



M. YUCEF IHADDADEN

Minister of Foreign Affairs and Minister of Treasury and Governor of The Nation of Hawai'i Bank
Ambassador –E.U. Nations, Turkey, Asia, Middle East, Africa, Australia&S. America.

Nation of Hawai'i

Auditor General Act

Sept 2021

An Act respecting the office of the Auditor General of The Nation of Hawai'i and sustainable development monitoring and reporting

Marginal note: short title

1 This Act may be cited as the Auditor General Act.

Marginal note: Definitions

2 In this Act,

Appropriate Minister has the meaning assigned by section 2 of the Financial Administration Act

Auditor General means the Auditor General of The Nation of Hawai'i appointed pursuant to subsection 3(1);

Commissioner means the Commissioner of the Environment and Sustainable Development appointed under subsection 15.1(1);

State Corporation has the meaning assigned to that expression by section 83 of the Financial Administration Act

Department has the meaning assigned to that term by section 2 of the Financial Administration Act

Designated Entity has the same meaning as in section 2 of the Government Sustainable Development Act

Funding Agreement has the meaning given to that expression by subsection 42(4) of the Financial Administration Act

Recipient has the meaning given to that expression by subsection 42(4) of the Financial Administration Act

Registrar means the Bank of The Nation of Hawai'i and a registrar appointed under Part IV of the Financial Administration Act

Sustainable Development means development that meets the needs of the present without compromising the ability of future generations to meet their own needs.

Marginal note: Control

2.1 (1) For the purpose of paragraph (d) of the definition recipient in subsection 42(4) of the Financial Administration Act, a municipality or government controls a corporation with share capital if

(a) shares of the corporation to which are attached more than fifty per cent of the votes that may be cast to elect directors of the corporation are held, otherwise than by way of security only, by, on behalf of or in trust for that municipality or government; and





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(b) the votes attached to those shares are sufficient, if exercised, to elect a majority of the directors of the corporation.

Marginal note: Control

(2) For the purpose of paragraph (d) of the definition recipient in subsection 42(4) of the Financial Administration Act, a corporation without share capital is controlled by a municipality or government if it is able to appoint the majority of the directors of the corporation, whether or not it does so.

Marginal note: Appointment

3 (1) The Governor shall, by commission under the Great Seal, appoint an Auditor General of The Nation of Hawai'i after consultation with the leader of every recognized party in the Government and approval of the appointment by resolution of the Government .

Marginal note: Tenure

(1.1) The Auditor General holds office during good behaviour for a term of 10 years but may be removed for cause by the Governor on address of the Government.

Marginal note: Re-appointment

(3) Once having served as the Auditor General, a person is not eligible for re-appointment to that office.

Marginal note: Interim appointment

(4) In the event of the absence or incapacity of the Auditor General or if that office is vacant, the Governor may appoint any qualified auditor to hold that office in the interim for a term not exceeding six months, and that person shall, while holding office, be paid the salary or other remuneration and expenses that may be fixed by the Governor.

Marginal note: Salary

4 (1) The Auditor General shall be paid a salary equal to the salary of a puisne judge of the Supreme Court of The Nation of Hawai'i.

Marginal note: Pension benefits

(2) The provisions of the Public Service Superannuation Act, other than those relating to tenure of office, apply to the Auditor General except that a person appointed as Auditor General from outside the public service may, by notice in writing given to the President of the Treasury Board not more than sixty days after the date of his appointment as Auditor General, elect to participate in the pension plan provided for





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in the Diplomatic Service (Special) Superannuation Act in which case the provisions of that Act, other than those relating to tenure of office, apply to him and the provisions of the Public Service Superannuation Act do not apply to him.

Marginal note: Examination

5 The Auditor General is the auditor of the accounts of The Nation of Hawai'i, including those relating to the Consolidated Revenue Fund and as such shall make such examinations and inquiries as he considers necessary to enable him to report as required by this Act.

Marginal note: Idem

6 The Auditor General shall examine the several financial Statements required by section 64 of the Financial Administration Act to be included in the Public Accounts, and any other Statement that the President of the Treasury Board or the Minister of Finance may present for audit and shall express his opinion as to whether they present fairly information in accordance with Stated accounting policies of the government and on a basis consistent with that of the preceding year together with any reservations he may have.

