligned with our foundations and directions to achieve our envisioned outcomes for a thriving and abundant lāhui.*

Family, culture, land and water; I've heard testimonies in the past two weeks from beneficiaries concerned that OHA's Compliance Enforcement Team is imperative to assisting beneficiaries with ancestors, iwi kupuna, or 'ohana as well as land and water issues. These are the core strategic plan priorities that were shared to us.

At the same time, our strategic priorities have to affect change in the areas of education, health, housing and economics were a resonating theme during the 2018 and 2020 campaign. Now, and at the time, I agreed with all of your answers, and in particular, I share them with you now.

Civil Beat asked the same questions and in particular, they asked you this;

*What would you do to change how OHA is run?*

**Candidate Brendon Lee stated** *bring civility back to the boardroom. With trustees fighting with one another, filing lawsuits against one another, the CEO is getting little and conflicting direction... the dysfunctional in-fighting will allow the Board to produce a new strategic plan for the CEO to implement for a better future for Native Hawaiians and all of Hawai'i.*

**Candidate Lei Ahu Isa stated** *Economic innovation, creative sponsorships, scholarships for keiki.*

**Candidate John Waihe'e stated** *I think that OHA needs to be more disciplined with our discretionary spending... Certain noncompetitive awards need to be strictly managed or done away with.*

**Candidate Keola Lindsey stated** *Increase our presence in the community to regularly share what we are doing and receive input from our beneficiaries on what issues are most important to them, and how OHA can help. Island issues should be addressed on that island by the people from that place, who know the situation the best. Whether it be a federal, state or county issue, OHA must be in a position with resources in place to address it quickly and efficiently.*

**Candidate Kalei Akaka responded** *we must look to restructuring, having clear guidelines for what can and cannot be done. The Strategic Plan could focus on quality of life initiatives, such as health care, homeownership, sustainability, education for our children, economic opportunities, and those fundamental things that every family and every individual needs to succeed.*

**Candidate Dan Ahuna stated** *OHA must do better at prioritizing the needs of our community. If reelected, I will work to establish processes that allow for such community participation.*

**Candidate Carmen Hulu Lindsey stated ...**

Oh, I'm sorry; I noticed my time is up.

I basically want to resonate that the budget needs to be approved today and I have heard what you've all stated is important to you. I just continue to look to you - that the strategic plan will be most core and important to all of you. Mahalo ke akua. Thank you, Chair Waihe'e for this time.

### III. APPROVAL OF MINUTES

None

### IV. EXECUTIVE SESSION‡

- A. Consultation with Board Counsel Robert G. Klein, OHA Sr. Legal Counsel Raina Gushiken, and Anna Elento-Sneed, Esq. re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities with respect to reorganization activities and related costs, pursuant to HRS§92-5(4)**

**Chair Waihe'e:** Members, we have scheduled an Executive Session before the business. If there's a desire for the committee to go into Executive Session to discuss those kinds of matters, pursuant to HRS§92-5(4) - and we do have a legal counsel available. *Is there a desire to do so?*

There is no response.

**Chair Waihe'e:** If not, we can move on to the first item under New Business.

**V. UNFINISHED BUSINESS**

None

**VI. NEW BUSINESS**

**A. ACTION ITEM RM #21-08A: OHA Biennium Budget for the Fiscal Biennium  
Periods 2021-2022 (FY22) and 2022-2023 (FY23)**

**Trustee Hulu Lindsey moves to approve the OHA Biennium Budget for the Fiscal Biennium Period 2021-2022 (FY22) and 2022-2023 (FY23) as outlined in Attachment #1 – Reorganization.**

**Trustee Akaka seconds the motion.**

**Chair Waihe'e** asks if there is any discussion.

**Trustee Lee:** Point of Order Chair Waihe'e; this matter was dispensed with on last week's meeting agenda. The committee may not bring something back just because it does not like the outcome of a previous vote.

**Chair Waihe'e:** No, this is a different action item.

**Trustee Lee:** No, it is not. Just by changing the number Chair, does not change the action. There is nothing different in the budget. This is what was brought forth to the committee last week, and it was voted upon and just because the committee does not like the outcome of that vote, it may not, I repeat, may not bring this item back just because it does not like the outcome of that vote.

That is a violation of our bylaws, because our bylaws strictly stipulate that we shall, not may, *shall* adhere to parliamentary law as laid out in Robert's Rules of Order. This does not constitute a proper order.

This matter was voted on in committee last week. This isn't even a continuation of that same session Mr. Chair. This meeting was not scheduled until after the adjournment of that meeting.

**Chair Waihe'e:** Okay, thank you for your input. It is different though.

**Trustee Lee:** Mr. Chair, I believe I made a point of order. *So, are you ruling against my point?*

**Chair Waihe'e:** I am ruling against your point.

**Trustee Lee:** Okay, then I respectfully **challenge the ruling of the Chair.**



**Trustee Hulu Lindsey:** Mr. Chair, I understand that this was not voted on in our last committee meeting.

**Trustee Lee:** *Explain to me, Mr. Chair, how this was not voted-on?*

We voted on our budget. The action item was 21-07A and it had attachment one and attachment two. Just because attachment one was not brought forward does not mean this matter was not voted upon.

**Chair Waihe'e:** This is Action Item 21-08 and it is a different action item.

**Trustee Lee:** Again, Mr. Chair, I caution...

**Chair Waihe'e:** That's my answer.

**Trustee Lee:** *Are you not going to let me finish my point Mr. Chair?*

**Chair Waihe'e:** I will.

**Trustee Lee:** I caution you, Mr. Chair, that you are delving into legal realms. You may not just change the number on an action item and declare it a new item.

By bringing forward this matter, again, that is going against and showing an ingenuous attempt to pass a budget just because the committee is not happy with the outcome of the last one.

So again, Mr. Chair, I understand that you ruled against my order.

I also made a **motion to challenge the ruling of the chair.**

So, I'm waiting for that challenge to be acknowledged.

**Trustee Hulu Lindsey:** May we hear from the RM Staff Secretary in determining that this item was not voted on last week. The amendments were voted on, but the ruling of the biennium budget was not voted on.

**Trustee Lee:** Point of clarification, Mr. Chair. The budget was voted on and it failed with a 4-to-5 vote and I see the secretary for the committee nodding her head in acknowledgment.

The budget was in fact voted upon and it failed in a 4-to-5 vote. It does not matter what attachment was voted upon and not voted upon. If it's the standing of this committee, that attachment two was voted upon and not attachment one.

Once again I point out to the Chair that is being disingenuous. So now you are giving this committee only one choice, which in laymen terms, Mr. Chair is rigging the game.

Once again Mr. Chair, I will remind you that I'm waiting for a vote to challenge the ruling of the Chair.

**Chair Waihe'e:** Okay. There is a challenge to the ruling of the chair. *Can we take a roll call vote?*

**Trustee Hulu Lindsey:** *What is the question?*

**Chair Waihe'e:** On whether the challenge should be upheld. So, if you vote 'yes', then you will uphold the challenge.

**Trustee Hulu Lindsey:** So, this is a challenge by Trustee Lee against the Chair of the RM committee.

**Trustee Lee:** *Why are we having discussion Mr. Chair?* This motion is not debatable.

**Chair Waihe'e** calls for a **ROLL CALL VOTE**.

CHALLENGE TO THE RULING OF THE RM CHAIR						10:15 a.m.	
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA						EXCUSED
DAN	AHUNA					1 – KANALUA; 2 – KANALUA = ABSTAIN	
KALEIHIKINA	AKAKA				X		
KELI'I	AKINA				X		
VICE-CHAIR LUANA	ALAPA				X		
BRENDON KALEI'AINA	LEE	1			X		
CARMEN HULU	LINDSEY				X		
KEOLA	LINDSEY					1 – KANALUA; 2 – KANALUA = ABSTAIN	
CHAIR JOHN	WAIHE'E				X		
<b>TOTAL VOTE COUNT</b>				0	6	2	1

**VOTE: [ ] UNANIMOUS [ ] PASSED [ ] DEFERRED [ X ] FAILED**

**Chair Waihe'e** notes for the record that six members present vote A'OLE (NO), two members ABSTAIN and the **CHALLENGE FAILS**.

**Trustee Lee:** That is not correct, you just stated Mr. Chair. I will have the secretary read back "If you vote 'yes', you are voting with the Chair."

**Chair Waihe'e:** No, I said you're voting to uphold the challenge. That is not what I said. *Melissa, can you read it back?*

**RM Secretary Melissa Wennihan:** This is being recorded and I cannot listen back at this time, but that is what he said. He said: voting 'yes' you're voting to uphold the challenge.

**Chair Waihe'e:** Thank you. *Is there any other discussion on this motion?*

**Trustee Akina:** To clarify, I voted a'ole which means I voted against the challenge.

**Chair Waihe'e:** I know what you did. *Is there any other discussion on this on this motion?*

**Chair Waihe'e** calls for a **ROLL CALL VOTE**.

**Trustee Akina:** *Could you clarify what we are voting on now?*

**Chair Waihe'e:** On the motion to approve the action item.

**Trustee Akina:** Thank you.

**Trustee Lee:** Point of clarification. *Can we have the motion restated please Mr. Chair?*

**RM Secretary Wennihan:** Trustee Hulu Lindsey moved to approve OHA Biennium Budget for the Fiscal Biennium Periods 2021-2022 (FY22) and 2022-2023 (FY23) as outlined in Attachment #1 – Reorganization - and that's where she stopped. So, it did not include language B as listed on the Action Item.

**Trustee Hulu Lindsey:** I consider that a separate action item.

**Trustee Lee:** In an abundance of caution Mr. Chair, I move that we go into Executive Session.

**Trustee Lee moves to resolve into Executive Session pursuant to HRS§92-5(a)(4).**

**Trustee Keola Lindsey seconds the motion.**

**Chair Waihe'e** asks if there is any discussion. There is none.

**Chair Waihe'e** calls for a **ROLL CALL VOTE**.

							10:19 a.m.
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED	
LEINA'ALA	AHU ISA					EXCUSED	
DAN	AHUNA		X				
KALEIHIKINA	AKAKA		X				
KELI'I	AKINA			X			
VICE-CHAIR LUANA	ALAPA		X				
BRENDON KALEI'ĀINA	LEE	1	X				
CARMEN HULU	LINDSEY			X			
KEOLA	LINDSEY	2	X				
CHAIR JOHN	WAIHE'E		X				
<b>TOTAL VOTE COUNT</b>			<b>6</b>	<b>2</b>	<b>0</b>	<b>1</b>	

**VOTE: [ ] UNANIMOUS [ X ] PASSED [ ] DEFERRED [ ] FAILED**

**Chair Waihe'e** notes for the record that all members present vote 'AE (YES) and the **MOTION CARRIES**.

The committee resolved into Executive Session at 10:19 a.m. to discuss:

**IV. EXECUTIVE SESSION‡**

- A. Consultation with Board Counsel Robert G. Klein, OHA Sr. Legal Counsel Raina Gushiken, and Anna Elento-Sneed, Esq. re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities with respect to reorganization activities and related costs, pursuant to HRS§92-5(4).

The committee returned to Open Session at 12:08 p.m.

Chair Waihe'e notes for the record that the Committee went into Executive Session and had a productive discussion.

**VI. NEW BUSINESS**

- A. ACTION ITEM RM #21-08A: OHA Biennium Budget for the Fiscal Biennium Periods 2021-2022 (FY22) and 2022-2023 (FY23)

**CURRENT MOTION ON THE TABLE**

*Trustee Hulu Lindsey moved to approve the OHA Biennium Budget for the Fiscal Biennium Period 2021-2022 (FY22) and 2022-2023 (FY23) as outlined in Attachment #1 – Reorganization.*

*Trustee Akaka seconded the motion.*

**AMENDMENT**

Trustee Lee moves to amend the main motion; to add in and and then all of Section B:

Approve the carryover of \$1,000,000 in unspent, uncommitted, unencumbered funds from FY 2021 for the purpose of addressing projected reorganization related costs; this action authorizes Administration to carryover, spend, commit, accrue and encumber \$1,000,000 from FY 2021 authorization to fund reorganization related costs (e.g., accrued vacation, health insurance premiums, separation pay, other) post FY 2021 in order to effect the organizational structure budgeted in Attachment #1, the OHA Biennium Budget for the Fiscal Biennium period 2021-2022 (FY 22) and 2022-2023 (FY 23);

Subject to an implementation period to be completed no later than December 31, 2021.

Trustee Ahuna seconds the amendment.

**Chair Waihe'e** asks if there is any discussion.

**Trustee Lee:** I would like to speak in favor of this amendment. I think it speaks to a fair compromise of issues that some Trustees have with a reorg. I know that there's no description in there speaking about position descriptions, but I believe enough discussion has been had with that, that, at least for myself, I'm confident that Ka Pouhana will provide us with those - when it's appropriate, and they're completed. So that's the reason why I speak in favor of the amendment, as brought forward.

Thank you, Mr. Chair.

**Chair Waihe'e:** Thank you, Trustee Lee.

**Trustee Keola Lindsey:** I appreciate the important discussions this Board has engaged in on this topic. We know that our people need help out there. We need to take action today to move forward and work on those issues. I appreciate the discussion that has occurred and look forward to us taking action. Thank you, Mr. Chair.

**Chair Waihe'e:** Thank you, Trustee Lindsey.

**Trustee Akina:** I appreciate the extent to which Trustees have deliberated over the budget and the reorganization. It shows a real concern, a real care, a kuleana for the beneficiaries and for the stewardship of our organization. So, I'm proud to have worked with them on this. We have different perspectives on several issues, and we've talked about them rigorously; but that's to be expected.

I'm glad that we were able to come to a conclusion that allows us to move forward to see that the needs of our beneficiaries are met and that we will work together.

I also want to say that I'm very pleased that the efforts of our Administration - in particular, our CEO, in bringing together this budget and reorganization plan and giving it to us with great transparency, the opportunity for input, and satisfying the questions that we have.

I'm committed that the process will go forward and looking forward to seeing great results. Mahalo to the Administration and Sylvia.

**Chair Waihe'e:** Thank you, Trustee Akina.

**Chair Waihe'e** asks if there is any further discussion.

There is no further discussion.

Chair Waihe'e calls for a **ROLL CALL VOTE**.

AMENDMENT							MOTION: 12:11 p.m. VOTE: 12:15 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA	AHU ISA						EXCUSED
DAN	AHUNA		2	X			
KALEIHIKINA	AKAKA			X			
KELI'I	AKINA			X			
VICE-CHAIR LUANA	ALAPA			X			
BRENDON KALEI'ĀINA	LEE	1		X			
CARMEN HULU	LINDSEY			X			
KEOLA	LINDSEY			X			
CHAIR JOHN	WAIHE'E			X			
<b>TOTAL VOTE COUNT</b>				<b>8</b>	<b>0</b>	<b>0</b>	<b>1</b>

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

**MAIN MOTION, AS AMENDED**

- A. Approve the OHA Biennium Budget for the Fiscal Biennium Period 2021-2022 (FY22) and 2022-2023 (FY23) as outlined in Attachment #1 – Reorganization; and
- B. Approve the carryover of \$1,000,000 in unspent, uncommitted, unencumbered funds from FY 2021 for the purpose of addressing projected reorganization related costs; this action authorizes Administration to carryover, spend, commit, accrue and encumber \$1,000,000 from FY 2021 authorization to fund reorganization related costs (e.g., accrued vacation, health insurance premiums, separation pay, other) post FY 2021 in order to effect the organizational structure budgeted in Attachment #1, the OHA Biennium Budget for the Fiscal Biennium period 2021-2022 (FY 22) and 2022-2023 (FY 23);

Subject to an implementation period to be completed no later than December 31, 2021.

Chair Waihe'e asks if there is any discussion.

Trustee Lee: *Mr. Chair; we're in discussion on the main motion?*

Chair Waihe'e: Yes, we are.

Trustee Lee: I understand that the Chair ruled against my objection, and that my subsequent appeal failed. I would like it for the record that I will yield my objection to the Chair. Thank you, Mr. Chair.

Chair Waihe'e: Thank you, Trustee Lee.

Chair Waihe'e asks if there is any further discussion.

There is no further discussion.

Chair Waihe'e calls for a **ROLL CALL VOTE**.

MAIN MOTION, AS AMENDED						MOTION: 10:10 a.m. VOTE: 12:17 p.m.
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
LEINA'ALA						EXCUSED
AHU ISA						EXCUSED
DAN			X			
KALEIHIKINA		2	X			
KELI'I			X			
VICE-CHAIR LUANA			X			
BRENDON KALEI'ĀINA			X			
CARMEN HULU	1		X			
KEOLA			X			
CHAIR JOHN			X			
<b>TOTAL VOTE COUNT</b>			<b>8</b>	<b>0</b>	<b>0</b>	<b>1</b>

**VOTE: [ X ] UNANIMOUS [ ] PASSED [ ] DEFERRED [ ] FAILED**

Chair Waihe'e notes for the record that all members present vote 'AE (YES) and the **MAIN MOTION, AS AMEDED CARRIES**.

**VI. NEW BUSINESS**

**B. ACTION ITEM RM #21-08B: OHA Biennium Budget for the Fiscal Biennium  
Periods 2021-2022 (FY22) and 2022-2023 (FY23),  
Fiscal Stabilization Policy**

Chair Waihe'e turns it over to members.

Trustee Hulu Lindsey moves to authorize the carryover of the projected balance of \$321,000, as of June 30, 2021, of the previously authorized FY2021 Fiscal Stabilization Fund amount of \$500,000 (established by the Fiscal Stabilization Policy), to address continuing operational changes needed, due to the impacts of COVID-19.

Trustee Akaka seconds the motion.

Chair Waihe'e asks if there is any discussion. There is none.

Chair Waihe'e calls for a **ROLL CALL VOTE**.

							MOTION: 12:19 p.m. VOTE: 12:20 p.m.
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED	
LEINA'ALA	AHU ISA					EXCUSED	
DAN	AHUNA		X				
KALEIHIKINA	AKAKA	2	X				
KELI'I	AKINA		X				
VICE-CHAIR LUANA	ALAPA		X				
BRENDON KALEI'ĀINA	LEE		X				
CARMEN HULU	LINDSEY	1	X				
KEOLA	LINDSEY		X				
CHAIR JOHN	WAIHE'E		X				
<b>TOTAL VOTE COUNT</b>			<b>8</b>	<b>0</b>	<b>0</b>	<b>1</b>	

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

Chair Waihe'e notes for the record that all members present vote 'AE (YES) and the **MOTION CARRIES**.

**VII. ANNOUNCEMENTS**

**Trustee Lee:** I don't know if this is really an announcement or not, but can we make a request of Trustee Hulu Lindsey of when she's going to call to order the BOT Meeting which we're already late for - *if she could give us 10 minutes?*

*It's now 12:20 p.m. and if she could 'call to order' at 12:30 p.m. - instead of right away?*

We've been in here for a while - so we can all take care of whatever we need and then we all know exactly what time to be back.

**Trustee Hulu Lindsey:** I can do that. Thank you, Trustee Lee, 12:30 p.m.

**Trustee Lee:** Thank you.



**VIII. ADJOURNMENT**

**Trustee Hulu Lindsey moves to adjourn the RM meeting.**

**Trustee Akaka seconds the motion.**

**Chair Waihe'e asks if there is any discussion. There is none.**

**Chair Waihe'e calls for a ROLL CALL VOTE.**

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	12:20 p.m.	EXCUSED
<b>LEINA'ALA</b>							<b>EXCUSED</b>
DAN			X				
KALEIHIKINA		2	X				
KELI'I			X				
VICE-CHAIR LUANA			X				
BRENDON KALEI'AINA			X				
CARMEN HULU	1		X				
KEOLA			X				
CHAIR JOHN			X				
TOTAL VOTE COUNT			8	0	0		1

**VOTE: [ X ] UNANIMOUS [ ] PASSED [ ] DEFERRED [ ] FAILED**

**Chair Waihe'e adjourns the RM meeting at 12:20 p.m.**

Respectfully submitted,

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Melissa Wennihan  
Trustee Aide  
Committee on Resource Management

As approved by the Committee on Resource Management (RM) on July 22, 2021.

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Trustee John Waihe'e, IV  
Chair  
Committee on Resource Management

PHONE (808) 594-1888  
Committee on Resource Management  
Trustee John Waihe'e IV, *At-Large - Chair*  
Trustee Luana Alapa, *Moloka'i / Lāna'i - Vice Chair*  
*Members*

Trustee Leina'ala Ahu Isa, *At-Large*  
Trustee Dan Ahuna, *Kaua'i / Ni'ihau*  
Trustee Kaleihikina Akaka, *O'ahu*  
Trustee Keli'i Akina, *At-Large*  
Trustee Brendon Kalei'aina Lee, *At-Large*  
Trustee Carmen Hulu Lindsey, *Maui*  
Trustee Keola Lindsey, *Hawai'i Island*



FAX (808) 594-1865

**STATE OF HAWAII'  
OFFICE OF HAWAIIAN AFFAIRS**

**MEETING OF THE  
COMMITTEE ON RESOURCE MANAGEMENT (RM)**

**DATE:** Thursday, July 22, 2021

**TIME:** 1:30 p.m.

**PLACE:** Virtual Meeting

Viewable at [www.oha.org/livestream](http://www.oha.org/livestream) OR

Listen by phone: (213) 338-8477, Webinar ID: 949 3309 0127

**Due to the threat of COVID-19, Governor Ige issued the recent Emergency Twenty-First Supplementary Proclamation dated June 7, 2021 that suspends parts of Hawai'i Revised Statutes Chapter 92, Public Agency Meetings and Records to, among other things, enable boards to conduct business without any board members or members of the public physically present at the same location.**

**The OHA Board of Trustees and its Standing Committees will hold virtual meetings until further notice. The virtual meetings can be viewed and observed via livestream on OHA's website at [www.oha.org/livestream](http://www.oha.org/livestream) or listen by phone: (213) 338-8477, Webinar ID: 949 3309 0127**

**AGENDA**

**I. Call to Order**

**II. Public Testimony on Items Listed on the Agenda\***

(Please see page 2 on how to submit written testimony or provide oral testimony online.

