



United States Department of the Interior
OFFICE OF THE SECRETARY
Office of Native Hawaiian Relations



**Process for Reviewing Proposed Federal Land Transfers to the
Hawaiian Home Lands Trust**

May 12, 2020

I. HHLRA Settlement Background

Legislation – In 1995, Congress passed the Hawaiian Home Lands Recovery Act (HHLRA; 109 Stat. 357). The Act authorizes the United States to transfer certain Federal lands to the State of Hawai‘i’s Department of Hawaiian Home Lands (DHHL), which is vested with the day-to-day administration of the Hawaiian Homes Commission Act (HHCA; 42 Stat. 108). Congress authorized this transfer of Federal land to the DHHL to provide for a full settlement of claims against the United States for its taking and continued use of approximately 1,200 acres of lands set aside as "available lands" under the HHCA as part of the Hawaiian Home Lands Trust.

Memorandum of Agreement – On August 31, 1998, the Secretary for the U.S. Department of the Interior (Secretary), the Governor of the State of Hawai‘i, and the Chairman of the Hawaiian Homes Commission (Chairman) signed a Memorandum of Agreement (MOA) identifying the Federal lands in Exhibit A to the MOA for transfer to the DHHL. Witnesses to the signing of the MOA included representatives from the Department of Defense (DOD), General Services Administration (GSA), and the Hawai‘i Congressional Delegation. The MOA stipulated that if the Waipahu FCC Monitoring Site listed on Exhibit A did not become available to the State within 2 years from the date of the MOA (or upon such time as mutually agreed to by the Parties), a credit in the amount of \$15.9 million was to be established, and subsequent Federal surplus properties would be made available by GSA for conveyance to the State under Sec 203(f) of the HHLRA.

Letter Agreement – A Letter Agreement (LA) executed on November 3, 2000 memorialized that the Waipahu FCC Monitoring Station site did not become available for transfer to the DHHL by August 31, 2000, and established an amended 1998 value of the site and corresponding credit to the benefit of the DHHL of \$16.9 million. The LA provided additional procedures agreed to by the parties.

II. Review & Conveyance of Eligible Surplus Property

The following process is governed by the above referenced HHLRA, MOA, and LA.

1. **Notice of Excess Real Property** – The Administrator of U.S. General Services Administration (Administrator) and the U.S. Secretary of Defense shall, at the same time as notice is provided to Federal agencies that excess real property is being screened pursuant to applicable Federal laws (including regulations) for possible transfer to such agencies, notify the Chairman of any such screening of real property that is located within the State of Hawai‘i. (HHLRA § 203(f)(1))
2. **Full Disclosure Pertaining to Real Property** – Upon request of the Chairman, the Secretary shall ensure that the DHHL receives all information and the full disclosure of material facts pertaining to the property no later than six months prior to any conveyance of the property to the DHHL. (LA 2000, § 3)
3. **Response to Notice** – Not later than 90 days after receiving a notice from the Administrator, the Chairman may select for appraisal real property, or at the election of the Chairman, portions of real property, that is the subject of a screening. (HHLRA § 203(f)(2))
4. **Consultation** – The Secretary and the Chairman shall consult with the beneficiaries and organizations representing beneficiaries in carrying out their respective responsibilities under section 203 of the HHLRA. (HHLRA § 203(d))
5. **Secretary and Chairman Agree to Proceed** - When the Secretary and Chairman agree that a particular federal property is appropriate for conveyance to the DHHL pursuant to Section 203(f) of the HHLRA, and the requirements of Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) are met through GSA or DOD, the Secretary and Chairman shall notify the Administrator or Secretary of Defense to proceed with an appraisal. (LA 2000, § 4; (HHLRA § 203(f)(3); MOA 1998, § 6)
6. **Appraisal** – The Administrator or the Secretary of Defense shall appraise the real property or portions of real property selected by the Chairman using the Uniform Standards for Federal Land Acquisition developed by the Interagency Land Acquisition Conference. The appraised value of subject property shall be established pursuant to Section 203(a) as of the date of the MOA, August 31, 1998. (HHLRA § 203(f)(4))

7. **Request for Conveyance** – Not later than 30 days after the date of completion of the appraisal by the Administrator or the Secretary of Defense and review by the Secretary, the Chairman may request the conveyance of the appraised property or a portion of the appraised property, to the DHHL. (HHLRA § 203(f)(5))
8. **Conveyance** – Upon receipt of a request from the Chairman and agreement letter from the Secretary, the Administrator shall convey, without reimbursement, the real property that is the subject of the request to the DHHL as compensation for lands identified under subsection (a)(1)(A) or lost use identified under subsection (a)(1)(B).
9. **Designation of Land to Be Sold** – No later than 30 days after the conveyance of any real property to the DHHL as compensation for lost use, the Chairman shall notify the Secretary in writing if such conveyed real property is designated for sale. (HHLRA § 203(c)(3))
10. **Update of Available Lands in the Federal Trust** – Pursuant to section 7 of the MOA, all real property conveyed to the DHHL under the MOA shall have the status of available lands subject to the DHHL’s rights to dispose of such lands as provided in sections 203(c)(2) and (3) of the HHLRA. Within 45 days of such conveyance to the DHHL, the Secretary shall publish in the Federal Register notice that the subject property has the status of available lands under the HHCA. Such notice shall be copied to the Department of Housing and Urban Development, Office of Native American Programs; National Park Service’s National NAGPRA Program; Department of Veterans Affairs; USDA Rural Development; and other Federal agencies administering programs applicable to such trust lands.
11. **Letter Agreement Satisfaction and Completion** – Pursuant to section 5 on page 2 of the 2000 LA, the Secretary and the Chairman shall enter into a letter agreement (LA2) when the \$16.9 million credit is fully satisfied and completed. The LA2 shall be copied to the Secretary of the Navy, the Administrator, the members of the Hawai‘i Congressional Delegation, and the Governor of Hawai‘i. Any issues involving the properties named in the 1998 MOA that have not been transferred to the DHHL by the time of the satisfying of the \$16.9 million credit shall be addressed in the new letter agreement.