

COUNCIL OF THE COUNTY OF MAUI
BUDGET AND FINANCE COMMITTEE

February 17, 2006

Committee
Report No.

06-15

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Budget and Finance Committee, having met on January 31, 2006, makes reference to the following contracts:

1. Contract No. C3505 between the County of Maui and Fong Construction Company, Limited, for the construction of the Kihei Recycling and Redemption Center at the South Maui Community Park in the amount of \$768,944; and
2. Contract No. C3506 between the County of Maui and David P. Ting and Sons, Inc., to design/build a steel building for a recycling Materials Recovery Facility (MRF), Phase I, in the amount of \$1,257,079.

Your Committee notes that Section 9-18.2, Revised Charter of the County of Maui (1983), as amended, (Charter) states: "Before execution, contracts involving financial obligations of the county shall also be certified by the director of finance as to the availability of funds in the amounts and for the purposes set forth herein".

By correspondence dated January 19, 2006, the Chair of your Committee requested that the Director of Finance explain why Contract No. C3505 for \$768,944 and Contract No. C3506 for \$1,257,079 were executed on June 30, 2005 when only a portion of the funds available for the contracts (\$292,000 and \$360,000, respectively) were certified.

By correspondence dated January 25, 2006, the Director of Finance informed your Committee that execution of the contracts was an oversight, and the contracts are void based on Sections 9-12.1 and 9-18.2 of the Charter.

At its meeting, your Committee met with the Budget Director, the Director of Finance, the Director of Public Works and Environmental Management, the Solid Waste Division Chief from the Department of Public Works and Environmental Management, and the First Deputy Corporation Counsel.

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There was no public testimony.

The Director of Finance stated that after consultation with the Department of Public Works and Environmental Management and the First Deputy Corporation Counsel, the contracts were cancelled. He further stated that the large number of contracts processed at the end of Fiscal Year (FY) 2005 and the lack of sufficient review contributed to the improper execution of the contracts.

The Director of Finance stated that the Department will be improving their system of internal control, which may include adjustments to the review process and the amount of contracts processed at the end of each fiscal year.

The First Deputy Corporation Counsel stated that the County has the right to cancel these contracts because notices to proceed were not issued, and the general terms and conditions in these contracts allow for cancellation.

Your Committee was concerned that there may be no convenient place for South Maui residents to recycle if the Kihei Recycling and Redemption Center contract is cancelled.

The Director of Public Works and Environmental Management stated that the Kihei Recycling and Redemption Center will be closed because the site will be used for an elderly housing project. He further stated that the current site will be maintained as long as possible. A temporary recycling and redemption center will be established at the County's Puunene Airport site.

The Solid Waste Division Chief stated that after discussion with the Managing Director, the Solid Waste Division is also considering establishing a temporary recycling and redemption center at the Kihei Community Park, where a permanent recycling and redemption center would eventually be constructed.

Your Committee was concerned that the initial design for the Kihei Community Park did not include a recycling and redemption center, and that more community input is needed before a final decision is made on a location.

The Director of Public Works and Environmental Management stated that since the contract to design/build a steel building for a MRF has been cancelled, the

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Department intends to develop a request for proposals that will require the vendor to design, build, and operate a MRF.

Your Committee noted that the FY 2004, FY 2005 and FY 2006 Budgets included a recycling surcharge to fund recycling activities and an appropriation for establishing a MRF. Your Committee further noted that the Department of Public Works and Environmental Management has no definitive plans for establishing a MRF.

Your Committee was concerned that the Department of Public Works and Environmental Management was able to fund Contract No. C3506 through an inappropriate transfer of a previous year's appropriation without Council approval.

The Director of Finance stated that the Department is establishing internal procedures to prevent these types of transfers.

Your Committee voted to recommend filing the contracts.

Your Budget and Finance Committee RECOMMENDS the following:

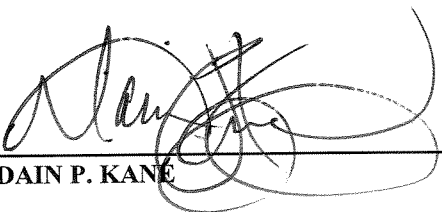
1. That Contract No. C3505 be FILED; and
2. That Contract No. C3506 be FILED.

Adoption of this report is respectfully requested.

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