Oral testimony by telephone/landline **will not** be accepted)

**III. Approval of Minutes**

A. June 23, 2021

B. June 24, 2021

C. June 30, 2021

**IV. Unfinished Business**

None

**V. New Business**

**A. ACTION ITEM RM #21-09:** Approve OHA's Intent to Apply to the Administration for Children and Families, Administration for Native Americans, American Rescue Plan Act Emergency Native Language Funding Opportunity for Native Hawaiians and Pacific Islanders for \$250,000

**B. WORKSHOP:** Amendments to the Native Hawaiian Trust Fund Investment Policy Statement and the Debt Management Policy Implementation Procedures

**VI. Executive Session‡**

**A.** Consultation with Board Counsel Robert G. Klein and Everett Ohta, OHA Assistant Senior Legal Counsel, re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities with respect to updates by Administration regarding potential acquisition of commercial properties, pursuant to HRS§92-5(4)

**VII. Announcements**

**VIII. Adjournment**




**ACTION ITEM**

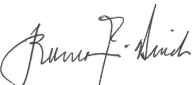
**COMMITTEE ON RESOURCE MANAGEMENT**


**July 22, 2021**


**RM #21-09**

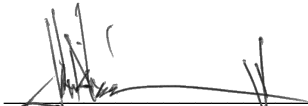
**Action Item Issue:** Approve OHA’s Intent to Apply to the Administration for Children and Families, Administration for Native Americans, American Rescue Plan Act, Emergency Native Language Funding Opportunity for Native Hawaiians and Pacific Islanders for \$250,000

Co-Prepared by:  Jul 19, 2021  
Date  
Carla J. Hostetter  
Luna Kuhikuhipu’eone, Ke’ena ‘Ōnaehana, Systems Office Director

Reviewed by:  Jul 19, 2021  
Date  
Ramona G. Hinck  
Ka Pou Kihi Kanaloa Wai, Chief Financial Officer

Reviewed by:  Jul 19, 2021  
Date  
Casey K. Brown  
Ka Pou Nui, Chief Operating Officer

Co-Prepared and Reviewed by:  Jul 19, 2021  
Date  
Sylvia M. Hussey, Ed.D.  
Ka Pouhana, Chief Executive Officer

Reviewed by:  July 19, 2021  
Date  
Ke Kua, Trustee John D. Waihee, IV  
Luna Ho’omalū o ke Kōmike Resource Management  
Chair of the Committee on Resource Management

**Action Item RM #21-09: Approve OHA’s Intent to Apply to the Administration for Children and Families, Administration for Native Americans, American Rescue Plan Act, Emergency Native Language Funding Opportunity for Native Hawaiians and Pacific Islanders for \$250,000**

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**I. Proposed Action**

Administration recommends the Committee on Resource Management approve OHA’s intent to apply to the Administration for Children and Families, Administration for Native Americans, American Rescue Plan Act, Emergency Native Language Funding Opportunity for Native Hawaiians and Pacific Islanders for \$250,000.

**II. Issue**

Whether or not the Committee on Resource Management will recommend approval to the Board of Trustees (“BOT” or “Board”), OHA’s intent to apply to the Administration for Children and Families (ACF), Administration for Native Americans (ANA), American Rescue Plan Act (ARP), emergency language funding opportunity for Native Hawaiians and Pacific Islanders for \$250,000.

**III. Discussion<sup>1</sup>**

**A. American Rescue Plan Act Emergency Native Language Funding Opportunity Announcement for Native Hawaiians and Pacific Islanders (bolded for emphasis)**

On June 23, 2021, Administration was advised of the following funding opportunity: Funding Authority: The American Rescue Plan Act (ARP), section 11004 authorized section 816 of the Native Americans Programs Act (NAPA) of 1974 (42 U.S.C. 2992d) to amend section 803C of NAPA (42 U.S.C. 2991b-3) **to create (g) Emergency Grants for Native American Language Preservation and Maintenance to award grants to entities eligible to receive assistance under subsection (a) (1) to ensure the survival and continuing vitality of Native American languages during and after the public health emergency declared by the Secretary with respect to the COVID-19 pandemic.**

**B. Program Description (bolded for emphasis)**

The Administration for Children and Families, Administration for Native Americans (ANA) announced the availability of fiscal year (FY) 2021 funds made available from the ARP for Native languages. **These funds will be used to make emergency awards to eligible recipients to ensure the survival and continuing vitality of Native American languages during and after the public health emergency with respect to the COVID-19 pandemic.** Native languages and cultures are at a critical point in their existence due to the number of Elders and language speakers that have died as a result of the COVID-19 virus. Native languages are more than just words, as cultural values, tribal customs, and ceremony are embedded in them (Mmari, Blum, Teufel-Shone, 2010). Additionally, Indigenous languages serve as protective factors for Indigenous communities. Studies demonstrate that people who speak their Native language(s) have enhanced mental health and happiness, measured by lower rates of suicide, suicide attempts, and suicidal ideation

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<sup>1</sup> Refer to Attachment A for the full text of the Notice of Funding Opportunity, received June 23, 2021

**Action Item RM #21-09: Approve OHA’s Intent to Apply to the Administration for Children and Families, Administration for Native Americans, American Rescue Plan Act, Emergency Native Language Funding Opportunity for Native Hawaiians and Pacific Islanders for \$250,000**

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than those without language knowledge (Hallett, Chandler, & Lalonde, 2007; Ball & Moselle, 2013; Dockery, 2011).

Native American communities, including federally and state-recognized Indian tribes, Alaska Natives, Native Hawaiian and Pacific Islander communities, have had disproportionately higher rates of virus infection cases and loss of life due to COVID-19. Social distancing and closures have limited the ability to meet in-person for language instruction, cultural activities, and ceremonial practices that utilize Native languages. Many Native communities are unable to conduct language programming virtually due to inadequate technology, broadband, and infrastructure. Native tribes and communities are at different stages of language preservation efforts. Because the needs are so diverse and great, **ANA wants to strategically and equitably use this funding to support the needs of as many entities as possible that the legislative authority allows.**

**C. Application Parameters (bolded for emphasis)**

**ANA will accept an abbreviated application.** Eligible applicants must submit approximately 5-10 pages of a project narrative, a line-item budget and justification, and a simplified workplan in addition to other required grant application forms such as the [SF-424 and SF-424A](#). The proposed emergency language projects should be able to identify one or two of the following domains that will be the focus of the project:

- Resources and Documentation (for example: language instruction modules, recordings, transcribing, curriculum development, dictionary building)
- Instruction (teacher training, professional development, Master-Apprentice)
- Technology and Infrastructure (computer and devices, internet enhancements, IT networking)
- Planning (survey, community readiness or interest assessment, strategic plan)
- Elder or intergenerational engagement (Elder language instruction, Elder storytelling in the language, Elder speaker recordings)

**For emergency funds to be awarded to Native Hawaiian and Pacific Islanders (NHPIs), a portion of the emergency funds will be equally split among pre-selected public-serving organizations that support Native languages in Hawaii<sup>2</sup>, American Samoa, Commonwealth of the Northern Mariana Islands, and Guam (HI, AS, MP, GU). ANA has invited an entity within each government to receive an allocation which could be used to make subawards to other eligible applicants in their jurisdiction as listed in Section III. Eligibility Information. Pre-award negotiations will be made when ANA makes an allocation to the NHPIs.**

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<sup>2</sup> Per e-mail and discussion with the Regional Director of the Pacific Region Training and Technical Assistance (TTA) Center, operated by Ka‘ānani‘au LLC, OHA is eligible for up to \$250,000 and is the only eligible applicant for Hawaii for this non-competitive funding opportunity.

**Action Item RM #21-09: Approve OHA’s Intent to Apply to the Administration for Children and Families, Administration for Native Americans, American Rescue Plan Act, Emergency Native Language Funding Opportunity for Native Hawaiians and Pacific Islanders for \$250,000**

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**D. Subawards**

Recipients under this grant program may opt to transfer a portion of substantive programmatic work to other organizations through subaward(s). **The prime recipient must maintain a substantive role in the project.** ACF defines a substantive role as conducting activities and/or providing services funded under the award that are necessary and integral to the completion of the project. Subrecipient monitoring activities alone, as specified in 45 CFR § 75.352, do not constitute a substantive role. Furthermore, ACF does not fund awards where the role of the applicant is primarily to serve as a conduit for passing funds to other organizations unless that arrangement is authorized by statute.

Subrecipient(s) must meet the eligibility requirements identified in the Funding Opportunity Announcement (FOA), *Section III.1. Eligible Applicants*. Additionally, all subrecipient(s) must obtain a Data Universal Numbering System (DUNS) number, or after government-wide implementation, a Unique Entity Identifier assigned by the System for Award Management (SAM), if they do not already have one. Prime recipients are required to check the SAM to verify that the subrecipient(s) is/are not debarred, suspended, or ineligible.

**E. Federal Award Information**

Funding Instrument Type:	Grant
Estimated Total Funding:	\$1,000,000
Expected Number of Awards:	4
Award Ceiling:	\$250,000
Award Floor:	\$250,000
Average Projected Award Amount	\$250,000
Anticipated Project Start Date:	9/7/2021 (upon award)
Length of Project Period:	12-month project and budget period 24-month project and budget period 36-month project and budget period

**Applicants may propose projects with project periods consisting of either 12, 24, or 36 months.** This is one-time funding and no additional funds are available for projects that have multiple years. There is only one budget period for the duration of the project. Therefore, there is no non-competitive continuation award process for multiple year projects. Selected applicants should request up to \$250,000, which is the maximum ceiling per award.

**F. Eligibility Information**

Eligible Applicants –

- **Public and non-profit private agencies serving Native Hawaiians**
- Public and non-profit private agencies serving Native peoples from Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands

**Action Item RM #21-09: Approve OHA’s Intent to Apply to the Administration for Children and Families, Administration for Native Americans, American Rescue Plan Act, Emergency Native Language Funding Opportunity for Native Hawaiians and Pacific Islanders for \$250,000**

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**Only the following Native Hawaiian and Pacific Islander organizations are invited to apply for funding:**

- **The Office of Hawaiian Affairs - Hawaii**
- Kumisión i Fino’ CHamoru yan i Fina’na’guen i Historia yan Lina’la’ i Taotao Tãno’- Guam
- Commonwealth of the Northern Mariana Islands (CNMI) Public School System - CNMI
- American Samoa Community College, Samoan Studies Institute – American Samoa

**All other entities from Hawaii, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands will not be eligible for this funding. Entities that submit an application that are not invited to do so, will not receive an award.**

An eligible applicant is limited to one award under this FOA. Additionally, an eligible applicant may subaward to other eligible applicants that provide Native Language instruction, professional development training, or curriculum development for the same language that the primary recipient will serve.

**There is no cost sharing or matching requirement.**

**G. Other Eligibility Information, Ineligible Projects, Ineligible Applicants**

45 CFR §1336.33(b) has the effect of making the following projects ineligible for funding under this FOA:

- Projects for which a grantee will provide third-party training and technical assistance to other tribes or Native American organizations or to non-members of the grantee organization.
- Projects that require funding for feasibility studies, business plans, marketing plans, or written materials such as manuals that are not an essential part of the applicant's long- range development plan.
- Projects with core administration functions that essentially support only the applicant's ongoing administrative functions and are not related to the proposed project.
- Projects that support ongoing social service delivery programs or the expansion, or continuation, of existing social service delivery programs.
- Projects that do not further the three interrelated ANA goals of economic development, social development, and cultural preservation.
- Projects from consortia of tribes that do not include documentation from each participating consortium member specifying their role and support. Projects from



**Action Item RM #21-09: Approve OHA’s Intent to Apply to the Administration for Children and Families, Administration for Native Americans, American Rescue Plan Act, Emergency Native Language Funding Opportunity for Native Hawaiians and Pacific Islanders for \$250,000**

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consortia must have goals and objectives that will encompass the participating communities. ANA will not fund projects by a consortium of tribes that duplicate activities for which participating member tribes also receive funding from ANA.

- Projects that include the purchase of real estate.

Applications from individuals (including sole proprietorships) and foreign entities are not eligible and will be disqualified from competitive review and from funding under this

**IV. OHA’s Approach to the American Rescue Plan Act Emergency Native Language Funding Opportunity Announcement for Native Hawaiians and Pacific Islanders**

Through OHA’s proposed ARP project, OHA intends to better understand community-based strategies and practices that contribute to the survival and continuing vitality of ‘ōlelo Hawai‘i. The ARP project intends to support and study current and emerging practices and strategies in intergenerational engagement in ‘ōlelo Hawai‘i perpetuation and normalization. Consistent with the requirements, **OHA’s strategy for implementation of the ARP project is to subgrant the entire \$250,000 of ARP funds to five Native Hawaiian serving, Hawaii-based, non-profit organizations. No ARP funds will be utilized for OHA administrative or in-direct costs.** OHA Administration will solicit and evaluate grant applications in accordance with current OHA grant policies, processes, and standard operating procedures; and will make award recommendations to OHA BOT. The application process will specify that subgrantee organizations should be experienced in providing ‘ōlelo Hawai‘i perpetuation and normalization programs, that use an ‘ohana or intergeneration strategy to increase Native Hawaiian knowledge of, fluency in, and/or use of ‘ōlelo Hawai‘i. In the first two years of the project, the subgrantees will be responsible for the implementation of programming and the documentation of the program’s practices and strategies through comprehensive data collection. OHA administration will play a substantive role in conducting ARP project activities, through partnering with subgrantees to research and evaluate the role of intergenerational engagement in the perpetuation and normalization of ‘ōlelo Hawai‘i language. In the third year of the project, OHA will publish a report on research findings. This report will be used to not only inform OHA’s future tactics and implementation of the Mana i Maui Ola Strategic Plan, but also to assist stakeholders and the public in development of future intergenerational ‘ōlelo Hawai‘i perpetuation and normalization programs and practices.

**V. Timeframe**

The deadline for uploading of the application is Monday, July 26, 2021, 11:59 p.m. EST via [www.Grants.gov](http://www.Grants.gov).

**VI. Attachment**

- A. American Rescue Plan Act Emergency Native Language Funding Opportunity Announcement for Native Hawaiians and Pacific Islanders

## **American Rescue Plan Act Emergency Native Language Funding Opportunity Announcement**

Funding Authority:

The American Rescue Plan Act (ARP), Section 11004 authorized Section 816 of the Native Americans Programs Act (NAPA) of 1974 (42 USC 2992d) to amend Section 803C of NAPA (42 USC 2991b-3) to create (g) Emergency Grants for Native American Language Preservation and Maintenance to award grants to entities eligible to receive assistance under subsection (a) (1) to ensure the survival and continuing vitality of Native American languages during and after the public health emergency declared by the Secretary with respect to the COVID-19 pandemic.

### **I. Program Description**

The Administration for Children and Families, Administration for Native Americans (ANA) announces the availability of Fiscal Year (FY) 2021 funds made available from the ARP for Native Languages. These funds will be used to make emergency awards to eligible recipients to ensure the survival and continuing vitality of Native American languages during and after the public health emergency with respect to the COVID-19 pandemic. Native languages and cultures are at a critical point in their existence due to the number of Elders and language speakers that have died as a result of the COVID-19 virus. Native languages are more than just words, as cultural values, tribal customs, and ceremony are embedded in them (Mmari, Blum, Teufel-Shone, 2010). Additionally, Indigenous languages serve as protective factors for Indigenous communities. Studies demonstrate that people who speak their Native language(s) have enhanced mental health and happiness, measured by lower rates of suicide, suicide attempts, and suicidal ideation than those without language knowledge (Hallett, Chandler, & Lalonde, 2007; Ball & Moselle, 2013; Dockery, 2011). This emergency funding is intended to support as many tribal and Native communities as possible in their efforts to maintain and preserve Native languages, as these are connected to also preserving Native culture and wellbeing.

Native American communities, including federally and state-recognized Indian Tribes, Alaska Natives, Native Hawaiian and Pacific Islander communities, have had disproportionately higher rates of virus infection cases and loss of life due to COVID-19. Social distancing and closures have limited the ability to meet in-person for language instruction, cultural activities, and ceremonial practices that utilize Native languages. Many Native communities are unable to conduct language programming virtually due to inadequate technology, broadband, and infrastructure. Native Tribes and communities are at different stages of language preservation efforts. Because the needs are so diverse and great, ANA wants to strategically and equitably use this funding to support the needs of as many entities as possible that the legislative authority allows.

After conducting Tribal Consultation and Listening Sessions with ANA's eligible entities, the funding will be distributed on an equal allocation basis to federally and state-recognized Tribal

governments or designees through emergency non-competitive awards. Some Tribes and Alaska Native villages have Tribally-chartered non-profit organizations that they may wish to designate to apply on their behalf. Only one award will be made to each Tribe. Eligible entities with a current ANA grant may be eligible to receive an ARP emergency award. ANA will accept an abbreviated application. Eligible entities must submit approximately 5-10 pages of a project narrative, a line-item budget and justification, and a simplified workplan in addition to other required grant application forms such as the [SF-424 and SF-424A](#). The proposed emergency language projects should be able to identify one or two of the following domains that will be the focus of the project:

- Resources and Documentation (for example: language instruction modules, recordings, transcribing, curriculum development, dictionary building)
- Instruction (teacher training, professional development, Master-Apprentice)
- Technology and Infrastructure (computer and devices, internet enhancements, IT networking)
- Planning (survey, community readiness or interest assessment, strategic plan)
- Elder or intergenerational engagement (Elder language instruction, Elder storytelling in the language, Elder speaker recordings)

Depending on the number of applications that ANA receives, Tribal applicants may be awarded between \$37,000-\$95,000, subject to the number of approvable applications and funding availability. Tribal applicants, or their designee, are encouraged to propose a project that could be adapted to this range, as budgets will most likely have to be adjusted. Funding is only available to eligible entities that have a living language. The language to be served must be a living language. Pre-award negotiations will be made to eligible recipients to finalize the budget before the award.

ANA will publish a separate Funding Opportunity Announcement (FOA) for ARP funds that will be awarded to pre-selected Native Hawaiian and Pacific Islander organizations.

### **Applicant Training and Technical Assistance**

ANA provides regional Training and Technical Assistance (TTA) Centers, as authorized by NAPA, to support grantees and potential applicants. Such support includes Pre-Application Workshops and a preliminary review of applications that are at least 75 percent completed. Applicants are encouraged to contact their regional TTA Center or view the ANA website about the available TTA services at <https://www.acf.hhs.gov/ana/assistance/applicant-training-technical-assistance>.

### **Intellectual Property**

Potential grantees are encouraged to educate themselves on intellectual property rights and the protection of ownership to language materials, history, music and dance, ceremonies, and other forms of knowledge and cultural practices that originate from Native communities. See [45 CFR](#)

[:75.322](#) and [Appendix II to Part 75, Contract Provisions for Non-Federal Entity Contracts under Federal Awards](#). Moreover, potential grantees are encouraged to learn how such rights may be transferred via contracting with third parties that produce resources, data, and materials developed as a result of ANA funding. ANA is unable to provide legal advice or guidance on this matter; however, grant funds may be used for legal expenses relative to this matter.

### **COVID-19 Response**

If during the project period, ANA and/or grantees are required to adjust program and/or grantee requirements due to COVID-19 or another nationally declared emergency, ANA will exercise maximum flexibilities as needed. Requirements may be conducted virtually and/or timelines modified in consultation with ANA.

### **Subawards**

Recipients under this grant program may opt to transfer a portion of substantive programmatic work to other organizations through subaward(s). The prime recipient must maintain a substantive role in the project. ACF defines a substantive role as conducting activities and/or providing services funded under the award that are necessary and integral to the completion of the project. Subrecipient monitoring activities alone, as specified in 45 CFR § 75.352, do not constitute a substantive role. Furthermore, ACF does not fund awards where the role of the applicant is primarily to serve as a conduit for passing funds to other organizations unless that arrangement is authorized by statute.

Subrecipient(s) must meet the eligibility requirements identified in the FOA, *Section III.1. Eligible Applicants*. Additionally, all subrecipient(s) must obtain a Data Universal Numbering System (DUNS) number, or after government-wide implementation, a Unique Entity Identifier assigned by the System for Award Management (SAM), if they do not already have one. Prime recipients are required to check the SAM to verify that the subrecipient(s) is/are not debarred, suspended, or ineligible.

Please reference the [Award Term and Condition on Subawards](#) on the [ACF Administrative and National Policy Requirements](#) website for further requirements involving subawards.

## **II. Federal Award Information**

Funding Instrument Type:	Grant
Estimated Total Funding:	\$19,000,000
Expected Number of Awards:	200-500
Award Ceiling:	\$95,000
Award Floor:	\$37,000
Average Projected Award Amount	\$37,000

Anticipated Project Start Date:	9/7/2021 (upon award)
Length of Project Period:	12-month project and budget period
	24-month project and budget period
	36-month project and budget period

Applicants may propose projects with project periods consisting of either 12, 24, or 36 months. The funds are available until expended. This is one-time funding, and no additional funds are available for projects that have multiple years. There is only one budget period for the duration of the project. Therefore, there is no non-competitive continuation award process for multiple year projects.

#### Additional Information on Awards:

For Tribes or their designees, the funds will be distributed on an equal allocation based on the total number of eligible applications that are received. As a result, the award ceiling and final budget amount may be increased or reduced. Recipients will be notified and asked to adjust their budget during the award negotiation process, prior to award. Tribal designee applicants must include an official letter from the tribal leader or Council that confirms that the Tribe's allocation will be awarded to the non-tribal entity.

ANA will publish a separate FOA for ARP funds that will be awarded to select Native Hawaiian and Pacific Islander applicants.

### **III. Eligibility Information**

#### Eligible Applicants –

- Native American tribal governments (federally recognized);
- Federally-recognized Indian Tribes, as recognized by the Bureau of Indian Affairs (BIA);
- Incorporated state-recognized Indian Tribes.

If designated by a federally-recognized or state-recognized Tribe to receive the Tribe's funding allocation, the following entities are eligible to receive an award. The designation must be submitted either by the Tribe as an official statement on letterhead or a resolution with its application:

- Incorporated non-profit multi-purpose community-based Indian organizations;
- Non-profit Native organizations in Alaska with village-specific projects;
- Incorporated non-profit Alaska Native multipurpose, community-based organizations;
- Tribal colleges and universities.

An eligible applicant is limited to one award under this FOA. Additionally, an eligible applicant may subaward to another eligible applicant. In this instance, the subrecipient may also choose to submit its own application for an ARP award to implement its own project. Eligible entities with

a current ANA grant may be eligible to receive an ARP emergency award. Incorporated non-profit, multi-purpose, community-based Indian organizations can also be incorporated non-profit Native schools, preschools, and/or child-care centers serving birth to grade 12 that teach and/or serve Native languages and students.