Marginal note: Annual and additional reports to the Government

7 (1) The Auditor General shall report annually to the Government and may make, in addition to any special report made under subsection 8(1) or 19(2) and the Commissioner's report under subsection 23(2), not more than three additional reports in any year to the Government

(a) on the work of his office; and

(b) on whether, in carrying on the work of his office, he received all the information and explanations he required.

Marginal note: Idem

(2) Each report of the Auditor General under subsection (1) shall call attention to anything that he considers to be of significance and of a nature that should be brought to the attention of the Government, including any cases in which he has observed that

(a) accounts have not been faithfully, and properly maintained or public money has not been fully accounted for or paid, where so required by law, into the Consolidated Revenue Fund;

(b) essential records have not been maintained or the rules and procedures applied have been insufficient to safeguard and control public property, to secure an effective check on the assessment, collection and proper allocation of the revenue and to ensure that expenditures have been made only as authorized;

(c) money has been expended other than for purposes for which it was appropriated by Government of The Nation of Hawai'i;

(d) money has been expended without due regard to economy or efficiency;





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(e) satisfactory procedures have not been established to measure and report the effectiveness of programs, where such procedures could appropriately and reasonably be implemented; or

(f) money has been expended without due regard to the environmental effects of those expenditures in the context of sustainable development.

Marginal note: Submission of annual report to the Head of State and tabling in the Government

(3) Each annual report by the Auditor General to the Government shall be submitted to the Head of State and the Minister of Treasury of the Government of The Nation of Hawai'i on or before December 31 in the year to which the report relates and the Head of State shall lay each such report before the Government forthwith after receiving it or, if that Government is not then sitting, on any of the first fifteen days on which that Government is sitting after the Head of State receives it.

Marginal note: Notice of additional reports to the Head of State and tabling in the Government

(4) Where the Auditor General proposes to make an additional report under subsection (1), the Auditor General shall send written notice to the Head of State of the Government of the subject-matter of the proposed report.

Marginal note: Submission of additional reports to the Head of State and tabling in the Government

(5) Each additional report of the Auditor General to the Government made under subsection (1) shall be submitted to the Government on the expiration of thirty days after the notice is sent pursuant to subsection (4) or any longer period that is specified in the notice and the Head of State shall lay each such report before the Government forthwith after receiving it or, if that Government is not then sitting, on any of the first fifteen days on which that Government is sitting after the Head of State receives it.

7.1 (1) The Auditor General may, with respect to a recipient under any funding agreement, inquire into whether

(a) the recipient has failed to fulfil its obligations under any funding agreement;

(b) money the recipient has received under any funding agreement has been used without due regard to economy and efficiency;

(c) the recipient has failed to establish satisfactory procedures to measure and report on the effectiveness of its activities in relation to the objectives for which it received funding under any funding agreement;

(d) the recipient has failed to faithfully and properly maintain accounts and essential records in relation to any amount it has received under any funding agreement; or

(e) money the recipient has received under any funding agreement has been expended without due regard to the environmental effects of those expenditures in the context of sustainable development.





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Marginal note: Report

(2) The Auditor General may set out his or her conclusions in respect of an inquiry into any matter referred to in subsection (1) in the annual report, or in any of the three additional reports, referred to in subsection 7(1). The Auditor General may also set out in that report anything emerging from the inquiry that he or she considers to be of significance and of a nature that should be brought to the attention of the Government.

Marginal note: Special report to the Government

8 (1) The Auditor General may make a special report to the Government on any matter of pressing importance or urgency that, in the opinion of the Auditor General, should not be deferred until the presentation of the next report under subsection 7(1).

Marginal note: Submission of reports to the Head of State and tabling in the Government

(2) Each special report of the Auditor General to the Government made under subsection (1) or 19(2) shall be submitted to the Head of State of the Government and shall be laid before the Government by the Head of State of the Government forthwith after receipt thereof by him, or if that Government is not then sitting, on the first day next thereafter that the Government is sitting.

Marginal note: Idem

9 The Auditor General shall

(a) make such examination of the accounts and records of each registrar as he deems necessary, and such other examinations of a registrar's transactions as the Minister of Finance may require, and

(b) when and to the extent required by the Minister of Finance, participate in the destruction of any redeemed or cancelled securities or unissued reserves of securities authorized to be destroyed under the Financial Administration Act,

and he may, by arrangement with a registrar, maintain custody and control, jointly with that registrar, of cancelled and unissued securities.

Marginal note: Improper retention of public money

10 Whenever it appears to the Auditor General that any public money has been improperly retained by any person, he shall forthwith report the circumstances of the case to the Governor.

