

JOSH GREEN, M.D.
GOVERNOR



LUIS P. SALAVERIA
DIRECTOR


SABRINA NASIR
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
Ka 'Oihana Mālama Mo'ohelu a Kālā
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT

June 22, 2023

TO: Keith A. Regan, Comptroller
From: Luis P. Salaveria, Director of Finance 
Subject: Exclusion of Federal Fund Budget Provisos in H.B. 300, C.D.1

Several federal fund provisos are typically included in the Executive Budget for the Fiscal Biennium to provide the internal controls that are necessary for the state to manage federal awards in compliance with the federal requirements under 2 CFR 200 "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards." However, H.B. 300, H.D. 1, S.D.1, C.D.1, Relating to the State Budget, excludes these provisos:

Internal Controls for Federal Awards, Fiscal Biennium 2023-25


Internal Control	Description of Internal Control
CIP Lapse Dates	The appropriations made for capital improvement projects shall not lapse at the end of the fiscal biennium for which the appropriation is made; provided that all appropriations made to be expended in Fiscal Biennium 2023-25 which are unencumbered as of June 30, 2026, shall lapse as of that date; provided further that this lapsing date shall not apply to non-general fund appropriations where such appropriations have been deemed necessary to qualify for federal aid financing and reimbursement and are unencumbered as of June 30, 2030, shall lapse as of that date. (Note: this proviso is included in HB300)
Operating Lapse Dates	Federal fund or other federal fund appropriations made for operating costs shall not lapse at the end of the fiscal year for which the appropriation is made; provided that all federal fund or other federal fund appropriations made to be expended in Fiscal Biennium 2023-25 which are unencumbered as of June 30, 2026, shall lapse as of that date and fiscal year 2024- 2025 which are unencumbered as of June 30, 2027, shall lapse as of that date.
Unanticipated Federal Funding Cutbacks	If unanticipated federal funding cutbacks diminish or curtail essential, federally funded state programs, the governor may utilize savings as determined to be available from other state programs for the purpose of maintaining such programs until the next legislative session.
Ceiling Increases	The governor may approve the expenditure of all federal funds which are in excess of levels authorized by the legislature; provided further that the governor may allow for an increase in the appropriate federal fund authorization ceiling for the program to accommodate the expenditure of such funds.
Lapse Date Extensions	The governor may approve the extension of the lapse dates for federal fund or other federal fund appropriations and appropriations of other means of financing, except general funds, deemed necessary to qualify for federal aid financing and/or reimbursement as necessary to meet the intent of the federal grant awards.

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Therefore, in accordance with §29-12 "Duties of attorney general, director of finance", §29-13 "Governor may accept federal acts", and §29-15 "Conflict between federal and state requirements", I am establishing the internal controls listed above that are excluded in HB 300, C.D.1. These internal controls will go into effect on July 1, 2023 for the Fiscal Biennium 2023-25. I have determined that unless these internal controls are adopted, there will be a significant and negative impact on the ability of the State government to accept and manage Federal funds.

Should you have any questions, please contact Mark Anderson at the Office of Federal Awards Management, 586-3035.

I concur with and will implement these internal control procedures:



Keith A. Regan, Comptroller

6/26/2023

Date

- c: Neal Miyahira, Department of Budget and Finance
Lenora Fisher, Department of Accounting and General Services

§29-12 Duties of attorney general, director of finance. The attorney general and the director of finance shall promptly initiate the necessary action to take advantage of or secure any federal aid which may be available to the State or its political subdivisions. [L 1951, c 289, §2; RL 1955, §12-2; am L Sp 1959 2d, c 1, §14; am L 1963, c 114, §1; HRS §29-12]

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§29-13 Governor may accept federal acts. The governor may accept, on behalf of the State, the provisions of any act of Congress making grants or allotments of federal-aid moneys available for expenditure in the State. [L 1939, c 196, §1; RL 1945, §401; RL 1955, §12-3; HRS §29-13]

Case Notes

Cited: 38 H. 310, 318.

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§29-15 Conflict between federal and state requirements. In the case of any contract, the funds for which have been wholly or in part promised, loaned, or furnished by the United States, or any instrumentality thereof, if the United States, or its instrumentality, requires that the advertisement for tenders, tenders, performance bond, or contract contain terms or provisions contrary to any state law, then as to the advertisements, tenders, bonds, or contracts the terms and provisions required by the United States, or its instrumentality, shall govern and are made applicable, and the officer expending the funds shall conform to such requirements as the United States, or its instrumentality, shall provide or require, any other law or laws of the State to the contrary notwithstanding. The provisions of this section shall be liberally construed so as not to hinder or impede the State in contracting for any project involving financial aid from the federal government. [L 1935, c 50, §1; RL 1945, §403; RL 1955, §12-5; HRS §29-15]

Case Notes

Re Federal Aid to Families with Dependent Children, department of social services and housing cannot consider tax refund as "income". 396 F. Supp. 375.

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