**Cost Sharing or Matching: No**

**III.3 Other information on eligibility:**

**PROJECTS INELIGIBLE FOR FUNDING**

45 CFR §1336.33(b) has the effect of making the following projects ineligible for funding under this FOA:

- Projects for which a grantee will provide third-party training and technical assistance to other Tribes or Native American organizations or to non-members of the grantee organization.
- Projects that require funding for feasibility studies, business plans, marketing plans, or written materials such as manuals that are not an essential part of the applicant's long-range development plan.
- Projects with core administration functions that essentially support only the applicant's ongoing administrative functions and are not related to the proposed project.
- Projects that support ongoing social service delivery programs or the expansion, or continuation, of existing social service delivery programs.
- Projects that do not further the three interrelated ANA goals of economic development, social development, and cultural preservation.
- Projects from consortia of Tribes that do not include documentation from each participating consortium member specifying their role and support. Projects from consortia must have goals and objectives that will encompass the participating communities. ANA will not fund projects by a consortium of Tribes that duplicate activities for which participating member Tribes also receive funding from ANA.
- The purchase of real estate.

**Application Disqualification Factors**

Applications from individuals (including sole proprietorships) and foreign entities are not eligible and will be disqualified from competitive review and from funding under this announcement.

**Required Electronic Application Submission**

ACF requires electronic submission of applications at [www.Grants.gov](http://www.Grants.gov). **Paper applications received from applicants that have not been approved for an exemption from required electronic submission will be disqualified from competitive review and from funding under this announcement.**

Applicants that do not have an Internet connection or sufficient computing capacity to upload large documents to the Internet may contact ACF for an exemption that will allow the applicant to submit

applications in paper format. Please note that an exemption request must be made at least 14 calendar days in advance of the application deadline. Additional information and the requirements for requesting an exemption from required electronic application submission are found in "ACF Policy for Requesting an Exemption from Electronic Application Submission" at [www.acf.hhs.gov/grants/howto#chapter-6](http://www.acf.hhs.gov/grants/howto#chapter-6).

### **Missing the Application Deadline (Late Applications)**

**The deadline for electronic application submission is 11:59 p.m., ET, on the due date listed in the *Overview* and in *Section IV.4. Submission Dates and Times*.** Electronic applications submitted to [www.Grants.gov](http://www.Grants.gov) after 11:59 p.m., ET, on the due date, as indicated by a dated and time-stamped email from [www.Grants.gov](http://www.Grants.gov), will be disqualified from competitive review and from funding under this announcement. That is, applications submitted to [www.Grants.gov](http://www.Grants.gov), on or after 12:00 a.m., ET, on the day after the due date will be disqualified from competitive review and from funding under this announcement.

Applications submitted to [www.Grants.gov](http://www.Grants.gov) at any time during the open application period, and prior to the due date and time, which fail the [www.Grants.gov](http://www.Grants.gov) validation check, will not be received or acknowledged by ACF.

Each time an application is submitted via [www.Grants.gov](http://www.Grants.gov), the submission will generate a new date and time-stamp email notification. Only those applications with on-time date and time stamps that result in a validated application, which is transmitted to ACF, will be acknowledged.

**The deadline for receipt of paper applications is 4:30 p.m., ET, on the due date listed in the *Overview* and in *Section IV.4. Submission Dates and Times*.** Paper applications received after 4:30 p.m., ET, on the due date will be disqualified from competitive review and from funding under this announcement. **Paper applications received from applicants that have not received approval of an exemption from required electronic submission will be disqualified from competitive review and from funding under this announcement.**

## **IV. Application and Submission Information**

### **Electronic Application Submission:**

The electronic application submission package is available in the FOAs listing at [www.Grants.gov](http://www.Grants.gov).

### **Applications in Paper Format:**

For applicants that have received an exemption to submit applications in paper format, Standard Forms, assurances, and certifications are available in the "Select Grant Opportunity Package" available in the FOAs Grants.gov Synopsis under the Package tab at [www.Grants.gov](http://www.Grants.gov). See *Section IV.2. Request an Exemption from Required Electronic Application Submission* if applicants do not have an Internet connection or sufficient computing capacity to upload large documents (files) to [www.Grants.gov](http://www.Grants.gov).



**Federal Relay Service:**

Hearing-impaired and speech-impaired callers may contact the Federal Relay Service (FedRelay) for assistance at [www.gsa.gov/fedrelay](http://www.gsa.gov/fedrelay).

**IV.2. CONTENT FOR ALL APPLICATION SUBMISSION FORMATS:****FORMATTING APPLICATION SUBMISSIONS****Authorized Organizational Representative (AOR)**

AOR is the designated representative of the applicant/recipient organization with authority to act on the organization's behalf in matters related to the award and administration of grants. In signing a grant application, this individual agrees that the organization will assume the obligations imposed by applicable Federal statutes and regulations and other terms and conditions of the award, including any assurances, if a grant is awarded.

**Point of Contact**

In addition to the AOR, a point of contact on matters involving the application must also be identified on the SF-424. The point of contact, known as the Project Director or Principal Investigator, should not be identical to the person identified as the AOR. The point of contact should also be an employee of the applicant organization and not a contractor, such as a grant writer. The point of contact must be available to answer any questions pertaining to the application.

**Application Checklist**

Applicants may refer to *Section VIII. Other Information* for a checklist of application requirements that may be used in developing and organizing application materials. Details concerning acknowledgment of received applications are available in *Section IV.4. Submission Dates and Times* of this announcement.

**Accepted Font Style**

Applications must be in Times New Roman (TNR), 12-point font, except for footnotes, which may be TNR 10-point font.

**English Language**

Applications must be submitted in the English language and must be in the terms of United States (U.S.) dollars. If applications are submitted using another currency, ACF will convert the foreign currency to U.S. currency using the date of receipt of the application to determine the rate of exchange.

**All applications must be double-spaced and in Times New Roman, 12-point font.**

**Application Elements Exempted from Double-Spacing Requirements**

The following elements of the application submission are exempt from the double-spacing requirements and may be single-spaced: the one-page Project Summary/Abstract, required



Assurances and Certifications, required SFs, required OMB-approved forms, resumes, logic models, proof of legal status/non-profit status, third-party agreements, letters of support, footnotes, tables, the line-item budget and/or the budget justification.

### **Corrections/Updates to Submitted Applications**

When applicants make revisions to a previously submitted application, ACF will accept only the last on-time application for pre-review under the Application Disqualification Factors. The Application Disqualification Factors determine the application's acceptance for competitive review. See *Section III.3. Application Disqualification Factors* and *Section IV.2. Application Submission Options*.

### **Copies Required**

Applicants must submit one complete copy of the application package electronically. Applicants submitting electronic applications need not provide additional copies of their application package. Applicants submitting applications in paper format must submit one original and two copies of the complete application, including all Standard Forms and OMB-approved forms. The original copy must have original signatures.

### **Signatures**

Applicants submitting electronic applications must follow the registration and application submission instructions provided at [www.Grants.gov](http://www.Grants.gov). The original of a paper format application must include original signatures.

### **Accepted Application Format**

With the exception of the required Standard Forms (SFs) and OMB-approved forms, all application materials must be formatted so that they are 8 ½" x 11" white paper with 1-inch margins all around. If possible, applicants are encouraged to include page numbers for each page within the application.

ACF generally does not encourage submission of scanned documents as they tend to have reduced clarity and readability. If documents must be scanned, the font size on any scanned documents must be large enough so that it is readable. Documents must be scanned page-for- page, meaning that applicants may not scan more than one page of a document onto a single page.

### **The following are the required application components to include in a complete application for consideration:**

- Table of Contents
- Project Summary (limited to one single-spaced page)
- Approach (up to 10 pages)
  - Geographic Location
- Objective Work Plan (optional) or a Work Plan
- Project Budget and Budget Justification
  - Line Item Budget
  - Narrative Budget Justification

**Application Appendices:**

- Tribal Resolution or Tribal Letter of Designation to an Eligible Entity (if applicant is not a Tribe)
- Governing Body Documentation
- Maintenance of Effort Certification (MOE)
- Legal Status of Applicant Entity, if applicable
- Indirect Cost Rate Agreement, if applicable
- Third Party Agreements, if applicable
- Other attachments, if necessary

The following must be included in the application package: Standard Forms (SFs); other forms approved by OMB, including the ANA Objective Work Plan (OWP), (OMB No. 0970-0452, expiration date 9/30/2023); and required certifications and assurances.

The OWP is an optional application form. The OWP form can be found at <https://www.acf.hhs.gov/ana/training-technical-assistance/objective-work-plan> or on [Grants.gov](https://www.Grants.gov). Applicants may submit either version of the OWP form with their application. Applicants may use their own version of a Work Plan.

For paper format application submissions, the following must be included with the application package: the SFs, other forms approved by OMB, including ANA OWP; and required certifications and assurances.

**ELECTRONIC APPLICATION SUBMISSION INSTRUCTIONS:**

Applicants are required to submit their applications electronically unless they have requested and received an exemption that will allow submission in paper format. Electronic applications will only be accepted via [www.Grants.gov](https://www.Grants.gov). **ACF will not accept applications submitted via email or via facsimile.**

**There are no restrictions on the number of files that applicants may submit. Application**

**Upload Requirements**

ACF strongly recommends that electronic applications be uploaded as Portable Document Files (PDFs).

Applicants using Adobe Acrobat Reader software will be able to merge documents together, as needed. ACF recommends merging documents electronically rather than scanning multiple documents into one document manually, as scanned documents may have reduced clarity and readability.

Applicants must ensure that the version of Adobe Acrobat Reader they are using is compatible with Grants.gov. To verify Adobe software compatibility please go to Grants.gov and click on "Applicants" at the top bar menu and select "Adobe Software Compatibility", which is listed under "Applicant Resources." The Adobe verification process allows applicants to test their

version of the software by opening a test Workspace PDF form. Grants.gov also includes guidance on how to download a supported version of Adobe, as well as troubleshooting instructions if an applicant is unable to open the test form.

The Adobe Software Compatibility page located on Grants.gov also provides guidance for applicants on filling out a Workspace PDF form. In addition, it addresses local network and/or computer security settings and the impact this has on use of Adobe software.

### **Required SFs and OMB-approved Forms**

SFs and OMB-approved forms, such as the [SF-424](#) application and budget forms and the [SF-P/PSL \(Project/Performance Site Location\)](#), and the OMB-approved ANA OWP form, are uploaded separately at Grants.gov. These forms are submitted separately from the other application files at Grants.gov and are not subject to the page limitations. See *Section IV.2. Required Forms, Assurances, and Certifications* for the listing of required Standard Forms, OMB-approved forms, and required assurances and certifications.

### **Naming Application Submission Files**

**Carefully observe the file naming conventions required by [www.Grants.gov](http://www.Grants.gov). Limit file names to 50 characters (characters and spaces). Special fonts and characters of Native American languages should not be used to name files or other uploaded documents of the application.** Special characters that are allowed under Grants.gov's naming conventions, and are accommodated by ACF's systems, are listed in the instructions available in the Download Application Package at Grants.gov. Please also see [www.grants.gov/web/grants/applicants/submitting-utf-8-special-characters.html](http://www.grants.gov/web/grants/applicants/submitting-utf-8-special-characters.html). File names that exceed 50 characters and spaces, and/or use special characters other than those accepted by Grants.gov, will not be accepted by Grants.gov. Those applications will not be received by ACF. Failure to follow the file naming conventions will cause a validation error when the application is submitted on Grants.gov. If rejected, the file name should be corrected by the applicant and resubmitted to Grants.gov prior to the application submission deadline.

### **Use only file formats supported by ACF**

It is critical that applicants submit applications using only the supported file formats listed here. While ACF supports all of the following file formats, **we strongly recommend that files are uploaded as PDF documents.** Documents in file formats that are not supported by ACF will be removed from the application and will not be used in the competitive review. This may make the application incomplete and ACF will not make any awards based on an incomplete application.

ACF supports the following file formats:

- Adobe PDF – Portable Document Format (.pdf)
- Microsoft Word (.doc or .docx)
- Microsoft Excel (.xls or .xlsx)
- Microsoft PowerPoint (.ppt)
- Corel WordPerfect (.wpd)
- Image Formats (.JPG, .GIF, .TIFF, or .BMP only)

**Do Not Encrypt or Password-Protect the Electronic Application Files**

If ACF cannot access submitted electronic files because they have been encrypted or password protected, the affected file will be removed from the application and will not be reviewed. This removal may make the application incomplete and ACF will not make awards based on an incomplete application.

**PAPER APPLICATION SUBMISSION INSTRUCTIONS:**

The following requirements are only applicable to applications submitted in paper format. Applicants must receive an exemption from ACF in order for a paper format application to be accepted for review. See *Section IV.2. Request an Exemption from Required Electronic Application Submission* later in this section under *Application Submission Options* for more information.

**Format Requirements for Paper Applications**

All copies of mailed or hand-delivered paper applications must be submitted in a single package. If an applicant is submitting multiple applications under a single FOA, or multiple applications under separate FOAs, each application submission must be packaged separately. The package(s) must be clearly labeled for the specific FOA it addresses by FOA title and by Funding Opportunity Number (FON). The order of application elements in paper format submissions must adhere to the sequence described under the “**Page Limitations and Content for All Application Submission Formats**” section. **The order is also illustrated by the Section VIII. Checklist.**

Because each application will be duplicated, do not use or include separate covers, binders, clips, tabs, plastic inserts, maps, brochures, or any other items that cannot be processed easily on a photocopy machine with an automatic feed. Do not bind, clip, staple, or fasten in any way separate sections of the application. Applicants are advised that the copies of the application submitted, not the original, will be reproduced by the federal government for review. **All application materials must be one-sided for duplication purposes. All pages must be numbered sequentially.**

**Addresses for Submission of Paper Applications**

See *Section IV.7. Other Submission Requirements* for addresses for paper format application submissions.

**Required Forms, Assurances, and Certifications**

**Applicants seeking grant or cooperative agreement awards under this announcement must submit the listed Standard Forms (SFs), assurances, and certifications with the application.**

All required Standard Forms, assurances, and certifications are available in the Application Package posted for this FOA at [www.Grants.gov](http://www.Grants.gov).

- SF-424 -Application for Federal Assistance

- SF-424A - Budget Information - Non- Construction Programs and SF- 424B - Assurances - Non- Construction Programs
- Unique Entity Identifier (DUNS) and Systems for Award Management (SAM) registration
- SF-Project/Performance Site Location(s) (SF-P/PSL)
- Maintenance of Effort (MOE) Certification
- Certification Regarding Lobbying (Grants.gov Lobbying Form)
- SF-LLL - Disclosure of Lobbying Activities
- ANA Objective Work Plan (OWP) - optional

### **Mandatory Grant Disclosure**

All applicants and recipients are required to submit, in writing, to the awarding agency and to the HHS Office of the Inspector General (OIG), all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. (Mandatory Disclosures, 45 CFR § 75.113)

Disclosures must be sent in writing to:

The Administration for Children and Families,  
U.S. Department of Health and Human Services,  
Office of Grants Management, ATTN: Grants Management Specialist,  
330 C Street, SW., Switzer Building, Corridor 3200,  
Washington, DC 20201

### **And to:**

U.S. Department of Health and Human Services,  
Office of Inspector General,  
ATTN: Mandatory Grant Disclosures, Intake Coordinator,  
330 Independence Avenue, SW.,  
Cohen Building, Room 5527,  
Washington, DC 20201

**Fax:** (202) 205-0604 (Include “Mandatory Grant Disclosures” in subject line) or

**Email:** [MandatoryGranteeDisclosures@oig.hhs.gov](mailto:MandatoryGranteeDisclosures@oig.hhs.gov)

## **IV. The Project Description**

### **The Project Description Overview**

#### **General Expectations and Instructions**

The Project Description provides the majority of information by which an application is valued and ranked in competition with other applications for financial assistance. It must address all activities for which federal funds are being requested and all application requirements as stated

in this section. The Project Description must explain how the project will meet the purpose of the FOA, as described in *Section I. Program Description*. As a reminder, reviewers will be evaluating this section in accordance with *Section V.1. Criteria*.

The Project Description must be clear, concise, and complete. ACF is particularly interested in Project Descriptions that convey strategies for achieving intended performance. Project Descriptions are evaluated on the basis of substance and measurable outcomes, not length. Cross-referencing should be used rather than repetition.

### **Table of Contents**

List the contents of the application including corresponding page numbers. The table of contents may be single spaced.

### **Project Summary**

Provide a summary of the application project description. It must be clear, accurate, concise, and without cross-references to other parts of the application. The summary must include a brief description of the proposed grant project including the needs to be addressed, the proposed services, and the population group(s) to be served.

Please place the following at the top of the Project Summary:

- Project Title
- Applicant Name
- Address
- Contact Phone Numbers (Voice, Fax, Cell)
- Email Address
- Website Address, if applicable

The Project Summary must be single-spaced, Times New Roman 12-point font, and limited to one page in length.

### **Geographic Location**

Describe the precise physical location of the project and boundaries of the area to be served by the proposed project.

### **Legal Status of Applicant Entity – Not applicable to Tribes**

If designated by a Tribe to be the eligible applicant entity, applicants must provide the following documentation:

Non-profit organizations applying for funding are required to submit proof of their non-profit status. Proof of non-profit status is any one of the following:

- A reference to the applicant organization's listing in the Internal Revenue Services' (IRS) most recent list of tax- exempt organizations described in the IRS Code.
- A copy of a currently valid IRS tax-exemption certificate.
- A statement from a state taxing body, state attorney general, or other appropriate state official certifying that the applicant organization has non-profit status and that none of the net earnings accrue to any private shareholders or individuals.
- A certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status.
- Any of the items in the subparagraphs immediately above for a state or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate

Unless directed otherwise, applicants must include proof of non-profit status in the *Appendices* file of the application submission.

### **Additional Eligibility Documentation**

Applicants must provide a list of their Board of Directors and each member's affiliation to the Native Communities that ANA serves.

### **Tribal Resolution or Tribal Letter of Designation to an Eligible Entity (if applicant is not a Tribe)**

If the applicant has been designated by a Tribe to apply on their behalf for their allocation of funding, the application must include documentation from the respective Tribe in support of this designation. This can be done in form of a Tribal resolution or letter from the elected Tribal leader that approves of this designation. The applicant must also meet ANA's eligibility requirements as found at 42 U.S.C. § 2991b-3 and 45 CFR § 1336.33.

### **Required Governing Body Documentation**

All applicants must submit documentation demonstrating that the governing body of the organization on whose behalf the application is submitted approves the application's submission to ANA for grant award. Pursuant to 45 CFR §1336.33, if the applicant is a tribally authorized component or division of a tribal government, the applicant must also include documentation demonstrating that the governing body of the Tribe approves the application's submission to ANA for the grant award. All documentation submitted must be signed and dated by an official of the governing body. In signing the application, the governing body agrees that the applicant organization will assume the obligation imposed by applicable federal regulations and other terms and conditions of the award, including any assurances, if the grant is awarded. Written board resolutions, meeting minutes from the governing body, and/or letters from the authorizing official reflecting approval are acceptable documentation depending on what is appropriate for the applicant's governance structure. This documentation should be included with the applicant's submission to ANA. Without ANA's receipt of signed and dated documentation prior to the start of the award of grant funds, the applicant's project cannot be approved.



## Approach

Applicants should outline a plan of action that describes the scope and detail of how the proposed project will be accomplished. Applicants must account for all functions or activities identified in the application. The project approach should be up to 10 pages.

Projects should be centered on achieving one or two of the following domains:

- A. Resources and Documentation (for example: language instruction modules, recordings, transcribing, curriculum development, dictionary building)
- B. Instruction (teacher training, professional development, Master-Apprentice)
- C. Technology and Infrastructure (computer and devices, internet enhancements, IT networking)
- D. Planning (survey, community readiness or interest assessment, strategic plan)
- E. Elder or intergenerational engagement (Elder language instruction, Elder storytelling in the language, Elder speaker recordings)

The following information should be included in the project approach:

- Clearly identify how COVID-19 impacted the state of the language(s) and/or language learning in your community.
- Provide name of Native language(s) to be addressed by the project.
- Provide the status of the Native language. This can include, if known, the number of fluent and emerging speakers of the language(s) with details to include fluency levels; current language learning resources available for use within the community; a description of the existing language program(s); and participation in language preservation by current and emerging language speakers.
- State one project goal and no more than two objectives that will ensure the survival and continuing vitality of Native American languages to be achieved by the project during and after the public health emergency. Applicants may format their objectives using the SMART format (Specific, Measurable, Achievable, Relevant, and Time-bound). Objectives should align with the project goal.
  - Specific - a specific area for improvement.
  - Measurable – provide a quantifiable target to show the amount of change.
  - Achievable-given the proposed timeframe, approach, and resources, is the project going to be able to achieve its goal?
  - Relevant – to the project goal.
  - Time-bound – how long will it take to complete the objective.
- Describe the strategy for implementing the project. Include a project timeline that includes milestones and deliverables. Include project activities that will reach the project goal and objectives.
- Include a list of staff who will work on the project and summaries of their capabilities, competencies, and prior experience. Résumés can be included. Identify key personnel who will serve as the Principal Investigator/Project Director (PI/PD) and Authorized Organizational Representative (AOR) for the project. The AOR will have official signing responsibility for the grant. (See *Definitions in Appendix A* for PI/PD, and AOR). The AOR and PI/PD cannot be the same person. Describe how financial management and compliance



accountability will be managed. If known at the time of application submission, the applicant must disclose their intent to enter into subaward arrangements. For each proposed subaward, the applicant must include a description of the work to be performed by the subrecipient(s).

- Clearly describe the anticipated measurable outcomes of the project. What domain(s) will be targeted? Select one per objective.
- Include a plan for measuring the success of the project based on the project goal, objectives, and outcomes.
- Include a line-item budget and budget justification for grant funded expenditures. ANA may adjust the final funding level depending on the final number of applications that are received in response to this announcement.

### **Objective Work Plan (OWP) or Applicant Work Plan**

The ANA OWP format is optional. Applicants may choose to use an alternative Work Plan that includes activities, staff, and a timeline to complete work that aligns with the project's goal and objectives.

ANA's OWP is a stand-alone document that mirrors the project's implementation plan and identifies all the key elements of the project description including the project goal, objectives, milestone activities, outcomes, staff responsible, and time frame for the completion of each activity. Key project elements in the OWP should complement those stated in the project narrative and support consistency throughout the application. The OWP identifies how (through key activities), when (by established timeframes for key activities), and by whom (staff responsible for activity completion) the project will be implemented.