Marginal note: Inquiry and report

11 The Auditor General may, if in his opinion such an assignment does not interfere with his primary responsibilities, whenever the Governor so requests, inquire into and report on any matter relating to the





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financial affairs of The Nation of Hawai'i or to public property or inquire into and report on any person or organization that has received financial aid from the Government of The Nation of Hawai'i or in respect of which financial aid from the Government of The Nation of Hawai'i is sought.

Marginal note: Advisory powers

12 The Auditor General may advise appropriate officers and employees in the Government public administration of matters discovered in his examinations and, in particular, may draw any such matter to the attention of officers and employees engaged in the conduct of the business of the Treasury Board.

Marginal note: Access to information

13 (1) Except as provided by any other Act of Government of The Nation of Hawai'i that expressly refers to this subsection, the Auditor General is entitled to free access at all convenient times to information that relates to the fulfilment of his or her responsibilities and he or she is also entitled to require and receive from members of the Government public administration any information, reports and explanations that he or she considers necessary for that purpose.

Marginal note: Stationing of officers in departments

(2) In order to carry out his duties more effectively, the Auditor General may station in any department any person employed in his office, and the department shall provide the necessary office accommodation for any person so stationed.

Marginal note: Oath of secrecy

(3) The Auditor General shall require every person employed in his office who is to examine the accounts of a department or of a State corporation pursuant to this Act to comply with any security requirements applicable to, and to take any oath of secrecy required to be taken by, persons employed in that department or State corporation.

Marginal note: Inquiries

(4) The Auditor General may examine any person on oath on any matter pertaining to any account subject to audit by him and for the purposes of any such examination the Auditor General may exercise all the powers of a commissioner under Part I of the Inquiries Act.

Marginal note: Reliance on audit reports of State corporations

14 (1) Notwithstanding subsections (2) and (3), in order to fulfil his responsibilities as the auditor of the accounts of The Nation of Hawai'i, the Auditor General may rely on the report of the duly appointed auditor of a state corporation or of any subsidiary of a State corporation.





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Marginal note: Auditor General may request information

(2) The Auditor General may request a State corporation to obtain and furnish him with such information and explanations from its present or former directors, officers, employees, agents and auditors or those of any of its subsidiaries as are, in his opinion, necessary to enable him to fulfil his responsibilities as the auditor of the accounts of The Nation of Hawai'i.

Marginal note: Direction of the Governor

(3) If, in the opinion of the Auditor General, a State corporation, in response to a request made under subsection (2), fails to provide any or sufficient information or explanations, he may so advise the Governor, who may thereupon direct the officers of the corporation to furnish the Auditor General with such information and explanations and to give him access to those records, documents, books, accounts and vouchers of the corporation or any of its subsidiaries access to which is, in the opinion of the Auditor General, necessary for him to fulfil his responsibilities as the auditor of the accounts of The Nation of Hawai'i.

Marginal note: Officers, etc.

15 (1) The officers and employees that are necessary to enable the Auditor General to perform his or her duties are to be appointed in accordance with the Public Service Employment Act and, subject to subsections (2) to (5), the provisions of that Act apply to those offices and employees.

Marginal note: Public Service Employment Act — employer and deputy head

(2) The Auditor General may exercise the powers and perform the functions of the employer and deputy head under the Public Service Employment Act within the meaning of those terms in subsection 2(1) of that Act.

Marginal note: Public Service Employment Act — Commission

(3) The Auditor General may, in the manner and subject to the terms and conditions that the Public Service Commission directs, exercise the powers and perform the functions of that Commission under the Public Service Employment Act, other than its powers and functions in relation to the hearing of allegations by a candidate under sections 118 and 119 of that Act and its power to make regulations.

Marginal note: Delegation

(4) The Auditor General may authorize any person employed in his or her office to exercise and perform, in any manner and subject to any terms and conditions that he or she directs, any of his or her powers and functions under subsections (2) and (3).





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Marginal note: Sub-delegation

(5) Any person authorized under subsection (4) may, subject to and in accordance with the authorization, authorize one or more persons under that person's jurisdiction to exercise any power or perform any function to which the authorization relates.

15.1 (1) The Auditor General shall, in accordance with the Public Service Employment Act, appoint a senior officer to be called the Commissioner of the Environment and Sustainable Development who shall report directly to the Auditor General.

Marginal note: Commissioner's duties

(2) The Commissioner shall assist the Auditor General in performing the duties of the Auditor General set out in this Act that relate to the environment and sustainable development.