The OWP or applicant work plan should reflect a maximum of two objectives for the entire project period that are described in the application narrative. If there are two objectives, provide two OWPs.

Each objective can have a recommended maximum of 25 milestone activities for each budget period. Milestone activities are key activities needed to successfully achieve each objective.

ANA also requires Administrative Activities which should be included under one objective for each year of project implementation. They should be placed after all milestone activities, and do not count towards the 25 milestone activities. The ANA Administrative Activities are as follows:

- Reporting (Progress and Financial Reports)
- Post Award Training (first year of project only)
- Annual Grantee Meeting (optional and virtual)
- Project staff orientation (first year of project only or as needed)
- Data collection and evaluation
- Establish federal system account access and official grant file (first year of project only)

The OWP or workplan should include an output for each milestone activity.

The OWP form and its instructions are available in the FOA's Grant Application Package at [www.grants.gov](http://www.grants.gov) and on the Grants.gov Forms/SF-424 Family page at <http://www.grants.gov/web/grants/forms/sf-424-family.html>. The OWP form and its instructions are also available at

<https://www.acf.hhs.gov/ana/training-technical-assistance/objective-work-plan>. Applicants may use the OWP form found on the Grants.gov Workspace or from the ANA website.

### **Third-Party Agreements**

Third-party agreements include Memoranda of Understanding (MOU) and Letters of Commitment. Letters of Commitment and MOUs must both clearly describe the roles and responsibilities for project activities and the support and/or resources that the third-party (i.e., subrecipient, contractor, or other cooperating entity) is committing. The Letters of Commitment and MOUs must be signed by the person in the third-party organization with the authority to make such commitments on behalf of their organization. General letters of support are **not** considered to be third-party agreements.

Applicants should provide Letters of Commitment or MOUs between recipients and third-parties (i.e., subrecipients, contractors, or other cooperating entities). In addition to clearly describing the roles and responsibilities for project activities and support and/or resources that the third-party is committing, these agreements must detail work schedules and estimated remuneration with an understanding that a finalized agreement will be negotiated once the successful applicant is awarded the grant.

Collaboration/consortia applicants must provide letters of commitment or MOUs identifying the primary applicant and all collaborators that are responsible for project activities.

### **The Project Budget and Budget Justification**

All applicants are required to submit a project budget and budget justification with their application. The project budget is entered on the Budget Information Standard Form, the [SF-424A](#). Applicants are encouraged to review the form instructions in addition to the guidance in this section. The budget justification consists of a budget narrative and a line-item budget detail that includes detailed calculations for "object class categories" identified on the Budget Information Standard Form. Applicants must indicate the method they are selecting for their indirect cost rate. See Indirect Charges for further information.

Project budget calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. If matching cost sharing is a requirement, applicants must include a detailed listing of any funding sources identified in Block 18 of the SF-424 (Application for Federal Assistance). See the table in *Section IV.2. Required Forms, Assurances, and Certifications* listing the appropriate budget forms to use in this application.

**Special Note:** *The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2021 and Consolidated Appropriations Act, 2021,*

*(Division H, Title II, Sec. 202), limits the salary amount that may be awarded and charged to ACF grants and cooperative agreements. Award funds issued under this announcement may not be used to pay the salary of an individual at a rate in excess of Executive Level II. The Executive Level II salary of the "Rates of Pay for the Executive Schedule" is \$199,300. This amount reflects an individual's base salary exclusive of fringe benefits and any income that an individual may be permitted to earn outside of the duties of the applicant organization. This salary limitation also applies to subawards and subcontracts under an ACF grant or cooperative agreement.*

Provide a budget using the SF-424A for each year of the proposed project.

Provide a budget justification, which includes a budget narrative and a line-item detail, for each year of the proposed project. The budget narrative should describe how the categorical costs are derived. Discuss the necessity, reasonableness, and allocation of the proposed costs.

### **Line Item Budget and Budget Justification**

Detailed line-item budgets and budget justifications are separate documents required for each year of the project. The detailed line-item budget contains a line item for each cost and the annual total for both the federal and non-federal share and is broken into the same cost categories on the SF- 424A. This funding announcement does not require non-federal share or cost share.

It is suggested that budget amounts and computations be presented in a columnar format as follows: first column, object class categories; second column, federal budget; next column(s), non-federal budget(s); and last column, total budget.

The budget justification provides the cost calculations and breakdown for each line item. For example, personnel wage rate per hour multiplied by the number of hours to equal the annual salary listed for personnel, or vendor quotes for equipment over \$5,000.

The budget justification also provides a brief explanation of the need for this line-item expenditure relating to the accomplishment of the project. See below for more explanation on each object class category.

For applicants proposing to use subaward(s), if the total amount budgeted for subawards exceeds 50 percent of total direct costs for the budget period, the applicant must provide a justification for issuing a subaward for the portion of the project and must explain how the prime recipient plans to maintain a substantive role in the project. Applicants must explain why the participation of the subrecipient is necessary, and why the applicant cannot achieve the objectives without the subrecipient(s)' participation.

Applicants are strongly encouraged to use the ANA Application Toolkit, found on the [ANA website](#), for the templates to complete the Line Item Budget and Budget Justification sections of their application.

**Post-Award Training**

Applicants must attend a virtual post-award training that will be held within 60 days after the award. No travel is required.

**Annual ANA Grantee Meeting**

Applicants may attend the annual ANA-sponsored grantee meeting (winter 2022) and/or the National Native American Languages Summit tentatively planned for Fall 2021. Options for virtual participation will be provided therefore no travel is required.

**General**

The budget justification includes a budget narrative and a line-item detail. Applications should only include allowable costs in accordance with 45 CFR Part 75 Subpart E.

**Application Submission Options****Electronic Submission via [www.Grants.gov](http://www.Grants.gov)**

This section provides the application submission and receipt instructions for ACF program applications. Please read the following instructions carefully and completely.

**Electronic Delivery**

ACF is participating in the Grants.gov initiative to provide the grant community with a single site to find and apply for grant funding opportunities. ACF applicants are required to submit their applications online through Grants.gov.

**How to Register and Apply through Grants.gov**

Read the following instructions about registering to apply for ACF funds. Applicants should read the registration instructions carefully and prepare the information requested before beginning the registration process. Reviewing and assembling the required information before beginning the registration process will alleviate last-minute searches for required information.

The registration process can take up to four weeks to complete. Therefore, registration should be done in sufficient time to ensure it does not impact your ability to meet required application submission deadlines.

Organization applicants can find complete instructions here:

<https://www.grants.gov/web/grants/applicants/organization-registration.html>

**Obtain a DUNS Number:** All entities applying for funding, including renewal funding, must have a Data Universal Numbering System (DUNS) number from Dun & Bradstreet (D&B). Applicants must enter the DUNS number in the data entry field labeled "Organizations DUNS" on the SF-424 form.

For more detailed instructions for obtaining a DUNS number, refer to:

<https://www.grants.gov/web/grants/applicants/organization-registration/step-1-obtain-duns-number.html>

**Register with SAM:** In addition to having a DUNS number, organizations applying online through Grants.gov must register with the System for Award Management (SAM). All organizations must register with SAM in order to apply online. Failure to register with SAM will prevent your organization from applying through Grants.gov.

For more detailed instructions for registering with SAM, refer to:

<https://www.grants.gov/web/grants/applicants/organization-registration/step-2-register-with-sam.html>

**Create a Grants.gov Account:** The next step in the registration process is to create an account with Grants.gov. Applicants must know their organization's DUNS number to complete this process. Completing this process automatically triggers an email request for applicant roles to the organization's E-Business Point of Contact (EBiz POC) for review. The EBiz POC is a representative from your organization who is the contact listed for SAM. To apply for grants on behalf of your organization, you will need the AOR role.

For more detailed instructions about creating a profile on Grants.gov, refer to:

<https://www.grants.gov/web/grants/applicants/registration.html>

**Authorize Grants.gov Roles:** After creating an account on Grants.gov, the EBiz POC receives an email notifying them of your registration and request for roles. The EBiz POC will then log in to Grants.gov and authorize the appropriate roles, which may include the AOR role, thereby giving you permission to complete and submit applications on behalf of your organization. You will be able to submit your application online any time after you have been approved as an AOR.

For more detailed instructions about creating a profile on Grants.gov, refer to:

<https://www.grants.gov/web/grants/applicants/registration/authorize-roles.html>

**Track Role Status:** To track your role request, refer to:

<https://www.grants.gov/web/grants/applicants/registration/track-role-status.html>

When applications are submitted through Grants.gov, the name of the organization's AOR that submitted the application is inserted into the signature line of the application, serving as the electronic signature. The EBiz POC must authorize individuals who are able to make legally binding commitment on behalf of the organization as an AOR; this step is often missed and it is crucial for valid and timely submissions.

#### **How to Submit an Application to ACF via Grants.gov**

Grants.gov applicants can apply online using Workspace. Workspace is a shared, online environment where members of a grant team may simultaneously access and edit different webforms within an application. For each FOA, you can create individual instances of a workspace.

The following is an overview of applying via Grants.gov. For access to complete instructions on how to apply for opportunities, refer to: <https://www.grants.gov/web/grants/applicants/apply-for-grants.html>

**Create a Workspace:** Creating a workspace allows you to complete an application online and route it through your organization for review before submitting.

**Complete a Workspace:** Add participants to the workspace, complete all the required forms, and check for errors before submission.

**Adobe Reader:** If you decide not to apply by filling out webforms you can download individual PDF forms in Workspace so that they will appear similar to other Standard or ACF forms. The individual PDF forms can be downloaded and saved to your local device storage, network drive(s), or external drive(s), then accessed through Adobe Reader.

**NOTE:** Visit the Adobe Software Compatibility page on Grants.gov to download the appropriate version of the software at: <https://www.grants.gov/web/grants/applicants/adobe-software-compatibility.html>

**Mandatory Fields in Forms:** In the forms, you will note fields marked with an asterisk and a different background color. These fields are mandatory fields that must be completed to successfully submit your application.

**Complete SF-424 Fields First:** The forms are designed to fill in common required fields across other forms, such as the applicant name, address, and DUNS number. To trigger this feature, an applicant must complete the SF-424 information first. Once it is completed, the information will transfer to the other forms.

**Submit a Workspace:** An application may be submitted through workspace by clicking the Sign and Submit button on the Manage Workspace page, under the Forms tab. Grants.gov recommends submitting your application **at least 24-48 hours prior to the close date** to provide you with time to correct any potential technical issues that may disrupt the application submission.

**Track a Workspace:** After successfully submitting a workspace package, a Grants.gov Tracking Number (GRANTXXXXXXXX) is automatically assigned to the package. The number will be listed on the Confirmation page that is generated after submission.

For additional training resources, including video tutorials, refer to: <https://www.grants.gov/web/grants/applicants/applicant-training.html>

Grants.gov provides applicants 24/7 support via the toll-free number 1-800-518-4726 and email at [support@grants.gov](mailto:support@grants.gov). For questions related to the specific grant opportunity, contact the number listed in the application package of the grant you are applying for.

If you are experiencing difficulties with your submission, it is best to call the Grants.gov Support



Center and get a ticket number. The Support Center ticket number will assist ACF with tracking your issue and understanding background information on the issue.

### **Timely Receipt Requirements and Proof of Timely Submission**

All applications must be received by 11:59 p.m., ET, on the due date established for each program. Proof of timely submission is automatically recorded by Grants.gov. An electronic date/time stamp is generated within the system when the application is successfully received by Grants.gov. The applicant AOR will receive an acknowledgement of receipt and a tracking number (GRANTXXXXXXXX) from Grants.gov with the successful transmission of their application. Applicant AORs will also receive the official date/stamp and Grants.gov Tracking number in an email serving as proof of their timely submission.

When ACF successfully retrieves the application from Grants.gov, and acknowledges the download of submission, Grants.gov will provide an electronic acknowledgment of receipt of the application to the email address of the applicant with the AOR role. Again, proof of timely submission shall be the official date and time that Grants.gov receives your application.

Applications received by Grants.gov after the established due date for the program will be considered late and will not be considered for funding by ACF.

Applicants with slow internet, such as dial-up connections, should be aware that transmission can take some time before Grants.gov receives your application. Again, Grants.gov will provide either an error or a successfully received transmission in the form of an email sent to the applicant with the AOR role. The Grants.gov Support Center reports that some applicants end the transmission because they think that nothing is occurring during the transmission process. Please be patient and give the system time to process the application.

### **Issues with Federal Systems**

For any systems issues experienced with Grants.gov or SAM.gov, please refer to ACF's "Policy for Applicants Experiencing Federal Systems Issues" document for complete guidance at [www.acf.hhs.gov/sites/default/files/documents/systems\\_issue\\_policy\\_final\\_0.pdf](http://www.acf.hhs.gov/sites/default/files/documents/systems_issue_policy_final_0.pdf).

### **Request an Exemption from Required Electronic Application Submission**

To request an exemption from required electronic submission please refer to ACF's "Policy for Requesting an Exemption from Required Electronic Application Submission" document for complete guidance at: [www.acf.hhs.gov/sites/default/files/documents/acf\\_policy\\_for\\_requesting\\_an\\_exemption\\_from\\_required\\_electronic\\_0.pdf](http://www.acf.hhs.gov/sites/default/files/documents/acf_policy_for_requesting_an_exemption_from_required_electronic_0.pdf)

### **Paper Format Application Submission**

**An exemption is required for the submission of paper applications. See the preceding section on "Request an Exemption from Required Electronic Application Submission."**

Applicants with exemptions that submit their applications in paper format, by mail or delivery,

must submit one original and two copies of the complete application with all attachments. The original and each of the two copies must include all required forms, certifications, assurances, and appendices, be signed by the AOR, and be unbound. The original copy of the application must have original signature(s). See *Section IV.7.* of this announcement for address information for paper format application submissions. Applications submitted in paper format must be received by 4:30 p.m., ET, on the due date.

Applicants may refer to *Section VIII. Other Information* for a checklist of application requirements that may be used in developing and organizing application materials. Details concerning acknowledgment of received applications are available in *Section IV.4. Submission Dates and Times* in this announcement.

### **IV.3. Unique Entity Identifier and System for Award Management (SAM)**

All applicants must have a DUNS Number (<http://fedgov.dnb.com/webform>) and an active registration with the System for Award Management (SAM.gov/SAM, <https://www.sam.gov>).

Obtaining a DUNS Number may take 1 to 2 days.

All applicants are required to maintain an active SAM registration until the application process is complete. If a grant is awarded, registration at SAM must be active throughout the life of the award.

**Plan ahead. Allow at least 10 business days after you submit your registration for it to become active in SAM and at least an additional 24 hours before that registration information is available in other government systems, i.e. Grants.gov.**

This action should allow you time to resolve any issues that may arise. Failure to comply with these requirements may result in your inability to submit your application through Grants.gov or prevent the award of a grant. Applicants should maintain documentation (with dates) of their efforts to register for, or renew a registration, at SAM. User Guides are available under the “Help” tab at <https://www.sam.gov>.

HHS requires all entities that plan to apply for, and ultimately receive, federal grant funds from any HHS Agency, or receive subawards directly from recipients of those grant funds to:

- Be registered in the SAM prior to submitting an application or plan;
- Maintain an active SAM registration with current information at all times during which it has an active award or an application or plan under consideration by an OPDIV; and
- Provide its active DUNS number in each application or plan it submits to the OPDIV.

ACF is prohibited from making an award until an applicant has complied with these requirements. At the time an award is ready to be made, if the intended recipient has not complied with these requirements, ACF:



- May determine that the applicant is not qualified to receive an award; and
- May use that determination as a basis for making an award to another applicant.

#### **IV.4. Submission Dates and Times**

##### **Due Date for Applications:**

06/25/2021

##### **Explanation of Due Dates**

The due date for receipt of applications is listed in the *Overview* section and in this section. See *Section III.3. Other, Application Disqualification Factors*.

##### **Electronic Applications**

The deadline for submission of electronic applications via [www.Grants.gov](http://www.Grants.gov) is 11:59 p.m., ET, on the due date. Electronic applications submitted at 12:00 a.m., ET, on the day after the due date will be considered late and will be disqualified from competitive review and from funding under this announcement.

Applicants are required to submit their applications electronically via [www.Grants.gov](http://www.Grants.gov) unless they received an exemption through the process described in *Section IV.2. Request an Exemption from Required Electronic Application Submission*.

ACF does not accommodate transmission of applications by email or facsimile.

Instructions for electronic submission via [www.Grants.gov](http://www.Grants.gov) are available at: [www.grants.gov/web/grants/applicants/apply-for-grants.html](http://www.grants.gov/web/grants/applicants/apply-for-grants.html).

Applications submitted to [www.Grants.gov](http://www.Grants.gov) at any time during the open application period prior to the due date and time that fail the Grants.gov validation check will not be received at ACF. These applications will not be acknowledged.

##### **Mailed Paper Format Applications**

The deadline for receipt of mailed, paper applications is 4:30 p.m., ET, on the due date. Mailed paper applications received after the due date and deadline time will be considered late and will be disqualified from competitive review and from funding under this announcement.

Paper format application submissions will be disqualified if the applicant organization has not received an exemption through the process described in *Section IV.2. Request an Exemption from Required Electronic Application Submission*.

### **Hand-Delivered Paper Format Applications**

Applications that are hand-delivered by applicants, applicant couriers, by overnight/express mail couriers, or other representatives of the applicant must be received on, or before, the due date listed in the *Overview* and in this section. These applications must be delivered between the hours of 8:00 a.m. and 4:30 p.m., ET, Monday through Friday (excluding federal holidays). Applications should be delivered to the address provided in *Section IV.7. Other Submission Requirements*.

Hand-delivered paper applications received after the due date and deadline time will be considered late and will be disqualified from competitive review and from funding under this announcement.

Hand-delivered paper format application submissions will be disqualified if the applicant organization has not received an exemption through the process described in *Section IV.2. Request an Exemption from Required Electronic Application Submission*.

### **No appeals will be considered for applications classified as late under the following circumstances:**

- Applications submitted electronically via [www.Grants.gov](http://www.Grants.gov) are considered late when they are dated and time-stamped after the deadline of 11:59 p.m., ET, on the due date.
- Paper format applications received by mail or hand-delivery after 4:30 p.m., ET, on the due date will be classified as late and will be disqualified.
- Paper format applications received from applicant organizations that were not approved for an exemption from required electronic application submission under the process described in *Section IV.2. Request an Exemption from Required Electronic Submission* will be disqualified.

### **Emergency Extensions**

ACF may extend an application due date when circumstances make it impossible for an applicant to submit their applications on time. Only events such as documented natural disasters (floods, hurricanes, tornados, etc.), or a verifiable widespread disruption of electrical service, or mail service, will be considered. The determination to extend or waive the due date, and/or receipt time, requirements in an emergency situation rests with the Grants Management Officer listed as the Office of Grants Management Contact in *Section VII. HHS Awarding Agency Contact(s)*.

### **Acknowledgement from [www.Grants.gov](http://www.Grants.gov)**

Applicants will receive an initial email upon submission of their application to [www.Grants.gov](http://www.Grants.gov). This email will provide a **Grants.gov Tracking Number**. Applicants should refer to this tracking number in all communication with Grants.gov. The email will also provide a **date and time stamp**, which serves as the official record of application's submission. Receipt of this email does not indicate that the application is accepted or that it has passed the validation check.

Applicants will also receive an email acknowledging that the received application is in the

**Grants.gov validation process**, after which a third email is sent with the information that the submitted application package has passed, or failed, the series of checks and validations. Applications that are submitted on time that fail the validation check will not be transmitted to ACF and will not be acknowledged by ACF.

**Acknowledgement from ACF of an electronic application's submission:**

Applicants will be sent additional email(s) from ACF acknowledging that the application has been retrieved from [www.Grants.gov](http://www.Grants.gov) by ACF. Receipt of these emails is not an indication that the application is accepted for competition.

**Acknowledgement from ACF of receipt of a paper format application:**

ACF will not provide acknowledgement of receipt of hard copy application packages submitted via mail or courier services.

#### **IV.6. Funding Restrictions**

Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred to raise capital or obtain contributions are unallowable. Fund raising costs for the purposes of meeting the federal program objectives are allowable with prior written approval from the federal awarding agency. (45 CFR §75.442)

Proposal costs are the costs of preparing bids, proposals, or applications on potential federal and non-federal awards or projects, including the development of data necessary to support the non-federal entity's bids or proposals. Proposal costs of the current accounting period of both successful and unsuccessful bids and proposals normally should be treated as indirect (F&A) costs and allocated currently to all activities of the non-federal entity. No proposal costs of past accounting periods will be allocable to the current period. (45 CFR §75.460)

Construction is not an allowable activity or expenditure under this grant award.

Purchase of real property is not an allowable activity or expenditure under this grant award. Costs of prosecution of claims against the federal government, including appeals of final HHS agency decisions, are unallowable under 45 CFR §75.435 (g).

Activities that qualify as major alterations and renovations are not allowable under this FOA.

See *Section III.3. Other, Projects Ineligible for Funding* for a list of projects that are ineligible for funding under 45 CFR §1336.33. See *Section V.2. Review and Selection Process* for a list of projects that ANA will not fund.

#### **IV.7. Other Submission Requirements**

Submit paper applications to one of the following addresses. Also see *ACF Policy on Requesting an Exemption from Required Electronic Application Submission* at [www.acf.hhs.gov/grants/howto#chapter-6](http://www.acf.hhs.gov/grants/howto#chapter-6).

**Submission By Mail**

Tim Chappelle  
 U.S. Department of Health and Human Services  
 Administration for Children and Families  
 Office of Grants Management - [HHS-2021-ACF-ANA-XN-0001]  
 Mary E. Switzer Memorial Building  
 330 C Street, S.W., 3<sup>rd</sup> Floor  
 Washington, DC 20201

**Hand Delivery**

Tim Chappelle  
 U.S. Department of Health and Human Services  
 Administration for Children and Families  
 Office of Grants Management - [HHS-2021-ACF-ANA-XN-0001]  
 Mary E. Switzer Memorial Building  
 330 C Street, S.W., 3<sup>rd</sup> Floor  
 Washington, DC 20201

**Electronic Submission**

See *Section IV.2.* for application requirements and for guidance when submitting applications electronically via [www.Grants.gov](http://www.Grants.gov). For all submissions, see *Section IV.4. Submission Dates and Times.*

**V. Application Review Information****V.1. Criteria**

This funding is non-competitive due to nature of addressing the emergency of the imminent loss of Native American languages. All applications will be screened by ANA staff to ensure the eligibility of only one award per federal or state recognized Tribe or their designee. All applications that are screened as eligible will receive an equal allocation award, based division of the total number of applications received from federal and state-recognized Tribes.

1. Is the applicant a federal or state-recognized Tribe? If not, have they been designated by a federal or state-recognized Tribe to receive their allocation?
2. Has only one application been received per federal or state recognized Tribe?
3. Has the Tribe documented the status of their living language?
4. Does the application propose a project that aligns with one of the 5 domains that will preserve and protect the vitality of the applicant's native language during and after the COVID-19 pandemic?

**V.2. Review and Selection Process**

No grant award will be made under this announcement on the basis of an incomplete

application. No grant award will be made to an applicant or subrecipient that does not have a DUNS number (<http://fedgov.dnb.com/webform>) and an active registration at SAM ([www.sam.gov](http://www.sam.gov)). See *Section IV.3. Unique Entity Identifier and System for Award Management (SAM)*.

### **Initial ACF Screening**

Each application will be screened to determine whether it meets the eligibility criteria.

### **Only One Award Per Tribal Entity**

ANA will only make one award to a federal or state-recognized tribal entity. A Tribe may elect to designate a non-profit entity to apply for this funding on their behalf if a letter from the Tribe is included in the application. For example, if a Tribe has a tribal college that they want to designate to receive the funds, then that will be allowed. However, if the Tribal College and the Tribe submits an application, then the Tribal College will not receive an award. Tribal non-profit entities that are not designated by a Tribe will not be awarded.

Applicants not selected for funding will be notified of an ineligible determination by email or by USPS postal mail within 30 federal business days from the closing date of this FOA.

### **ANA Internal Review of Proposed Projects**

ANA staff will perform an internal review and analysis of the applications. This internal review is used to determine the application's consistency with the purposes of NAPA, all relevant statutory and regulatory requirements, and the requirements of the relevant FOA. Based on the number of eligible applications ANA receives in response to this announcement, the final budget and other application requirements may be negotiated prior to award.

ANA has a preference for funding projects that are community-driven, reflecting a strong relationship between planned activities and intended results, demonstrate a realistic action plan for sustainability, and promote social and economic self-sufficiency in emerging, unserved, or underserved native communities.

ANA's Commissioner has discretion to make all final funding and award decisions.

## **VI. Federal Award Administration Information**

### **VI.1. Federal Award Notices**

Successful applicants will be notified through the issuance of a Notice of Award (NoA) that sets forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which initial support will be given, the non-federal share to be provided (if applicable), and the total project period for which support is contemplated. The NoA will be signed by the Grants Officer and transmitted via postal mail, email, or by

GrantSolutions.gov or the Head Start Enterprise System (HSES), whichever is relevant. Following the finalization of funding decisions, organizations whose applications will not be funded will be notified by letter signed by the cognizant Program Office head. Any other correspondence that announces to a Principal Investigator, or a Project Director, that an application was selected is not an authorization to begin performance.

Information on allowable pre-award costs and the time period under which they may be incurred is available in *Section IV.6. Funding Restrictions*, if applicable. Project costs that are incurred prior to the receipt of the NoA are at the recipient's risk.

Grantees may translate the federal award and other documents into another language. In the event of inconsistency between any terms and conditions of the federal award and any translation into another language, the English language meaning will control. Where a significant portion of the grantee's employees who are working on the federal award are not fluent in English, the grantee must provide the federal award in English and in the language(s) with which employees are more familiar.

## **VI.2. Administrative and National Policy Requirements**

Unless otherwise noted in this section, administrative and national policy requirements that are applicable to discretionary grants are available at: <http://www.acf.hhs.gov/administrative-and-national-policy-requirements>.

ANA manages the discretionary grant program in accordance with 45 CFR 1336 - Native American Programs, which can be found at: <http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=46843cfa0cbdd53e439af59c85fa3381&ty=HTML&h=L&mc=true&n=pt45.4.1336&r=PART>.

### **HHS Grants Policy Statement**

The HHS Grants Policy Statement (HHS GPS) is the Department of Health and Human Services' single policy guide for discretionary grants and cooperative agreements. ACF grant awards are subject to the requirements of the HHS GPS, which covers basic grants processes, standard terms and conditions, and points of contact, as well as important agency-specific requirements. The general terms and conditions in the HHS GPS will apply as indicated unless there are statutory, regulatory, or award-specific requirements to the contrary that are specified in the NoA. The HHS GPS is available at <https://www.acf.hhs.gov/discretionary-post-award-requirements#chapter-1>

## **VI.3. Reporting**

Performance Progress Reports:           Semi-Annual

Recipients under this FOA will be required to submit a performance progress report and federal

financial reports (SF425s) periodically throughout the project period. Information on reporting requirements is available on the ACF website at <https://www.acf.hhs.gov/grants/discretionary-post-award-requirements#chapter-2>.

ANA grantees are required to report project progress using the Post-Project Report (OMB No. 0970-0490, expiration date 01/31/2023) at the end of the project. For additional information on reporting requirements and due dates, please refer to the following website: <https://www.acf.hhs.gov/ana/training-technical-assistance/reporting-requirements>.

For planning purposes, the frequency of required reporting for awards made under this announcement are as follows:

Financial Reports: Semi-Annual

## **VII. HHS Awarding Agency Contact(s)**

### **Program Office Contact**

Carmelia Strickland  
 U.S. Department of Health and Human Services  
 Administration for Children and Families  
 Administration for Native Americans, [HHS-2021-ACF-ANA-XN-0001]  
 330 C Street, SW. 4th Floor  
 Washington, DC 20201  
 Phone: (877) 922-9262  
 Fax: (202) 690-7441  
 Email: [anacomments@acf.hhs.gov](mailto:anacomments@acf.hhs.gov)  
 URL: <https://www.acf.hhs.gov/programs/ana/>

### **Office of Grants Management Contact**

Tim Chappelle  
 U.S. Department of Health and Human Services  
 Administration for Children and Families  
 Office of Grants Management  
 [HHS-2021-ACF-ANA-XN-0001]  
 330 C Street, S.W., 3rd Floor  
 Washington, DC 20201  
 Phone: (202) 401-4855  
 Email: [tim.chappelle@acf.hhs.gov](mailto:tim.chappelle@acf.hhs.gov)

**Federal Relay Service:**

Hearing-impaired and speech-impaired callers may contact the Federal Relay Service (FedRelay) at [www.gsa.gov/fedrelay](http://www.gsa.gov/fedrelay).

**VIII. Other Information****Reference websites**

ACF Funding Opportunity Announcements [ami.grantsolutions.gov/](http://ami.grantsolutions.gov/).

ACF "How To Apply For A Grant" <https://www.acf.hhs.gov/grants/howto>.

ACF Property Guidance <https://www.acf.hhs.gov/grants/real-property-and-tangible-personal-property>

Grants.gov Accessibility Information [www.grants.gov/web/grants/accessibility-compliance.html](http://www.grants.gov/web/grants/accessibility-compliance.html).

Code of Federal Regulations (CFR) <http://www.ecfr.gov/>.

United States Code (U.S.C.) <http://uscode.house.gov/>.

Administration for Native Americans (ANA) webpage: <https://www.acf.hhs.gov/ana/programs>

ANA technical assistance providers offer project development training and pre-application training for potential applicants free of charge. Technical Assistance providers may also be contacted within an applicant's region to answer questions at <https://www.acf.hhs.gov/ana/assistance>

Project development training materials can be found at <https://www.acf.hhs.gov/ana/training-technical-assistance/project-planning-and-development-participant-manual>

Pre-application training materials can be found at [Application Toolkit | The Administration for Children and Families \(hhs.gov\)](http://www.hhs.gov/ana/application-toolkit)

ANA Application Toolkit provides examples and templates that may be useful to applicants [2021 ANA Application Toolkit | The Administration for Children and Families \(hhs.gov\)](http://www.hhs.gov/ana/application-toolkit)

[The Center for Linguistic and Cultural Competency](http://www.hhs.gov/olc) in Health Care and National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care help organizations provide culturally and linguistically appropriate services to better serve our nation's increasingly diverse communities. The Center helps fulfill the requirements of Pub. L. 101-527.

[The Office of Minority Health Resource Center \(OMHRC\)](http://www.hhs.gov/omhrc), created in 1987, is a one-stop source for minority health literature, research and referrals for consumers, community organizations, and health professionals. OMHRC also offers capacity building and technical assistance services designed to increase the strength and competence of health care agencies and programs.

OMHRC is authorized by section 1707 of the Public Health Service Act.



## Application Checklist

Applicants may use this checklist as a guide when preparing an application package.

All forms, certifications, and OMB-approved forms are required and uploaded directly to the Grants.gov application package, or included in paper submission when a waiver is approved. These required application elements are identified at the beginning of the checklist.

The additional application elements identified in the checklist are ordered based on the preferred order of application assembly, as stated below.

- SF-424 – Application for Federal Assistance
- SF-424A – Budget Information – Non-Construction Programs and SF-424B – Assurances-Non-Construction Programs
- Unique Entity Identifier (DUNS) and Systems for Award Management (SAM) registration
- SF-Project/Performance Site Location(s) (SF-P/PSL)
- Maintenance of Effort (MOE) Certification
- Certification Regarding Lobbying (Grants.gov Lobbying Form)
- Required Governing Body Documentation/Tribal Resolution
- Tribal Designation Letter (if applicable)
- Project Summary
- Table of Contents
- The Project Description and Approach
- The Objective Workplan (OWP) or other Work Plan
- Line-Item Budget and Budget Justification
- Indirect Cost Rate Agreement (IDR)
- Proof of Non-Profit Status (if designee)
- Third-Party Agreements (also, MOUs and Consortia Agreements)

## Appendix

### DEFINITIONS

Program-specific terms and concepts in this FOA are based on the following definitions:

*Alteration and Renovation:* Generally defined as work required to change the interior arrangements or installed equipment in an existing facility so that it may be more effectively used for its designated purpose or adapted for an alternative use to meet a programmatic requirement.

*Authorized Organization Representative (AOR):* The individual named by the applicant/recipient organization, who is authorized to act for the applicant/recipient and to assume the obligations imposed by the federal laws, regulations, requirements, and conditions that apply to grant applications or awards.

*Beneficiaries:* Individuals within the community that benefit from the project.

*Board Resolution:* A current, signed, and dated document reflecting a formal decision voted on by the applicant's official governing body in support of the project for the entire project period. The resolution must indicate who is authorized to sign documents and negotiate on behalf of the Tribe or organization. The resolution should indicate that the community was involved in the project planning process and includes the specific dollar amount of any eligible matching funds (if applicable). A board resolution is an acceptable form of governing body documentation of approval for the project.

*Budget Period:* The interval of time (usually 12 months) into which a project period is divided for budgetary and funding purposes. Funding of individual budget periods sometimes is referred to as 'incremental funding. For ARP awards, the funds are available until expended.

*Community to be served:* Geographical/organizational community that benefits from the project.

*Construction:* Construction of a new building or major alteration and renovation of an existing building, including the installation of fixed equipment, but excluding the purchase of land and ancillary improvements (e.g., parking lots or roads). Please note construction costs are not allowable under this funding opportunity.

*Governing Body:* A body that meets one of the following criterion: (1) consisting of duly elected or designated representatives, (2) appointed by duly elected officials, or (3) selected in accordance with traditional tribal means. The body must have authority to enter into contracts, agreements, and grants on behalf of the organization or individuals who elected, designated, appointed, or selected them.

*Living Language* –A language that is still being used and spoken by people.

*Milestone Activities:* Milestones, benchmarks, and/or events throughout project implementation to achieve project goals and objectives.

*Minor Alterations and Renovations:* Changes to physical characteristics that would not involve expansion, new construction, development or repair of parking lots, or activities that would change the footprint of the facility. Costs are allowed up to the lesser of an amount below \$250,000 or 25 percent of the total approved budget for a budget period.

*Objectives:* Brief statements that describe in a measurable way what will be expected to be achieved by the end of a project period and will lead to the achievement of the project goal. ANA permits a maximum of two project objectives for the entire project period. The project objectives are required to include measurable achievements. Each project objective must relate to one primary outcome and lead to the achievement of the project goal. Each objective must include a targeted achievement for the domain. The target must be connected to the domain.

*Objective Work Plan (OWP):* The plan for achieving the project objectives and producing the outputs and expected outcomes for each objective. The OWP is a stand-alone document that mirrors the project's implementation plan and identifies all the key elements of the project description including the project goal, objectives, milestone activities, outputs and outcomes, staff responsible, and timeframe for the completion of each activity.

*Outcome(s):* The expected change that will result from the achievement of the objectives. Outcomes can include an overall increase in capacity, a change in intended knowledge,

awareness, attitudes, skills, behaviors; etc. Outcome are measured through the indicator(s). ANA requires at least one outcome per objective. Outcomes can be the same or different for each of the project objectives.

*Output:* Tangible products or services that result from the completion of milestone activities. Outputs also can be used to monitor progress toward achieving project objectives but are not the same as outcomes.

*Principal Investigator/Program Director (PI/PD):* The individual designated by the recipient to direct the project or program being supported by the grant. The PI/PD is responsible and accountable to officials of the recipient organization for the proper conduct of the project, program, or activity. See 45 CFR §75.2.

*Project Goal:* A tangible statement of what a project should achieve.

*Project Participants:* Those individuals directly taking part in project activities (i.e., unemployed single parents that are taking financial literacy classes, youth interns, fluent Elders selected to be the master in the master-apprentice, teacher candidates, newly elected council members to be trained, etc.).

*Project Period:* The time during which the non-federal entity may incur new obligations to carry out the work authorized under the federal award. The federal awarding agency or pass-through entity must include start dates and end dates of performance in the federal award. See 45 CFR §§ 75.210(a)(5) and 75.352(a)(1)(v).

*Real Property:* Land, including land improvements, structures, and appurtenances thereto, but not moveable machinery and equipment. See 45 CFR §75.2.

PHONE (808) 594-1888  
Committee on Resource Management  
Trustee John Waihe'e IV, *At-Large - Chair*  
Trustee Luana Alapa, *Moloka'i / Lāna'i - Vice Chair*  
*Members*

Trustee Leina'ala Ahu Isa, *At-Large*  
Trustee Dan Ahuna, *Kaua'i / Ni'ihau*  
Trustee Kaleihikina Akaka, *O'ahu*  
Trustee Keli'i Akina, *At-Large*  
Trustee Brendon Kalei'aina Lee, *At-Large*  
Trustee Carmen Hulu Lindsey, *Maui*  
Trustee Keola Lindsey, *Hawai'i Island*



FAX (808) 594-1865

**STATE OF HAWAII'  
OFFICE OF HAWAIIAN AFFAIRS**

**MEETING OF THE  
COMMITTEE ON RESOURCE MANAGEMENT (RM)**

**DATE:** Thursday, July 22, 2021

**TIME:** 1:30 p.m.

**PLACE:** Virtual Meeting

Viewable at [www.oha.org/livestream](http://www.oha.org/livestream) OR

Listen by phone: (213) 338-8477, Webinar ID: 949 3309 0127

**Due to the threat of COVID-19, Governor Ige issued the recent Emergency Twenty-First Supplementary Proclamation dated June 7, 2021 that suspends parts of Hawai'i Revised Statutes Chapter 92, Public Agency Meetings and Records to, among other things, enable boards to conduct business without any board members or members of the public physically present at the same location.**

**The OHA Board of Trustees and its Standing Committees will hold virtual meetings until further notice. The virtual meetings can be viewed and observed via livestream on OHA's website at [www.oha.org/livestream](http://www.oha.org/livestream) or listen by phone: (213) 338-8477, Webinar ID: 949 3309 0127**

**AGENDA**

**I. Call to Order**

**II. Public Testimony on Items Listed on the Agenda\***

(Please see page 2 on how to submit written testimony or provide oral testimony online.  
Oral testimony by telephone/landline **will not** be accepted)

**III. Approval of Minutes**

- A. June 23, 2021
- B. June 24, 2021
- C. June 30, 2021

**IV. Unfinished Business**

None

**V. New Business**

- A. ACTION ITEM RM #21-09: Approve OHA's Intent to Apply to the Administration for Children and Families, Administration for Native Americans, American Rescue Plan Act Emergency Native Language Funding Opportunity for Native Hawaiians and Pacific Islanders for \$250,000
- B. WORKSHOP: Amendments to the Native Hawaiian Trust Fund Investment Policy Statement and the Debt Management Policy Implementation Procedures

**VI. Executive Session‡**

- A. Consultation with Board Counsel Robert G. Klein and Everett Ohta, OHA Assistant Senior Legal Counsel, re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities with respect to updates by Administration regarding potential acquisition of commercial properties, pursuant to HRS§92-5(4)

**VII. Announcements**

**VIII. Adjournment**



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OFFICE OF HAWAIIAN AFFAIRS  
Interoffice Transmittal Memorandum

---

Lā: July 19, 2021

Iā:

Ke Kauhuhu Carmen Hulu Lindsey	Ke Kua Luana Alapa
Ke Kua Leina‘ala Ahu Isa	Ke Kua Brendon Kalei`āina Lee
Ke Kua Dan Ahuna	Ke Kua Keola Lindsey
Ke Kua Kaleihikina Akaka	Ke Kua John Waihe‘e IV
Ke Kua Keli‘i Akina	

I o: Sylvia M. Hussey, Ed.D., Ka Pouhana, Chief Executive Officer  
Ramona Hinck, Ka Pou Kihi Kanaloa Wai, Chief Financial Officer  
Raina Gushiken, Ka Paepae Puka, Senior Legal Counsel

Maiā: Casey Brown, Ka Pou Nui, Chief Operating Officer  
Ryan H. Lee, Pou Kāko‘o Mahele Kumupa‘a Kūikawā, Interim Investment  
Manager

Kumuhana: Amendments to the Native Hawaiian Trust Fund Investment Policy Statement and  
the Debt Management Policy Implementation Procedures

### **Purpose**

The purpose of this memo is to provide background of proposed amendments to the Native Hawaiian Trust Fund (“NHTF”) Investment Policy Statement (“IPS”) and the Debt Management Policy (“DMP”) Implementation Procedures.

### **Background**

Amendments to OHA’s policies continue to be an on-going effort to ensure the OHA can operate as effective and prudent as possible. Policies and procedures are living documents and should periodically be reviewed and revised as necessary, to reflect best practices and current regulations, facts and circumstances. Proposed revisions to policies and procedures range from refinement of terminology to complete overhaul of sections and even entire policies.

Policy amendments to the NHTF IPS require approval by the Committee on Resource Management, followed by two readings by the OHA BOT, each requiring an affirmative

## Amendments to the Native Hawaiian Trust Fund Investment Policy Statement and the Debt Management Policy Implementation Procedures

majority (5) vote of all the members to which the BOT is entitled. (OHA BOT Executive Policy Manual (“EPM”) sec. 1.2.a.). Procedural amendments to the DMP Implementation Procedures require approval by the OHA CEO, following review by the OHA BOT. (See Debt Management Policy section IV; EPM sec. 1.2.b.5.)

The amendments being presented are part of broader policy revision work that covers OHA’s financial policies. OHA’s interim Investment Manager, Ryan Lee, has led this effort thus far and worked with a number of key Administration staff to facilitate the proposed amendments. Ryan (along with our Chief Financial Officer) has also met with a number of Trustees earlier in the year to provide briefings of the the broad effort to revise certain financial policies and propose the drafting of a new Endowment policy which will serve as the foundational policy to guide OHA in the management of its assets and liabilities.

The amendments presented have been specifically identified to be of immediate importance as they have bearing on OHA’s potential acquisition of commercial properties. These amendments are not intended to target the narrow outcome of acquiring property, but rather intended to reflect best practices in the market place as it relates to management of organizational investments and debt. In other words, Administration would be recommending these amendments regardless of whether an acquisition relied upon them. We are simply accelerating these particular amendments to allow the OHA the opportunity to execute the potential purchase of properties in the near future.

### Proposed Policy Changes:

#### NHTF Investment Policy:

- Separate management of Hawaii Direct Investments (HDI) from Financial Assets Investments
- Update HDI Policy to reflect OHA’s real estate strategy and investment guidelines

#### Debt Management Policy Implementation Procedures:

- Remove reference to HRS Chapter 37D, which does not apply to OHA’s governance structure
- Clarify Public Land Trust expenditures to equal to 5% of the NHTF average market value, plus Ceded Land Revenues in the Debt Service Limitation calculation

Based on the feedback received from the Trustees at the workshop, Administration will return to the Committee on Resource Management at a future meeting with an Action Item to approve proposed amendments to the NHTF IPS and review proposed amendments to the DMP Implementation Procedures.

NATIVE HAWAIIAN TRUST FUND  
INVESTMENT POLICY STATEMENT

The following Investment Policy Statement (IPS) has been duly adopted, by the Office of Hawaiian Affairs, Board of Trustees at its meeting held on September 19, 2019 and is in full force and effect on November 1, 2019.

Colette Y. MachadoCarmen Hulu Lindsey, Chairperson  
Board of Trustees

\_\_\_\_\_  
Date

First Reading: September 5, 2019  
Second Reading: September 19, 2019

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Distribution:

- 9- Each OHA Trustee via Asset & Resource Management Committee
- 1- OHA BOT Secretary
- 1- OHA Chief Executive Officer
- 1- OHA Chief Operating Officer
- 1- OHA Chief Financial Officer
- 1- OHA Controller
- 1- OHA Chief Investment Officer
- 1- OHA Investment Consultant
- 5- Each Investment Advisor / Non-Marketable Alternatives Provider
- 1- Custodian

# THE OFFICE OF HAWAIIAN AFFAIRS NATIVE HAWAIIAN TRUST FUND INVESTMENT POLICY STATEMENT

## OBJECTIVES AND POLICY GUIDELINES

### Section 1. Introduction and Scope

1.1 Introduction. This statement governs the investment of assets held in the Office of Hawaiian Affairs Native Hawaiian Trust Fund (the "Fund").

This Policy Statement is set forth so that the Board of Trustees ("BOT") of the Office of Hawaiian Affairs ("OHA"), OHA Staff, Investment Consultant, Investment Advisors and Investment Managers (where appropriate), and beneficiaries may be made aware of the investment policy with regard to the investment of the Fund's assets, the investment objectives, and the expectations and requirements with respect to the ongoing management of the Fund's assets.