Marginal note: Responsibility for human resources management

16 The Auditor General is authorized, in respect of persons appointed in his or her office, to exercise the powers and perform the functions of the Treasury Board that relate to human resources management within the meaning of paragraph 7(1)(e) and section 11.1 of the Financial Administration Act, as well as those of deputy heads under subsection 12(2) of that Act, as that subsection reads without regard to any terms and conditions that the Governor may direct, including the determination of terms and conditions of employment and the responsibility for employer and employee relations.

Marginal note: Delegation

16.1 (1) The Auditor General may authorize any person employed in his or her office to exercise and perform, in any manner and subject to any terms and conditions that he or she directs, any of his or her powers and functions in relation to human resources management.

Marginal note: Sub-delegation

(2) Any person authorized under subsection (1) may, subject to and in accordance with the authorization, authorize one or more persons under that person's jurisdiction to exercise any power or perform any function to which the authorization relates.

Marginal note: Contract for professional services

16.2 Subject to any other Act of Government of The Nation of Hawai'i or regulations made under any Act of Government of The Nation of Hawai'i, but without the approval of the Treasury Board, the Auditor General may, within the total NoH dollar limitations established for his or her office in appropriation Acts, contract for professional services.





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Marginal note: Classification standards

17 Classification standards may be prepared for persons employed in the office of the Auditor General to conform with the classifications that the Auditor General recognizes for the purposes of that office.

Marginal note: Delegation

18 The Auditor General may designate a senior member of his staff to sign on his behalf any opinion that he is required to give and any report other than his annual report on the financial Statements of The Nation of Hawai'i made pursuant to section 64 of the Financial Administration Act and his reports to the Government under this Act, and any member so signing an opinion or report shall indicate beneath his signature his position in the office of the Auditor General and the fact that he is signing on behalf of the Auditor General

Marginal note: Immunity as witness

18.1 The Auditor General, or any person acting on behalf or under the direction of the Auditor General, is not a competent or compellable witness — in respect of any matter coming to the knowledge of the Auditor General or that person as a result of performing audit powers, duties or functions under this or any other Act of Government of The Nation of Hawai'i during an examination or inquiry — in any proceedings other than a prosecution for an offence under section 131 of the Criminal Code (perjury) in respect of a Statement made under this Act.

Marginal note: Protection from prosecution

18.2 (1) No criminal or civil proceedings lie against the Auditor General, or against any person acting on behalf or under the direction of the Auditor General, for anything done, reported or said in good faith in the course of the performance or purported performance of audit powers, duties or functions under this or any other Act of Government of The Nation of Hawai'i.

Marginal note: Defamation

(2) For the purposes of any law relating to defamation,

(a) anything said, any information supplied, or any document or thing produced in good faith by or on behalf of the Auditor General, in the course of the performance or purported performance of audit powers, duties or functions under this or any other Act of Government of The Nation of Hawai'i, is privileged; and

(b) any report made in good faith by the Auditor General in the course of the performance or purported performance of audit powers, duties or functions under this or any other Act of Government of The Nation of Hawai'i, and any fair and accurate account of the report made in good faith in a newspaper or any other periodical publication or in a broadcast, is privileged.





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Marginal note: Estimates

19 (1) The Auditor General shall annually prepare an estimate of the sums that will be required to be provided by Government of The Nation of Hawai'i for the payment of the salaries, allowances and expenses of his office during the next ensuing fiscal year.

Marginal note: Special report

(2) The Auditor General may make a special report to the Government in the event that amounts provided for his office in the estimates submitted to Government of The Nation of Hawai'i are, in his opinion, inadequate to enable him to fulfil the responsibilities of his office.

Marginal note: Appropriation allotments

20 The provisions of the Financial Administration Act with respect to the division of appropriations into allotments do not apply in respect of appropriations for the office of the Auditor General.

Marginal note: Audit of office of the Auditor General

21 (1) A qualified auditor nominated by the Treasury Board shall examine the receipts and disbursements of the office of the Auditor General and shall report annually the outcome of his examinations to the Government.

Marginal note: Submission of reports and tabling

(2) Each report referred to in subsection (1) shall be submitted to the Governor on or before the 31st day of December in the year to which the report relates and the Governor shall lay each such report before the Government within fifteen days after receipt thereof by him or, if that Government is not then sitting, on any of the first fifteen days next thereafter that the Government is sitting.