1.2 The Trust. OHA's mission is to malama (protect) Hawai'i's people and environmental resources and the Trust Fund's assets, toward ensuring the perpetuation of the culture, the enhancement of lifestyle and the protection of entitlements of Native Hawaiians, while enabling the building of a strong and healthy Hawaiian people and nation, recognized nationally and internationally. The overall goal of the Fund is to provide superior investment returns to sustain the beneficiaries in perpetuity and to uphold OHA's mission.

1.3 Purpose of the Investment Policy Statement. In keeping with the fiduciary requirements and obligations of all parties involved in managing the Fund under existing Federal and State laws, the purposes of this Policy Statement (the "Statement") are to provide the:

- a) BOT, OHA staff, Consultant and Advisors with a clear and mutual understanding of the Fund's philosophy, investment objectives and policies;
- b) Advisors with guidance, objectives and limitations in investing the Fund's assets; and
- c) BOT with a meaningful basis to evaluate the Advisors' performance in order to meet the BOT's fiduciary responsibility to monitor prudently the Fund's investments.

This Statement represents the BOT's philosophy regarding the investment of the Fund's assets. The BOT will review and revise the Statement as needed to ensure that it continues to reflect the BOT's expectations and objectives. All of the BOT's modifications or amendments to the Statement shall be made in writing and will be provided to all Investment Advisors and Consultants.

It is also intended that the investment policies be sufficiently specific to be meaningful, but adequately flexible to be practicable. It is further understood that all performance standards and return objectives in this Statement are intended as evaluation tools for determining whether to continue to retain the Advisors. The parties understand that the Advisors cannot give assurance of actual investment results and that the Advisors understand that the BOT will terminate its relationship with an Advisor based on a determination that the Advisor is not achieving the performance standards.

1.4 Manager-of-Managers Approach. The BOT has elected to employ Advisors in an outsourced manager-of-managers investment approach, without necessarily bundling custodial services. There is a preference for a full discretionary approach to invest across multiple asset classes. When necessary to achieve the Fund's objectives, the BOT may hire an Advisor with a non-Manager-of-Managers approach or to manage assets with a specific asset class mandate. Under the outsourcing agreement, the Advisors will assume certain BOT fiduciary responsibilities as set forth in the applicable agreement(s) between the Advisors and the BOT. The Advisors are accountable for the prudent management of all assets subject to their oversight and, where applicable, will make all key investment decisions, such as tactical asset allocation and manager selection, within the context set by this Statement and in adherence to the duties and powers set forth in the applicable management, advisory, or trust agreements. The BOT

still maintains responsibility for imposing guidelines, targets and asset allocation constraints as set forth in this Statement, and for monitoring the Advisors to ensure they act prudently and adhere to all aspects of the Statement.

1.5 Spending Policy. The annual amount withdrawn from the Fund shall constitute no more than five percent (5%) annually of the Fund's market value, excluding any Fiscal Reserve spending, using the methodology specified in the OHA Native Hawaiian Trust Fund Spending Policy. The calculation of the maximum withdrawal amounts are set forth in the Native Hawaiian Trust Fund Spending Policy and Fiscal Reserve Withdrawal Guidelines.

## Section 2. General Objectives

2.1 Prioritized Investment Objectives. The overall objectives of the Fund are in the following order of priority:

- a) To grow the Fund's assets consistently by at least inflation plus five percent annually (Consistent Capital Growth);
- b) To invest in a manner that seeks to ensure the continuous preservation of purchasing power of the overall portfolio (Capital Preservation);
- c) To achieve a portfolio return that meets or exceeds the return of the Fund's Policy Portfolio Benchmark on a net of fee basis over a long time horizon (Benchmark Outperformance); and
- d) To diversify the portfolio by asset type, security (issuer) and Investment Manager to reduce the volatility of returns (Adequate Diversification).

2.2 Long-Term Objective. Consistent capital growth is the primary objective of the Fund. The investment portfolio shall be designed with the objective of protecting principal while earning a rate of return that is targeted to meet or exceed the real spending rate and the strategic benchmark index of the Fund over the long term in order to preserve the Fund's assets and ensure that sufficient liquidity will be available to cover future cash requirements. Consistent capital growth is achieved by investing prudently in a wide range of asset classes to achieve proper diversification, thereby reducing volatility. Since the Advisors will focus on long-term capital appreciation, the Fund may experience a drawdown of principal, although over a full market cycle, the Advisors in aggregate are expected to produce a total annual return that will exceed inflation as measured by the Consumer Price Index (CPI) by five percent. It is anticipated that the Fund will experience an annualized average volatility of approximately 13% annually with a maximum rolling 12-month annualized volatility of roughly 20% over a market cycle.

All parties named in this Statement shall carry out their business in compliance to all existing and future applicable state and federal regulations (Regulatory Compliance Requirement) and for assets subject to their discretion maintain adequate liquidity to meet all anticipated expenditures after sufficient notice (Adequate Liquidity Requirement).

2.3 Definition of Market Cycle. Throughout this Statement the term "market cycle" is used. Market cycles include both a rising and a declining market. Generally, a rising market will be defined as a period of at least two consecutive quarters of rising stock prices and a declining market will be defined as a period of at least two consecutive quarters of declining stock prices. Therefore, a Market Cycle (the minimum period of evaluation) shall be at least one year and more typically three to six years.

2.4 Definition of Investment Consultant, Investment Advisor and Investment Manager. Throughout this Statement the terms Investment "Consultant", Investment "Advisor" and Investment "Manager" are used. Consultant shall refer to the entity hired by the OHA Chief Executive Officer ("CEO") to assist OHA staff and BOT in overseeing the Fund and to monitor and evaluate the Advisors; "Advisor" shall refer to each Fiduciary (typically utilizing the "manager-of-managers" approach) hired by the BOT to exercise investment discretion over a portion of the Fund's assets within the parameters set forth in the Statement; and "Manager" shall refer to any portfolio manager selected by the Advisors to invest the Fund's assets.

## Section 3. Standards of Care

3.1 Board of Trustees and OHA Staff. The standard of care applied to the BOT and OHA internal staff assigned to the Fund shall be the "prudent person" standard, defined as follows: "Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived." The BOT may rely upon the expert advice and counsel of its external providers to satisfy the "prudent person" standard provided the BOT has established adequate controls and fulfills its oversight responsibilities regarding the external providers as outlined in this Statement.

3.2 External Providers. The standard of care applied to all external providers (i.e., Consultant, Advisors (indirectly Investment Managers hired by the Advisors), and Custodian) shall be as set forth in the agreement between the BOT or CEO, as appropriate, and each external provider. The BOT will negotiate a standard for the Investment Advisors that is similar in effect to the "prudent expert" standard, defined as: "Investments shall be managed with the care, skill, prudence, and diligence, under the circumstances then prevailing, that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims".

3.3 Code of Ethics. OHA Trustees, OHA officers, and OHA employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of their investment program, or that could impair their ability to make impartial decisions. OHA Trustees and employees involved in the investment process shall disclose any material interests in financial institutions with which they conduct business. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio. OHA employees and officers shall refrain from undertaking personal investment transactions with entities that conduct business with the Fund. Should any Trustees have personal involvement with any direct investment transaction or any perceived conflicts of interest, the Trustee should disclose the involvement immediately and be recused from discussions and votes on said investment. OHA Trustees, officers, and employees shall abide by the Standard of Conducts established under Chapter 84 of the Hawai'i Revised Statutes and the code of ethics stated in the OHA Bylaws and, where appropriate, the OHA Employee Handbook and the BOT Executive Policy Manual.

## Section 4. Delegation of Authority

The Office of Hawaiian Affairs Native Hawaiian Trust Fund maintains a structured and organized process in implementing its investment program. To accomplish the mission, objectives and desired investment returns of the Fund, the Board of Trustees has delegated authority to various individuals and organizations.

4.1 BOT Composition. The BOT currently consists of representatives from:

- a) O'ahu
- b) Kaua'i and Ni'ihau
- c) Moloka'i and Lana'i
- d) Hawai'i
- e) Maui
- f) At large (4)

4.2 BOT Responsibilities. The BOT recognizes that it may not possess sufficient expertise to manage directly the assets of the Fund. The BOT, therefore, employs the services of various external experts to act as Fiduciaries--Consultants, Advisors and/or Custodians and seeks advice from independent parties. The BOT does rely on this expertise in carrying out its responsibility to oversee the overall management of the Fund's assets, and will meet quarterly to review the performance of the Fund and the activities of the external providers for reasonable consistency with the objectives of the Fund as set forth in this Statement. When necessary, the BOT will provide

guidance to the investment process. BOT may delegate certain of its responsibilities to the CEO to assist with the implementation of this Statement. BOT responsibilities include, but are not limited to:

- a) Approve the Investment Policy Statement and all modifications to the Statement;
- b) Approve Advisors and Non-Marketable Alternatives Providers. The BOT delegates authority to the CEO to select the Custodian, Consultant and Investment Advisory Committee (IAC) members;
- c) Monitor results of all Fund assets as a whole and those assigned to each Advisor. The BOT shall include in its quarterly assessment such topics as: economic outlook, portfolio diversification, asset allocation and structure, Advisors' strategies, potential risks, and the performance of the overall portfolio as well as each of the Fund's asset classes versus its benchmark rate of return and peer institutions;
- d) Review quarterly reports regarding the activities of Advisors, Consultant, Investment Advisory Committee and OHA staff overseeing the Fund;
- e) Review quarterly reports from the Custodian and Advisors regarding the composition of each Advisor's assets under management versus the Fund's strategic target and the asset class strategies of each Advisor;
- f) Review the quarterly report of the Consultant regarding the performance of the Fund and the Advisors;
- g) As necessary, review the Fund's strategic direction or significant issues impacting the Fund or Fiduciaries, and take action as appropriate;
- h) Attend a minimum of two investment educational events held in Hawai'i per year; and
- i) Attend out-of-State training, educational or due diligence events that are recommended by the CEO and approved by the Chairperson of the BOT.

4.3 Duties of the Consultant, Investment Advisory Committee, CEO and OHA Staff. The duties of the Consultant will be as set forth in the agreement entered into between the CEO and the Consultant. The duties of the Investment Advisory Committee are as outlined in the Committee's Charter. This Committee has no authority to make decisions, but only serves to provide independent comments to the Consultant, the CEO and staff, and BOT representatives regarding the economic outlook and the Fund's assets, strategies, performance, risks and Fiduciaries. The duties of the CEO, OHA staff, Investment Advisory Committee and Consultant will be set forth in the OHA Native Hawaiian Trust Fund Operational Procedures. The CEO is responsible for approving these Operational Procedures and for reviewing and approving all investment decisions not made by an Advisor, except those reserved for the BOT. The Consultant and OHA staff are responsible for assisting the CEO and the BOT in the execution of their responsibilities. Duties of the Consultant and OHA staff jointly include, but are not limited to:

- a) Monitor the performance of each Advisor's portfolio as frequently as market conditions dictate, including review of the Advisor's monthly reports;
- b) Aggregate as necessary and monitor the performance of the Fund's investment portfolios monthly and prepare quarterly performance and Advisor activity reports for review by the CEO and BOT;
- c) Monitor the monthly reconciliation of the portfolio positions and valuations among the Custodian and Advisors (OHA staff only);
- d) Seek to ensure that assets are invested in accordance with the requirements specified in this Statement;
- e) Recommend to the CEO and implement operational procedures that will enhance the investment program of the Fund and ensure that proper internal controls are implemented to safeguard the assets of the Fund, including preparing Investment Guideline Summaries for each of the Advisors;
- f) Recommend benchmarks for approval to the CEO;
- g) Prepare periodic market-cycle and annual reviews of the Fund's investments and the Advisors' performance, including findings from annual due diligence visits for presentation to the BOT;
- h) Conduct onsite annual due diligence of the Advisors and Custodian;
- i) Coordinate and vet changes to the Investment Policy Statement and serve as chair (Consultant) and secretary (OHA staff) to the Investment Advisory Committee;
- j) Evaluate the reasonableness of recommendations of Advisors and Non-Marketable Alternatives Providers regarding investment decisions and policies requiring the approval of the CEO.
- k) Evaluate and recommend Direct Investments in Hawaii for the approval of the CEO and BOT, as appropriate;
- l) Manage the Fund's Enhanced Liquidity Account assets awaiting disbursement to OHA consistent with the

Operational Procedures reviewed by the CFO and approved by the CEO; and

- m) Evaluate and recommend (OHA staff and Consultant) new Advisors for the approval by the CEO and BOT;
- n) Maintain knowledge of current trends and conditions with respect to investment management through continuing education.

4.4 Duties of the Advisors. The duties of the Advisors shall be as set forth in the agreements entered into between the BOT and the Advisors, and will explicitly include this Statement as an addendum. The Advisors act as Fiduciaries of the Fund for the assets they have under management. Duties of the Advisors include, but are not limited to:

- a) Invest the assets of the Fund within the constraints of the Statement while adhering to the investment management style, concepts and principles for which they were retained by the BOT. Advisors are responsible for tactical asset allocation and manager selection unless otherwise stated in the management and/or trust agreement with OHA;
- b) Where applicable per the Advisor management agreement, for all investment decisions requiring the CEO's approval, recommend specific investments and provide strategic and/or tactical investment advice to the BOT, CEO, OHA staff, and Consultant as appropriate to render a decision that will achieve the Fund's investment objectives;
- c) Seek to achieve best execution and price for all transactions effected on behalf of the Fund with brokers and dealers qualified to execute institutional orders on an ongoing basis and if appropriate, facilitate the recapture of commissions on behalf of the Fund;
- d) Reconcile within tolerance limits monthly accounting, transaction, valuation and asset summary data with the Custodian's transactions, valuations and holdings, including resolving any discrepancies with the Custodian;
- e) For investments where a market value is not available, assist the Custodian as necessary in finding appropriate pricing sources or establishing fair value procedures.
- f) Report to the BOT on all significant matters pertaining to their firm's ownership, investment style and philosophy, changes in personnel and performance relevant to the management of the Fund. Items relevant to the Fund include those that would have a direct or indirect impact on the ability of the Advisor to continue to provide a high level of service;
- g) Vote the proxies of invested companies (or delegate the vote to Managers), as they deem appropriate, although the BOT reserves the right to vote proxies in separately managed accounts if it so chooses;
- h) Periodically conduct capital market studies and make recommendations to the BOT regarding changes to the Statement and strategic asset allocation targets and ranges based on the risk/return objectives of the Fund and the economic and market outlook. The timing of these analyses, and either reaffirmation or recommendation of modifications to this Statement, shall be as agreed upon with the BOT, but normally every two to five years, but no less frequently than every six years;
- i) Select qualified Investment Managers, and monitor existing Managers' style consistency and performance at least monthly, including due diligence of those Managers regarding personnel, ownership, risk management and the investment process;
- j) Negotiate fee arrangements and other contract terms with the investment Managers on behalf of the Fund;
- k) Communicate with the Consultant and/or OHA staff on at least a monthly basis regarding actions taken, or any material changes, issues or circumstances warranting attention including performance of the Fund, market conditions and outlook, manager-turnover, Managers' or Advisor's staff turnover, etc;
- l) Prepare and present a quarterly executive summary report to the BOT as requested by the Consultant or OHA staff including performance versus benchmarks, asset allocation, economic outlook, fees, Manager summary, and any other significant issues impacting the Fund;
- m) Assist the Consultant and OHA staff in preparing Investment Guideline Summaries for the approval of the CEO covering the assets under their management and annually prepare a compliance and derivatives usage report (Each Advisor's Investment Guideline Summary will govern the assets under their management in conjunction with the Investment Policy Statement and the Investment Management Agreement between the

- Advisor and OHA);
- n) Host an annual onsite comprehensive and/or topical due diligence for the Consultant and OHA staff and officials and as requested provide portfolio analytics and style consistency adherence at the manager-level for the Advisor's commingled vehicles;
  - o) Negotiate and arrange for brokerage and any applicable recordkeeping services;
  - p) Render special projects at the request of the BOT, the Consultant or OHA staff; and
  - q) Provide certain other services, as described elsewhere in this Statement, such as investment training, market research, educational programs, analytical tools, etc.

4.5 Duties of the Custodian. The duties of the Custodian shall be as set forth in the agreement between the BOT and the Custodian. In addition to other responsibilities contained in that agreement the Custodian will:

- a) Provide complete custody and depository services for the Fund's assets including obtaining market values or fair values for all assets on at least a monthly basis;
- b) Provide a monthly report of transactions by the Advisors and, where applicable, by OHA (Enhanced Liquidity Account) as set forth in the Custody agreement;
- c) Provide audited monthly and annual accounting statements for all the Fund's assets and transactions;
- d) Collect all interest income, dividends and principal realization and properly report them in all accounting statements;
- e) Disperse funds to cover expenses, accept funds from OHA or the Advisors, and disperse funds to OHA or the Advisors as properly instructed by CEO or OHA staff, and properly report these transactions in all accounting statements; and
- f) Reconcile monthly accounting, transaction and asset summary data and communicate and resolve any discrepancies with the Advisors.

## **Section 5. Asset Allocation Guidelines and Long Term Targets**

The BOT prefers Advisors who can construct and manage a portfolio encompassing multiple strategic asset classes using a Manager-of-Manager approach and utilize the Fund's strategic target index as their primary benchmark (strategic target weight times strategic benchmark index return for each strategic asset class). The purpose of the strategic target asset allocation is to provide an optimal mix of investments that has the potential to produce the desired returns with the least amount of fluctuation in the overall value of the investment portfolio. The minimum and maximum levels listed below are targeting guidelines as opposed to absolute barriers; Advisors should bring asset allocations which are outside of their approved targeting range back to the range per their rebalancing policy unless granted a written exception by the CEO. The Traditional and Alternative Assets Advisors are not responsible for Hawai'i Direct Investments and the Enhanced Liquidity Account. ~~OHA staff may hedge the allocation to Hawai'i Direct Investments in a traditional asset class managed by one or more Advisors until such investments are made.~~ The Alternatives Advisor may hedge the under or over exposure to asset classes with barriers to entry and exit (Non-Marketable Alternatives) with similar liquid (marketable) asset classes (e.g. hedge underexposure to targeted private equity using traditional equity or marketable equity alternatives).

There is no specific asset allocation target to Hawai'i Direct Investments, however, asset allocation concerns will weigh into consideration when evaluating any other capital investments. It is expected that Hawai'i commercial Real Estate will remain a substantial portion of the Endowment Fund given OHA's legacy and identity as a Native Hawaiian organization.

5.1 Asset Allocation.

Asset Class Portfolios	Maximum	Minimum	Strategic Target	Benchmark Index	Primary Objective
<b>Traditional Asset Classes</b>					
Traditional Global Equities	55%	22%	<del>40</del> 42% %	MSCI ACWI	Growth
Traditional Global Fixed Income	22%	11%	<del>17</del> 8%	Bloomberg US Aggregate	Income
Traditional Global Real Assets	11%	0%	5%	US TIPS +3%	Inflation Hedge
Total Traditional Assets	88%	33%	<del>62</del> 5%		
<b>Alternative Asset Classes</b>					
Hedge Funds	19.2%	6.4%	<del>12</del> 3%	3-Month T-Bills +4%	Volatility Management
Private Markets*	25.6%	0%	<del>18</del> 9%	MSCI ACWI +3%	Growth
Total Alternative Assets	44.8%	6.4%	<del>30</del> 2%		
<b>Enhanced Liquidity Account</b>					
Enhanced Liquidity	10%	0%	3%	1-3 Year Treasury	Liquidity
<u>Total Financial Assets</u>			<u>100%</u>		
<b>Hawai'i Direct Investments</b>					
Hawai'i Direct Investments	<del>10%</del> No Target 0% <del>5%</del>			US-TIPSCPI + <del>35</del> 5%	<del>Inflation-Hedge</del> Total Return
*The Private Market allocation will consist of the previous Non-Marketable Equity, Credit, and Real Assets & Opportunistic portfolios					

The Strategic Targets for the Asset Classes listed in the table above multiplied by the benchmarks recommended by the Consultant and approved by the CEO constitute the Policy Portfolio. The table below regroups the Asset Classes by their primary objective.



Asset Class Portfolios	Maximum	Minimum	Strategic Target
<b>Growth</b>			
Traditional Global Equities	55%	22%	40 <u>2</u> %
Private Markets	25.6%	0%	18 <u>9</u> %
<b>Total Growth</b>	<b>80.6%</b>	<b>22%</b>	<b>58<u>6</u>1%</b>
<b>Income</b>			
Traditional Global Fixed Income	22%	11%	17 <u>8</u> %
<b>Total Income</b>	<b>22%</b>	<b>11%</b>	<b>17<u>8</u>%</b>
<b>Volatility Management</b>			
<b>Hedge Funds</b>	<b>19.2%</b>	<b>6.4%</b>	<b>12<u>3</u>%</b>
<b>Inflation Hedge</b>			
Traditional Global Real Assets	11%	0%	5%
<del>Hawai'i Direct Investments</del>	<del>10%</del>	<del>0%</del>	<del>5%</del>
<b>Total Inflation Hedge</b>	<b>24<u>1</u>1%</b>	<b>0%</b>	<b>10<u>5</u>%</b>
<b>Liquidity</b>			
<b>Enhanced Liquidity</b>	<b>10%</b>	<b>0%</b>	<b>3%</b>
<b><u>Hawaii Direct Investments</u></b>			
<u>Hawai'i Direct Investments</u>	<u>No Target</u>		

~~The CEO has the delegated power to allocate up to \$25 million from the Fund for a Direct Investment Program. Direct investments made from the Fund shall follow the guidelines set forth in the Hawai'i Direct Investment Policy section of this Statement.~~ All Hawai'i-based Direct Investments are excluded from the discretionary Manager-of-Managers framework. The OHA staff with the assistance of the Consultant will be responsible for the due diligence, performance monitoring and reporting of such investments. For Hawai'i cCommercial Rreal eEstate, OHA chooses to utilize internal management of the assets. Management shall formulate and implement an overall strategy incorporating both economic and cultural focus. Internal management will also leverage the expertise of OHA's Real Estate Advisory Committee and external real estate consultant.

Private Market investments are accomplished outside of the discretionary Advisor framework as the Advisors do not have investment discretion over these assets. Approved Non-Marketable Alternatives Providers will provide OHA

staff and the Consultant with sufficient information and analyses to evaluate their investment recommendations. The information may include Manager due diligence reports and portfolio analytics so that the CEO can make an informed decision relating to the investment. It is recognized that there may be underinvestment or overinvestment in these illiquid asset classes due to the timing of capital calls and distributions.

5.2 Benchmarks. Each Advisor will use the primary strategic benchmark index listed in their Investment Guideline

Summary as a guide in managing assets under their control. The strategic asset allocation targets and ranges, performance benchmarks, and additional investment guidelines are also set forth in each Advisor's Investment Guideline Summary or Investment Management Agreement. As necessary, the Consultant will recommend changes to the strategic targets, ranges, performance benchmarks, and any additional guidelines and the CEO must approve those changes before they become effective. The CEO will notify the BOT of Investment Guideline changes in writing.

Every new product of an Advisor must be assigned to one of the above asset classes as agreed upon between the Advisor and OHA Staff and/or the Consultant, with notification of the CEO. In addition, each investment may have a custom benchmark different from that of the asset class as agreed upon with the Consultant. The secondary benchmark is the Consumer Price Index (CPI) plus 5.0% annually for the Fund as a whole. The Consultant will also recommend, in consultation with each Advisor, peer manager and peer institution benchmarks and these will be approved by the CEO. Besides reporting portfolio performance versus these portfolio benchmarks, the Advisors shall report investment results on individual funds or portfolios versus their custom benchmarks.

The BOT recognizes that the actual asset allocation of the Fund may vary between or even outside of the minimum and maximum in the short term depending on market conditions and/or tactical asset allocation shifts. Asset classes not contemplated above or elsewhere in this Policy may be added to the Fund upon approval in writing by the BOT. The Advisors will only be responsible for meeting the investment objectives applicable to the portion of the Fund entrusted to such Advisors.

Rebalancing Policy. The primary purposes of rebalancing are to (1) ensure that the Fund's actual asset allocation does not drift too far from the strategic asset allocation; and (2) improve the performance of the Fund. The CEO will ensure that any agreement entered into with an Investment Advisor sets forth a rebalancing policy satisfactory to the BOT. There is no specific asset allocation target to Hawai'i Direct Investments, however, asset allocation concerns will weigh into consideration when evaluating any other capital investments.

## Section 6. Cash Holdings

It is the policy of the Fund that the Advisors fully invest the assets of the Fund under their control except to accommodate large cash flows. Unhedged cash and equivalents may be held in the Fund for defensive purposes at the Advisor's discretion during abnormal market conditions. The equity portion of the Advisor's portfolio should strive to maintain less than 5% of the portfolio in cash equivalents, unless the cash is hedged to achieve the appropriate asset class exposure. The fixed income portion of the Advisor's portfolio may maintain higher cash balances (e.g., as barbell strategies necessitate this exposure to cash).

Cash equivalents maximize liquidity and safety of principal. Maturities should be short enough that cash equivalents can be liquidated with a limited loss of principal. The following types of cash equivalents are eligible for investment:

- a) Money market mutual funds (2a7) which invest solely in U.S. Treasury and government agency securities;
- b) Deposits which are 100% federally insured or collateralized with U.S. government or agency securities with a market value of at least 100% of the face amount of the certificate;
- c) U.S. Treasury bills and short-term U.S. government agency securities;
- d) Overnight repurchase agreements collateralized with U.S. government or agency securities with a market value of at least 102% of the face amount; and
- e) Commercial paper of the highest two grades as rated by a nationally recognized rating agency.

## Section 7. Pooled/Commingled Investments/Mutual Funds

Commingled investment vehicles where there is a pooling of securities owned by multiple clients for diversification, risk reduction, or cost benefits, include mutual funds, trust funds, private placements, and limited

partnerships, and are explicitly permissible. Although private placements and limited partnerships are exempt from both federal and state securities registration, they are considered appropriate vehicles for the Fund.

## Section 8. Permissible Investments

8.1 Asset Class Definitions, Objectives, Permissible Instruments, Strategies, & Requirements. Investments in each asset class listed in Section 5, except for those investments excluded from the Advisors' responsibility, must be well diversified as defined below and in the Investment Guideline Summary or Investment Management Agreement of each Advisor. Advisors, as Fiduciaries, must exercise prudence in all matters and invest solely for the benefit of the Fund. For each asset class, the Advisors will retain Managers who invest in separate accounts or in commingled vehicles. An Advisor may select itself, an affiliated Manager, or an external Manager. Advisors may also retain Managers to provide "active overlay" strategies that use securities, currencies and derivative instruments, including but not limited to forwards, options, futures contracts, options, currency forwards, futures contracts and swaps (e.g. interest rate, credit default and total return) to replicate an index or combination of indexes. These overlay strategies will seek to (a) manage Fund exposure to various asset classes, (b) manage overall Fund risk, and (c) under certain conditions, enhance total return with tightly controlled leverage constraints.

Each Advisor must demonstrate that it has the capability to manage the risks involved in each asset class. Key to controlling risks is the ability to conduct robust ongoing due diligence on the Managers it selects and the ability to measure, manage and report portfolio risks, including issuer concentration, market, credit, duration, liquidity, leverage, currency and other major risks. The Consultant, with the assistance of OHA staff and the Advisors, must document the investment restrictions and risk controls for the portfolio of each Advisor in the Investment Guideline Summaries. The Advisors are not allowed to leverage the Fund's assets at the portfolio level without prior written approval of the BOT, although individual managers or commingled vehicles in certain asset classes and strategies may employ leverage under controlled conditions. Risk hedging in each asset class is explicitly permitted, including currency risks relative to the benchmark index and temporarily hedging the exposure in an illiquid asset class with a similar liquid asset class.

a) Traditional Global Equity - Common & Preferred Stocks and Un-levered Equity Derivatives. The primary role of traditional global equity is to seek to provide total return in excess of inflation, consistent with the appropriate benchmark index. Traditional equity may be actively managed in diversified portfolios of long only positions and/or long and short positions netting to approximately 100% long, be passively managed, utilize active overlay strategies, or be managed in any combination of active, passive and overlay strategies. The goal of an actively managed stock portfolio will be to achieve a net return after fees in excess of its benchmark index with comparable risk. Securities should be publicly owned and traded actively enough to insure liquidity without significantly adverse effects on price due to rapid sale. The Advisor should diversify the portfolio by geography—domestic and international, both developed and emerging markets, by investment style—value and growth, by manager, by approach—quantitative versus fundamental, by sector and industry, and capitalization—small, mid and large. An Advisor may select itself or an affiliated Manager in this asset class.

b) Traditional Global Fixed Income – Cash Equivalents, Bonds, Loans and Un-levered Fixed Income Derivatives. The primary role of Global Fixed Income is to seek to: 1) generate income while diversifying the investment assets, 2) provide a safe, stable return, and 3) provide a deflationary hedge. The fixed income asset class may include, but is not limited to the following components:

- a) Cash equivalents;
- b) US core credit including investment grade corporate, asset-backed, municipals and mortgage securities;
- c) High-yield securities and liquid loans; and
- d) Foreign government securities, investment grade foreign corporate debt denominated in US dollars or foreign currencies from both emerging markets and developed countries.

Advisors should ensure that managers are carefully managing portfolio duration, convexity, yield curve structure, sector exposure, issuer concentration, credit quality, non-U.S. securities, and currency risk to achieve a balanced and

reasonable risk budget relative to the benchmark index for the fixed income portfolio. An Advisor may select itself or an affiliated Manager in this asset class.

c) Global Real Assets – Real Estate Investment Trusts (REITs) and Treasury Inflation Protected Securities (TIPS). The primary role of global real estate is to seek to provide total return in excess of inflation, consistent with an appropriate real estate benchmark index. The Managers selected by the Advisors must have demonstrated a favorable record in managing real estate portfolios. The public real estate asset portfolio of the Fund may be comprised of commingled pools and/or a portfolio of real estate investment trusts (REITs), which are well diversified by property type and geographic location. Advisors shall invest in instruments which comprise a portfolio well diversified by the four main property types, including office, retail, industrial, and multifamily residential, as well as by geographic region, and tenancy/leasing structure. If a real estate investment is made via a commingled vehicle, the prospectus or operating guidelines of that vehicle will serve as the operative policy. The Advisors are responsible for ensuring that the selected vehicle or portfolio has adequate risk controls in place and that the Manager is investing according to the operative policy. The Advisors may also invest in TIPS as a diversifier, or if they believe that they provide a better value than REITs, as an inflation hedge. An Advisor may select itself or an affiliated Manager in this asset class.

d) Low Volatility Marketable Alternatives – Funds of Hedge Funds, Individual Hedge Funds, Commodity Funds, and Mutual and Exchange Traded Funds employing alternative strategies. The primary role of this asset class is to seek to provide a consistently positive return source above the risk free rate that has low volatility and low correlation to the other asset classes, and the secondary role is to provide an inflation hedge through a commodity allocation. This asset class consists of a diversified portfolio of hedge fund strategies deemed appropriate by the Advisor for this role, including but not limited to macro, commodity trading advisors, relative value, opportunistic, global tactical asset allocation, distressed, and opportunistic. The Alternatives Advisor may utilize funds of hedge funds, a portfolio of individual hedge funds, mutual funds or market neutral overlay strategies designed to achieve a consistently positive return above the risk free rate. The Alternatives Advisor may select itself or an affiliate as the fund-of-funds Manager or as one or more of the hedge fund Managers. The Alternatives Advisor is responsible for ensuring that the selected vehicle has adequate risk controls in place. The Alternatives Advisor will seek to ensure that Managers invest according to the offering memorandum or partnership agreement. The Alternatives Advisor may select Managers that utilize reasonable amounts of leverage at the fund-of-funds level and Managers that utilize reasonable leverage within their individual hedge funds. The liquidity requirements for individual hedge funds or hedge fund-of-funds will be defined in the Advisor's Investment Guideline Summary. Advisors should seek to avoid direct or indirect investments in funds with redemption gates or side pockets, as well as funds which lack reasonable transparency consistent with the investment strategy. Advisors should also avoid any funds with excessive fees in relation to market practice and/or expected returns, or terms which do not align the interests of the Manager with the client, as well as those that have the majority of assets in illiquid investments.

The primary role of the commodities allocation is to seek to provide a consistently positive return above inflation with a low or negative correlation to the other asset classes. Commodities provide an inflation hedge and should consist of a diversified portfolio of energy, metal, agricultural and other commodities, including but not limited to oil, natural gas, grains, metals, and livestock. The Alternatives Advisor may utilize separate accounts or commingled funds using a single Manager or a multi-manager approach. The Alternatives Advisor should utilize strategies that have at least monthly liquidity under normal conditions and further liquidity guidelines will be specified in the Advisor's Investment Guideline Summary. The Alternatives Advisor may select an affiliate as the Manager-of-Managers or as one of the Managers. The Alternatives Advisor is responsible for ensuring that the selected Managers have adequate risk controls in place, especially for separately managed accounts. The Alternatives Advisor will seek to ensure that Managers utilizing funds invest according to the offering memorandum or partnership agreement.

e) Non-Marketable Equity Alternatives – Private Equity Funds, Funds of Private Equity Funds, Equity Hedge Funds, and Cash Equivalents & Overlay Strategies. The primary role of Non-Marketable Equity Alternatives is to seek to provide enhanced total return to traditional equity through vehicles which may have limited liquidity and/or utilize leverage and derivatives, but employ strategies which go beyond the long only equity portfolio. Equity Alternatives include, but are not limited to, investments in private equity, venture capital, portable alpha, and long- biased equity hedge funds. The Alternatives Advisor may utilize hedge funds that correlate to the equity markets or

overlay strategies such as portable alpha to hedge an underexposure to the targeted level of Non-Marketable Equity Alternatives, and hold cash temporarily to meet capital calls. The Alternatives Advisor may select itself or an affiliated Manager to hedge an underexposure in this asset class. The CEO may approve funds of private equity funds, which consist of funds making primary and/or secondary investments in underlying private equity funds as well as some direct investments. These funds are managed for returns with low correlation to returns in the traditional equity markets, and with very little liquidity. Assets invested in these private funds are generally illiquid for five to ten or more years. The CEO needs to invest the Fund's assets in a consistent long-term approach so as to limit the vintage year risk where there is a wide range of performance depending on the year the fund is launched. The Non-Marketable Alternatives Providers will seek to ensure that general partners invest according to the offering memorandum or partnership agreement. The Providers are responsible for ensuring that the selected vehicle has adequate risk controls in place and invests within the stated style and the scope of its offering memorandum or partnership agreement. Due to the long-term nature of a private equity investment, the measurement period for complete evaluation will be over a ten-year period. A ten-year return is intended to cover at least one complete market cycle, and is consistent with the average term of private equity fund-of-funds investments. The OHA staff and Consultant will evaluate and the CEO must approve all investments in Non-Marketable funds within this asset class.

f) Non-Marketable Credit Alternatives — Mezzanine Debt Funds, Specialty Loan Funds, Distressed Debt Funds, and Credit Hedge Funds. The primary role of Non-Marketable Credit Alternatives is to seek to provide enhanced total return to traditional credit through vehicles which may have limited liquidity and/or utilize leverage and derivatives, but provide access to fixed income strategies with higher return potential. Credit alternatives include, but are not limited to mezzanine debt, bank loans, distressed debt, special situations, portable alpha, and hedge funds utilizing credit strategies. These strategies should have returns with moderate correlation to traditional fixed income returns and low correlation to the other asset classes. The Non-Marketable Alternatives Providers are responsible for ensuring that their selected vehicles have adequate risk controls in place and that their selected vehicles conform to the offering memorandum or partnership agreement. The Alternatives Advisor may select itself or an affiliated Manager to hedge an underexposure in this asset class using credit hedge funds, overlay strategies, or traditional credit strategies. The OHA staff and Consultant will evaluate and the CEO must approve all investments in Non-Marketable funds within this asset class.

g) Non-Marketable Real Assets & Opportunistic Alternatives — Natural Resource Funds, Infrastructure Funds, Commodity Funds, Master Limited Partnerships (MLP's) and unique investments that do not fit into another Asset Class. The primary role of Non-Marketable Real Assets & Opportunistic Alternative investments is to seek to provide an inflation hedge, and the secondary role is to provide enhanced total return above Traditional Real Assets by committing capital for ten years or more to private market real asset strategies. Real assets include, but are not limited to real estate, TIPS, commodities, and natural resources. The OHA Staff and Consultant will evaluate and the CEO must approve all investments in Non-Marketable funds within this asset class. The Alternatives Advisor may hedge target exposure using such marketable assets as MLP's, CTA's, REITs, TIPS, overlay strategies, or mutual and exchange-traded funds utilizing real asset strategies. The Alternatives Advisor may select itself or an affiliated Manger to hedge underexposure in this asset class.

h) Hawaii Direct Investments. The primary role of Hawaii Direct Investments is to seek a total return of five percent in excess of inflation from Hawai'i commercial real estate property that provides office space to OHA in Hawaii. This asset class also includes the legacy investment in Russell Investments Private Real Estate Fund the OHA corporate headquarters, and private equity and debt investments with significant operations in Hawai'i. All direct real estate investments must be made within the context of the Direct Investment Policy Statement.

## **Section 9. Prohibited Investments**

The following investments are prohibited. Should a prohibited transaction occur, the Advisor must report it immediately after discovery to the Consultant and OHA staff, who will report it at the next BOT meeting.

9.1 Self-Dealing Transactions. Managers cannot purchase or hold any security of the Advisor who selected them, unless permitted by law.

9.2 Financial Institution Deposits including CDs. Direct deposits may not exceed the Federal Deposit Insurance Corporation insurance limit unless they are 100% collateralized by eligible U.S. government securities or fully covered by a surety bond.

9.3 Letter Stock. Letter stock and other unregistered equity securities are prohibited except in the alternative asset classes.

## **Section 10. Derivatives Policy**

This Derivatives Policy applies to all investments with the exception of those permitted in funds in the alternative asset classes. Investments in derivatives shall not create a leverage effect on portfolio returns and must be consistent with the asset class they are in. Structured securities, futures, forwards, total return swaps, interest rate swaps, credit default swaps, options and other derivatives are permitted only if they are used in a defensive hedging manner (e.g. to hedge a currency, equitize cash, or to create an overlay strategy or structured fixed income portfolio). Advisors will be required to report on a periodic basis (at least annually) to the BOT on their use of derivatives for any purpose and to assure compliance with this Policy.

## **Section 11. Voting of Proxies**

The BOT has delegated the authority to Advisors and Managers to vote proxies. For separately managed accounts (not pooled vehicles), the BOT reserves its right to exercise its proxy rights when it so chooses and to vote the proxies of invested companies as it deems appropriate. The proxy voting review process and guidelines are set forth in the OHA Native Hawaiian Trust Fund Operational Procedures.

## **Section 12. Trades, Exchanges & Valuation**

12.1 Selling or Exchanging Securities. Investment Managers may sell or exchange securities in the course of daily management of specific funds. The goal of all such trades is to maximize portfolio performance while maintaining an appropriate risk profile.

12.2 Marking to Market. To account for market fluctuations and volatility, the Custodian or its agent (independent pricing agent) will mark to market all securities at least monthly. When market values are not available, the Custodian will follow the prevailing best practices regarding fair valuation. If a significant market event takes place during the month that impacts the value of the portfolio, the Custodian or its agent will determine the impact on the portfolio.

## **Section 13. Procedures for Selecting and Reviewing Investment Advisors**

13.1 Review Process. Fund investments will be managed by professional Advisors and Managers except to the extent the BOT specifically delegates investment authority for other strategies for which the Fund's Advisors do not have specific expertise under the Manager-of-Managers' approach or for OHA's Enhanced Liquidity Account. When the BOT elects to retain a new Investment Advisor(s), it will instruct OHA staff and the Consultant to conduct a search for the Advisor and issue a public notice on OHA's website. HRS §103D-102(b)(2)(F) specifically exempts investment from the State procurement process. The selection process will include, but not be limited to, the following:

- a) The Consultant will perform a review of the universe of available candidates for the specific assignment and provide a list of best-in-class Advisors to OHA staff from a formal screening process of qualified candidates.
- b) The initial list will consist of either eight to ten Advisors, but may be fewer depending on the investment approach.
- c) OHA procurement will review the list of candidates ensuring that they meet OHA's compliance standards.
- d) The Consultant will provide OHA staff performance and risk statistics as available and applicable as well as a summary of each Advisor.
- e) OHA staff and the Consultant will evaluate the Advisors and shorten the list to four candidates.
- f) The Consultant will request each qualifying candidate to provide information which will include but is not limited to three-year, five-year, and ten-year performance record, as available, and the associated risks taken to achieve the returns, the quality and stability of the investment personnel and process of each company, adherence to philosophy/style and the fees charged by each company.
- g) OHA staff and the Consultant will provide a summary of the responses received, which will include a list of evaluation criteria to be approved by the CEO for the BOT. At least two finalists will be selected to make an oral presentation to the BOT.
- h) Final selection will be approved by the BOT.
- i) Timing of funds to Advisors will be based on the asset allocation, availability of funds, and structure of the investment.
- j) OHA staff will be responsible for coordinating the contract execution with any external Advisor or Manager approved by the BOT.

13.2 Selection Criteria for Advisors. Criteria will be established for each Advisor search undertaken by the BOT and will be tailored to the BOT's needs. These criteria are applicable to discretionary Manager-of-Managers and may not necessarily be applicable for the Enhanced Liquidity Account Manager. In general, eligible Advisors will possess attributes including, but not limited to, the following:

- a) For Manager-of- Manager searches, the firm must exhibit capabilities to offer Manager-of-Manager programs across a variety of asset classes and are capable of utilizing qualified Hawaii-based Managers;
- b) For specific asset class searches, the firm must be experienced in managing money for institutional clients in the asset class/product category/investment style specified by the BOT;
- c) The firm must have a minimum five-year history with managing institutional assets, demonstrate continuity of key personnel,; shorter-term histories will be considered for entire portfolio management teams that have portable track records from predecessor firms;
- d) The firm must display a record of stability in retaining and attracting qualified investment professionals, as well as a record of managing asset growth effectively, both in gaining and retaining clients;
- e) The firm must have an asset base sufficient to accommodate the Fund's portfolio: Manager of Managers should have at least \$20 billion of discretionary institutional assets under management; the Fund's portfolio should represent no more than 5% of the firm's total asset base for any Advisor;
- f) The firm must demonstrate adherence to the investment style sought by the BOT, and adherence to the firm's stated investment discipline;
- g) The firm should promote good governance in its proxy voting policy and adhere to best practice standards regarding transparency, manager fee structure, leverage, and liquidity in the alternative asset classes;



- h) The firm's fees should be competitive with industry standards for each product category and overall;
- i) The firm must comply with the "Duties of the Investment Advisors" outlined in this Statement and should conform to GIPS (Global Investment Performance Standards) for performance reporting;
- j) The firm must be able to offer investment education programs to the BOT and OHA staff at least once a year; and
- k) The firm must be able to provide analytics tools and/or reports necessary for OHA staff and Consultant to monitor and analyze asset allocation, risk, and manager performance.

13.3 Criteria for Advisor Review and Monitoring. The BOT reserves the right to terminate an Investment Advisor at any time with reasonable notice as defined in the contract between the BOT and the Investment Advisor. Grounds for termination may include, but are not limited to:

- a) Failure to comply with the guidelines agreed upon for the management of the Fund's assets; including holding restricted securities and conducting prohibited transactions;
- b) Failure to achieve performance objectives specified in this Statement or the Advisor's contractual guidelines;
- c) Significant deviation from the Advisor's stated investment philosophy/style and/or process.
- d) Loss of key personnel or significant ownership changes that create instability in the organization;
- e) Evidence of illegal or unethical behavior by the Investment Advisor;
- f) Lack of willingness to cooperate with reasonable requests by the BOT, Investment Consultant or OHA staff for information, meetings or other material;
- g) Loss of confidence by the BOT; and
- h) A change in the Fund's asset allocation program which necessitates a shift of assets to another process or style.

The presence of any one, or a combination of these, factors will be carefully reviewed by the BOT, but will not necessarily result in an automatic termination.

13.4 Performance Monitoring. The OHA staff and Consultant shall monitor monthly statements and receive quarterly performance reports from the Advisors. The Advisors shall monitor, at least monthly, the investment results of each Manager under contract to determine whether or not that Manager is performing up to the standard required by the benchmark of performance specified in the Manager's contract.

13.5 Advisors Total Return Comparison. The BOT expects that each Advisor's total portfolio performance over a market cycle will meet or exceed the benchmark index established for that Advisor.

13.6 Total Portfolio Returns. The BOT expects that the Fund's combined investment results over a market cycle will be in the top 50% of a nationally recognized universe of foundations and endowments with similar sized portfolios.