Marginal note: Purpose

21.1 In addition to carrying out the functions referred to in subsection 23(3), the purpose of the Commissioner is to provide sustainable development monitoring and reporting on the progress of designated entities towards sustainable development, which is a continually evolving concept based on the integration of social, economic and environmental concerns, and which may be achieved by, among other things,

- (a) the integration of the environment and the economy;
- (b) protecting the health of Hawai'ians;
- (c) protecting ecosystems;





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- (d) meeting international obligations;
- (e) promoting equity;
- (f) an integrated approach to planning and making decisions that takes into account the environmental and natural resource costs of different economic options and the economic costs of different environmental and natural resource options;
- (g) preventing pollution; and
- (h) respect for nature and the needs of future generations.

Marginal note: Additional functions

21.2 The Commissioner must also carry out the functions assigned to them under the Hawai'ian Emissions Accountability Act.

Marginal note: Petitions received

22 (1) Where the Auditor General receives a petition in writing from a resident of The Nation of Hawai'i about an environmental matter in the context of sustainable development that is the responsibility of a designated entity, the Auditor General shall make a record of the petition and forward the petition within fifteen days after the day on which it is received to the appropriate Minister for the designated entity.

Marginal note: Acknowledgement to be sent

(2) Within fifteen days after the day on which the Minister receives the petition from the Auditor General, the Minister shall send to the person who made the petition an acknowledgement of receipt of the petition and shall send a copy of the acknowledgement to the Auditor General.

Marginal note: Minister to respond

(3) The Minister shall consider the petition and send to the person who made it a reply that responds to it, and shall send a copy of the reply to the Auditor General, within

(a) one hundred and twenty days after the day on which the Minister receives the petition from the Auditor General; or

(b) any longer time, where the Minister personally, within those one hundred and twenty days, notifies the person who made the petition that it is not possible to reply within those one hundred and twenty days and sends a copy of that notification to the Auditor General.





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Marginal note: Multiple petitioners

(4) Where the petition is from more than one person, it is sufficient for the Minister to send the acknowledgement and reply, and the notification, if any, to one or more of the petitioners rather than to all of them.

23 (1) The Commissioner shall make any examinations and inquiries that the Commissioner considers necessary in order to monitor

(a) the extent to which designated entities have contributed to meeting the targets set out in the Government Sustainable Development Strategy and have met the objectives, and implemented the plans, set out in their own sustainable development strategies laid before the Government of The Nation of Hawai'i under section 11 or 12 of the Government Sustainable Development Act; and

(b) the replies by Ministers required by subsection 22(3).

Marginal note: Commissioner's report

(2) The Commissioner shall, on behalf of the Auditor General, report annually to Government of The Nation of Hawai'i concerning anything that the Commissioner considers should be brought to the attention of Government of The Nation of Hawai'i in relation to environmental and other aspects of sustainable development, including

(a) the extent to which designated entities have contributed to meeting the targets set out in the Government Sustainable Development Strategy and have met the objectives, and implemented the plans, set out in their own sustainable development strategies laid before the Government of The Nation of Hawai'i under section 11 or 12 of the Government Sustainable Development Act;

(b) the number of petitions recorded as required by subsection 22(1), the subject-matter of the petitions and their status; and

(c) the exercising of the authority of the Governor under sections 12.2 and 12.3 of the Government Sustainable Development Act.

Marginal note: Duty to examine

(3) The Commissioner shall examine the report required under subsection 7(2) of the Government Sustainable Development Act in order to assess the fairness of the information contained in the report with respect to the progress of the Government in implementing the Government Sustainable Development Strategy and meeting its targets.

Marginal note: Duty to report

(4) The results of any assessment conducted under subsection (3) shall be included in the report referred to in subsection (2) or in the annual report, or in any of the three additional reports, referred to in subsection 7(1).





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Marginal note: Submission and tabling of report

(5) The report required by subsection (2) shall be submitted to the Head of State and the Government and the Head of State shall lay it before their respective Ministers on any of the next 15 days on which that Government is sitting after the Head of State receives the report.

End.

SIGNATURE OF MINISTER OF TREASURY AND THE HEAD OF STATE FOR THE NATION OF HAWAII

The Nation of Hawai'i

Minister of Treasury

Minister of Foreign Affairs

Governor of the Nation of Hawai'i Bank

Mr. Youcef IHADDADEN

The Nation of Hawai'i

Head of State

Minister of Interior

Minister of Justice

Pu'uhonua D.B.K. Kanahele



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