13.7 Asset Class Returns. Specific asset class investment results shall be measured against benchmarks as detailed in the Advisor's Investment Guideline Summary.

13.8 Advisor Alerts. Advisors are expected to keep the BOT, OHA staff and Consultant informed of any material changes in their respective firms (i.e. change in personnel, ownership, policy, etc.).

13.9 Termination. If at any time the standard required is not being met by an Advisor, the BOT will determine what action will be taken toward the Investment Advisor. The decision to terminate an Investment Advisor shall be by majority vote of the BOT present at the meeting subject to the contractual agreement.

## **Section 14. Liquidity Policy**

The Redemption liquidity of the total Trust Fund will be maintained with a minimum 65% of the Fund's assets able to be liquidated at market value under normal conditions on at least a quarterly basis (advance notification and some

restrictions may apply). Investments with liquidity less than quarterly require the approval of the CEO. At least 50% of the total Trust Fund's assets must be liquid on at least a monthly basis at market value without restriction or advance notice longer than five business days under normal conditions. The Liquidity requirements for each Advisor and the assets under their management will be specified in their Investment Guideline Summaries and/or Investment Management Agreements.

## Section 15. Errors & Omissions

The Advisor is to correct any material violation of the provisions of this Statement within a reasonable time period upon discovery. The Advisor will reimburse the Fund for a realized loss resulting from a material violation as agreed in the contract between the BOT and the Advisor.

## Section 16. Adding New Asset Classes

The Investment Consultant with the assistance of OHA staff will work with the Advisors to assign each investment (e.g. fund) to an asset class portfolio, a custom benchmark index, and a peer manager universe. If the Advisor proposes an investment that does not fit into one of the approved asset classes listed in Section 5, the Advisor will prepare a written recommendation to the OHA staff / Consultant justifying the investment. The recommendation must include a description, of the new asset class, rationale for including the new investment, historical returns and risk statistics, liquidity, analysis of impact on the risk/return of the Fund, the benchmark index and manager peer universe. OHA staff and the consultant will provide a recommendation to the BOT. Adding a new asset class will require the approval of the CEO and the BOT.

## Section 17. Interpretation

This Statement will be incorporated as an addendum in the agreements between the OHA BOT and each Advisor. In the event of any conflict or inconsistency between the terms of the agreement and this Statement, other than the Section 4.4 Duties of the Investment Advisors and anything designated as a Fundamental Investment Policy, the terms of the agreement with the Advisor shall govern.

## Section 18. Hawai'i Direct Investment Policy (HDIP)

~~The CEO has the delegated power to allocate up to \$25 million, but not to exceed 10% of the market value of the Fund at the time of investment, on a cost basis for Hawai'i Direct Investments, including real estate and equity positions in companies based in Hawaii or with significant operations in Hawaii. Approved uses for this allocation include the acquisition of corporate real estate that OHA will occupy in whole or in part and funding BOT-approved lending programs for Native Hawaiians. This allocation may not be used for any other purpose until the acquisition of OHA's first corporate headquarter real estate property is complete. Investments other than corporate real estate and BOT-approved lending programs must be approved by a supermajority vote of the BOT. The combined cost of all direct investments, less any return of capital to the Fund from these direct investments, cannot exceed the \$25 million allocation. The primary role of the HDI asset class is to create financially viable Hawai'i Commercial Real Estate holdings while also protecting and preserving Hawai'i lands and their cultural significance. OHA's Hawai'i Commercial Real Estate portfolio will seek to generate a total return (Income and Capital Appreciation) to meet its OHA spending requirements while also preserving the purchasing power for future generations. OHA will make capital investments to enhance, maintain, and protect existing improvements on its Hawai'i commercial Real Estate holdings and consider real estate acquisitions and monetization where compelling and for strategic reasons. OHA will favor the sale of the building improvements while maintaining ownership of the underlying land, but will also consider land sales for residential use, non-strategic areas, or for community benefit.~~

A secondary objective targets equity and/or debt positions in private companies based in Hawai'i, as further guided by the OHA Economic Development Policy and BOT-approved lending programs for Native Hawaiians. Investments other than corporate real estate and BOT-approved lending programs must be approved by a supermajority vote of the BOT.

All direct investments should demonstrate the ability to generate current income and capital gains consistent with the asset class benchmark index and Fund's long-term objective.

18.2 Delegation of Authority. All final acquisition, development, and/or disposition decisions of Hawai'i direct investments must be approved by the BOT. The BOT delegates to the CEO the authority to:

- a) Administer the HDIP and approve and implement procedures to carry it out;
- b) Delegate duties to OHA staff as necessary to fulfill and implement this policy;

- c) Deny opportunities that do not satisfy current policy, guidelines, and/or criteria approved by the BOT;
- d) Execute contract and agreements;
- e) Conduct investment due diligence, negotiations, and on-going performance monitoring;
- f) Structure real estate financing terms for approval by the BOT;
- g) As necessary, oversee and manage the operational functions associated with each investment, including selecting and terminating service providers, negotiating leases and setting fee schedules (including market-based lease terms for OHA occupied space), obtaining and approving permits, licensing, and leasing, approving tenant improvements, sub-leases, evictions, use and service agreements, and making all other operational decisions associated with the investment; and
- h) Determine when to segregate assets to fund acquisitions and to place those assets with OHA staff to invest in the Enhanced Liquidity Account (ELA) until acquisitions are closed. These funds do not count toward the spending limit on annual transfers to the ELA

The BOT reserves the right to approve all other decisions not listed above.

~~18.3 Permissible Investments For OHA's headquarter corporate real estate acquisition, OHA is to invest in real estate located on the island of O'ahu. OHA may own such investments in its own name or, to the extent permitted by law, through title holding entities, and may transfer real estate properties from direct ownership to a title holding entity, or vice versa, during the course of the holding period of the investment. Realized gains generated from real estate dispositions should credit the cost of the investment allocated to the direct investment program.~~

~~19~~

~~All direct investments should demonstrate the ability to generate current income and capital gains consistent with the asset class benchmark index and Fund's long term objective. All direct investments should demonstrate the ability to generate current income and capital gains consistent with the asset class benchmark index and Fund's long term objective.~~

~~19.2 Leverage. OHA may finance the acquisition of corporate real estate with a mortgage. The property may be pledged as collateral under a non-recourse structure to OHA. Any amount of recourse back to OHA, including an OHA guarantee, will be considered a use of capital and therefore be counted toward the \$25 million allocation.~~

~~19.3 Market Valuation. Market valuation of corporate real estate is determined by biennial appraisals conducted by a reputable independent appraisal firm and that value will be utilized until the next appraisal. Prior to the first appraisal, the market value of the asset is assumed to equal its acquisition cost.~~

Hawai'i Real Estate

- a) Hawai'i commercial Rreal Eestate strategies seek to create financially viable properties owned by OHA focusing on total return to return to meet current spending needsrequirements.
- b) The objective for Hawai'i commercial Rreal Eestate strategies is to outperform, net of commissions and fees, a blend of real estate indices that reflect the holdings of the Fund. The performance will be monitored regularly and evaluated over rolling five and ten-year periods.
- c) Only real property that is economical-Hawai'i commercial Rreal Eestate Pproperty is included in the EndowmentFund.
- d) OHA may finance the real estate acquisition or development capital improvements with a mortgage. The property may be pledged as collateral under a non-recourse structure to OHA. Any amount of recourse back to OHA, including an OHA guarantee, will be considered a use of capital and therefore be subjected to the OHA's Debt Policy.
- e) The market valuation of corporate-Hawai'i commercial real estate is determined by biennium appraisals conducted by a reputable independent appraisal firm and that value will be utilized until the next appraisal. Before the first appraisal, the market value of the asset is assumed to equal its acquisition cost.

Other Investments

- a) Includes income and growth-oriented strategies with significant operations in Hawaii which are

managed in an integrated manner to meet the long-term spending objectives of OHAthe Endowment.

b) BOT-approved lending programs for Native Hawaiians.

## **Section 19. Enhanced Liquidity Account Investments**

The BOT has authorized the use of an Enhanced Liquidity Account (ELA) utilizing primarily short-term and intermediate-term U.S. government and agency securities, TIPS, MLP's, liquid alternative risk premia strategies, and passive beta strategies to manage OHA's short-term (less than 18 months) cash flow. The ELA may be managed internally by OHA staff or externally by a registered investment advisor. The primary objectives of the ELA are to expedite the ability to meet fiscal obligations and efficiently manage short-term cash needs; a secondary objective is to provide a highly liquid, low volatility, low or anti-correlating asset to the Fund. As such, OHA may hold up to 10% of the net assets of the Fund in the ELA. The custody of short-term investment assets shall remain with OHA's Fund Custodian.

19.1 Permissible Investments. Assets held within the ELA must have no less than monthly liquidity under normal conditions. Passive index mutual funds, passive exchange-traded funds, passive institutional commingled funds, liquid alternative risk premia strategies, short-term U.S. government and agency securities, cash, and cash equivalents are permitted. A list of allowable investment vehicles for each asset class must be reviewed by the CFO and Consultant, approved by the CEO, and presented to the BOT for review. OHA staff or its external Manager may only select from this Approved List of investments vehicles in the ELA.

19.2 Asset Allocation and Rebalancing. The investments should be highly liquid with low volatility. Under normal conditions, the ELA's assets should be targeted no more than 2.0 percentage points (absolute) away from the

strategic target allocation set forth in the ELA Manager’s Investment Guideline Summary or Investment Management Agreement. OHA staff and the Consultant will devise a targeting and rebalancing process with a maximum tolerance approved by the CEO. If managed internally, OHA staff will execute the process; otherwise the external Manager will execute the process. Decisions to target the asset allocation outside of the maximum 2.0% tolerance shall be reviewed by the Investment Advisory Committee and/or CFO, approved by the CEO, and reported to the BOT prior to implementation.

19.3 Internal Controls. Internal operational controls and procedures relating to short-term investments shall be outlined in the OHA Native Hawaiian Trust Fund Operational Procedures.

19.4 Advisor and Manager Selection. The BOT will approve OHA staff under the supervision of the CFO and CEO as the Advisor and an external Manager to manage the ELA. The external Manager may not have full investment discretion; therefore, provisions relating to discretionary Advisors in this Statement may not necessarily apply to the ELA Manager. The duties of the ELA Manager shall be established based on the Investment Management Agreement between the Manager and the BOT. BOT presentations by four finalists are not necessary for ELA Manager selection.

19.5 ELA Policy Benchmark & Investment Guidelines. The Policy performance benchmark for the ELA shall be the combination of market indexes and the risk free rate as set forth in the Manager’s Investment Guideline Summary or Investment Management Agreement, which will also establish investment guidelines for managing the account.

## **Section 20. Investment Risk Management Policy**

The Native Hawaiian Trust Fund (“NHTF”) Investment Risk Management Policy is designed to ensure that there are risk control measures in place to identify, monitor, and manage the level of risks and to balance the long-term expected risk and return objectives of the NHTF investment portfolio. The OHA Board of Trustees (“BOT”) recognizes that the undertaking of risks is generally unavoidable in investment management. The purpose of this policy is not to eliminate risks, but to understand the risks through the implementation of disciplined processes and procedures. Risk control measures include continuous monitoring and timely reporting by OHA staff to ensure the effectiveness of OHA’s investment risk management system. This Policy is not intended to provide an exhaustive list of risks or provide a comprehensive list of process and procedures to identify and mitigate risks. Rather, this policy provides generally accepted approaches to risk management that can be implemented through investment guidelines and operational policies and procedures.

### **Risk Management**

Key risk factors may stem from internal or external sources. The assessment of risk may be both qualitative and quantitative. The OHA staff and Consultant shall conduct an annual qualitative risk assessment identifying key risk factors, sources of risk, risk mitigants, and remediation plan, if necessary, to manage these risks. OHA staff shall also provide quantitative risk reporting to the BOT using commonly accepted quantitative risk reporting measures on a quarterly basis. Risk management measures may include the following:

- 1) Establish internal policies and procedures to minimize operational and legal risks;
- 2) Establish investment guidelines for eligible investments, diversification, rebalancing, liquidity, leverage, and use of derivatives;
- 3) Annual reporting of portfolio volatility (measured using standard deviation of returns) and expected volatility and return provided by the Investment Advisors;
- 4) Annual reporting of tracking error for OHA’s liquid assets;
- 5) Annual reporting of leverage, currency risk, concentration risk, and liquidity risk;
- 6) Annual external financial audit by a reputable independent audit firm; and

- 7) Periodic review of the Investment Policy Statement and Risk Management Policy as necessary to assess the relevance and effectiveness of these policies.

## **Implementation**

It is the responsibility of OHA's Chief Executive Officer to ensure that risk management policies and procedures are in place to identify, monitor, and manage investment risk. It is the OHA staff's responsibility to implement internal procedures and continuously monitor the investment portfolio and Advisor activities to ensure policy and guideline compliance. OHA staff shall rely on most recent data available provided by the Custodian and Advisors to analyze risk statistics and provide risk reporting. A risk management review shall be provided to the BOT by the Investment Consultant on an annual basis, or more frequently as needed.

*Adopted 5/29/03 (ARM 03-05); amended 10/24/08 (ARM 08-04); amended 8/3/09 (ARM 09-07); amended 4/15/10 (ARM 10-02); amended 9/27/12 (ARM 12-08); amended 6/19/14 (ARM 14-03); amended 8/24/17 (RM 17-08); amended 9/19/19 (RM 19-13); amended xx/xx/21 (RM xx-xx).*

# Debt Management Policy Implementation Procedures



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## **VI. PROCEDURES TO IMPLEMENT THE POLICY**

Ka Pouhana shall develop, for review by the Board, procedures regarding debt which shall be congruent with this Policy. The procedures shall model best practices for issuing debt. The procedures must at a minimum:

1. Procedures for incurring and managing debt, including the requirements for the due diligence analysis and process prior to incurring debt, the process for requesting approval by the Board, and reporting requirements to the Board
2. Performance standards for OHA staff and external consultants, managers, or advisors
3. Permissible/impermissible forms of debt

The procedures shall detail how the policy principles will be implemented - what will be done, what resources will be used and what results will be expected.

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### **A. Purpose and Uses of Debt**

In managing debt, OHA shall distinguish between long-term debt and short-term debt. Debt with maturities that exceed three years are considered long-term debt and debt with maturities that are less than three years are considered short-term debt.

Debt shall only be used to fund capital projects. Under no circumstances shall long-term debt proceeds be used to fund current operations or maintenance expenditures.

1. Long-term debt proceeds shall only be used for the purpose of financing or refinancing the cost of design, acquisition, improvement, and construction of capital projects that relate to the mission of OHA and align with its Strategic Plan objectives.
2. Short-term debt may only be used to fund temporary cash flow shortages for capital projects or unexpected and significant repair and maintenance expenses for existing capital assets.

### **B. Guidelines for Decision-making**

OHA shall use the following guidelines for decision-making regarding the assumption of debt:

1. To preserve debt capacity, OHA shall only consider debt when necessary and only if utilizing pay-as-you-go financing is not feasible.
2. Capital projects that are fully self-funded and that relate to OHA's Strategic Plan objectives will receive priority consideration.
3. Capital projects that are partially self-funded and relate to OHA's Strategic Plan objectives will only be considered if the project generates significant cultural value to OHA's beneficiaries and produces adequate revenue to offset recurring expenditures for maintenance.
4. OHA shall balance the objective of achieving the lowest cost of capital with the objective of limiting exposure to restrictive liens and debt covenants, interest rate, default, and liquidity risks.

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### C. Debt Service Limitation

Under no circumstances shall debt service payments exceed twenty percent (20%) of Public Land Trust expenditures, equal to five (5%) percent of the Native Hawaiian Trust Fund's average market value, plus Ceded Land Revenues received by OHA, as defined by the Native Hawaiian Trust Fund Spending Policy.

### D. Permissible/Impermissible forms of Debt

In accordance with the provisions, restrictions and limitations of the Hawaii state Constitution, Hawaii Revised Statutes, and applicable provisions of the state Debt Management Policy, OHA shall only consider the following forms of permissible debt:

1. Reimbursable General Obligation Bonds as defined by HRS Chapter 39
2. Revenue Bonds as defined by HRS § 10-25
3. Revenue Anticipation Bonds as defined by § HRS 10-24
4. Financing Agreements on terms determined acceptable by the OHA Board of Trustees. ~~as defined by HRS Chapter 37D~~

To reduce risk and preserve debt capacity, under no circumstances shall OHA enter into the following forms of debt agreements;

1. Conduit debt obligations in which OHA would be liable to pay for the principal and interest for debt instruments issued by third-party entities in which OHA does not hold an ownership interest.
2. Non-Exchange Financial Guarantees in which OHA would provide credit enhancements or financial assurances to a third-party entity in which OHA does not hold an ownership interest.
3. Derivatives Instruments, such as interest rate agreements or swaps.

### E. Financing Agreements

OHA shall solicit and consider proposals from various statewide and national financial institutions. ~~Additionally, If financing agreements are considered the appropriate method of financing, OHA shall may~~ consult with the Department of Budget and Finance to determine whether OHA can participate in any state financing opportunities. ~~Additionally, OHA shall solicit and consider proposals from various statewide and national financial institutions.~~

### F. Revenue Bonds

If revenue bonds are considered the appropriate method of financing, OHA shall reach out to the Department of Budget and Finance to request for assistance in the structuring, preparation and sale of revenue bonds. The State Debt Management Policy shall be used as the basis to determine the structure, issuance, methods of sale, standards for professional service providers, and pricing of revenue bonds.

## **G. Debt Structuring**

In structuring debt, OHA shall use the following guidelines:

1. Debt proceeds shall be secured as close to the date of expenditure as possible
2. Debt maturity structures shall not exceed the lesser of the expected useful life of the project financed or 30 years.
3. Debt amortization schedules for long-term debt shall be structured with either annual level principal payments or annual level debt service payment.
4. Principal payments must be made no later than five years from the date of the debt issuance.
5. Debt covenants shall not consist of features that prohibit or restrict potential refunding or refinancing opportunities in the future.

## **H. Board of Trustees Approval**

The Board of Trustees must approve all decisions regarding new debt as well as the refinancing and refunding of existing debt.

Action items that involve decision-making on debt shall include a financial plan that covers the useful life of the capital project to be financed. At minimum, the financial plan shall include estimates for the cost for design, acquisition, construction, financing and ongoing maintenance of the capital project.

## **I. Refunding/Refinancing**

OHA shall monitor outstanding debt for refunding and refinancing opportunities at least annually. Refunding and refinancing decisions shall be considered under the following circumstances:

1. When refunding or refinancing would generate a net present value savings on debt service.
2. When refunding or refinancing would result in the modification of restrictive debt covenants.
3. When refunding or refinancing would involve the conversion between variable and fixed interest rate structures.

## **J. Debt Affordability Study ("Study")**

The Study shall use generally accepted financial ratios that are consistent with the methodologies adopted by credit rating agencies. At minimum, the Study shall include the following financial ratios:

1. Outstanding debt as a percentage ~~of unrestricted net assets~~ of the NHTF assets,
2. Outstanding debt, pension and other post-employment benefit liabilities as a percentage of Unrestricted Net Assets,
3. Debt service as a percentage of Public Land Trust expenditures, and
4. Debt service, pension and other post-employment benefit contributions as a percentage of Public Land Trust expenditures.

## **K. Board Reporting**

Consistent with OHA Executive Policy Manual section 3.4.f., a summary of outstanding debt shall be submitted in conjunction with the Multi-Year Financial Plan, which shall be submitted in conjunction with the Biennium Budget

PHONE (808) 594-1888  
Committee on Resource Management  
Trustee John Waihe'e IV, *At-Large* - Chair  
Trustee Luana Alapa, *Moloka'i / Lāna'i* - Vice Chair  
Members

Trustee Leina'ala Ahu Isa, *At-Large*  
Trustee Dan Ahuna, *Kaua'i / Ni'ihau*  
Trustee Kaleihikina Akaka, *O'ahu*  
Trustee Keli'i Akina, *At-Large*  
Trustee Brendon Kalei'aina Lee, *At-Large*  
Trustee Carmen Hulu Lindsey, *Maui*  
Trustee Keola Lindsey, *Hawai'i Island*



FAX (808) 594-1865

**STATE OF HAWAII'  
OFFICE OF HAWAIIAN AFFAIRS**

**MEETING OF THE  
COMMITTEE ON RESOURCE MANAGEMENT (RM)**

**DATE:** Thursday, July 22, 2021

**TIME:** 1:30 p.m.

**PLACE:** Virtual Meeting

Viewable at [www.oha.org/livestream](http://www.oha.org/livestream) OR

Listen by phone: (213) 338-8477, Webinar ID: 949 3309 0127

**Due to the threat of COVID-19, Governor Ige issued the recent Emergency Twenty-First Supplementary Proclamation dated June 7, 2021 that suspends parts of Hawai'i Revised Statutes Chapter 92, Public Agency Meetings and Records to, among other things, enable boards to conduct business without any board members or members of the public physically present at the same location.**

**The OHA Board of Trustees and its Standing Committees will hold virtual meetings until further notice. The virtual meetings can be viewed and observed via livestream on OHA's website at [www.oha.org/livestream](http://www.oha.org/livestream) or listen by phone: (213) 338-8477, Webinar ID: 949 3309 0127**

**AGENDA**

**I. Call to Order**

**II. Public Testimony on Items Listed on the Agenda\***

(Please see page 2 on how to submit written testimony or provide oral testimony online.  
Oral testimony by telephone/landline **will not** be accepted)

**III. Approval of Minutes**

- A. June 23, 2021
- B. June 24, 2021
- C. June 30, 2021

**IV. Unfinished Business**

None

**V. New Business**

- A. ACTION ITEM RM #21-09: Approve OHA's Intent to Apply to the Administration for Children and Families, Administration for Native Americans, American Rescue Plan Act Emergency Native Language Funding Opportunity for Native Hawaiians and Pacific Islanders for \$250,000
- B. WORKSHOP: Amendments to the Native Hawaiian Trust Fund Investment Policy Statement and the Debt Management Policy Implementation Procedures

**VI. Executive Session‡**

- A. Consultation with Board Counsel Robert G. Klein and Everett Ohta, OHA Assistant Senior Legal Counsel, re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities with respect to updates by Administration regarding potential acquisition of commercial properties, pursuant to HRS§92-5(4)

**VII. Announcements**

**VIII. Adjournment**