

COUNCIL OF THE COUNTY OF MAUI

BUDGET AND FINANCE COMMITTEE

March 7, 2003

Committee
Report No.

03-22

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 February 18, 2003, makes reference to County Communication No. 03-48, from the Mayor, transmitting the following:

1. A proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2003 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO DEPARTMENT OF FINANCE COUNTYWIDE COSTS, OFFICE OF THE MAYOR ADMINISTRATION PROGRAM, CAPITAL IMPROVEMENT PROJECTS FOR THE KIHEI-MAKENA COMMUNITY PLAN DISTRICT PARKS AND RECREATION AND COUNTYWIDE GOVERNMENT FACILITIES".

The purpose of the proposed bill is to amend the Fiscal Year 2003 Budget to appropriate \$137,426 to the Maui County Tech Ready Program (Tech Ready).

2. A "CERTIFICATION OF AVAILABLE REVENUES FOR FISCAL YEAR 2003" in the amount of \$137,426, signed by the Mayor on January 31, 2003.
3. Copies of various documents relating to Tech Ready.

By correspondence dated February 12, 2003, the Budget Director transmitted a revised proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2003 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO DEPARTMENT OF FINANCE COUNTYWIDE COSTS, OFFICE OF THE MAYOR ADMINISTRATION PROGRAM, CAPITAL IMPROVEMENT PROJECTS FOR THE KIHEI-MAKENA COMMUNITY PLAN DISTRICT PARKS AND RECREATION, COUNTYWIDE GOVERNMENT FACILITIES AND APPENDIX A.". The revised proposed bill includes an amendment to Appendix A, I. Grant Revenues - Schedule of Grants by

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Departments and Programs for Fiscal Year 2003, which was omitted in the original proposed bill to identify the reduction in anticipated grant revenues in the amount of \$137,426.

By correspondence dated February 12, 2003, your Committee Chair requested that the Director of Finance provide an accounting of Tech Ready for Fiscal Year (FY) 2003, including receipts and disbursements through January 31, 2003, and a status of pledged donations to be received in March and April 2003.

Your Committee notes that Tech Ready is a major capital fundraising campaign created to enhance the computer literacy skills of students in the County of Maui. The campaign was initiated by former Mayor James "Kimo" Apana in collaboration with the Maui Chamber of Commerce and the Maui Economic Development Board, Inc. (MEDB). Tech Ready was intended to help fund two programs: Project EAST, an environmental and spatial technology laboratory and training program established in local high schools; and the installation of Sun Microsystems Sun Ray™ 1 enterprise appliance systems in local public schools and public libraries.

At its meeting, your Committee met with the current Administration, including the Mayor, the Managing Director, the Director of Finance, the Budget Director, and a Deputy Corporation Counsel.

Your Committee received testimony from eight members of the public. Seven testifiers provided comments on Tech Ready and Project EAST, including two who provided written testimony. One testifier provided comments on a procedural matter. Six testifiers, including former Mayor James "Kimo" Apana, Jr., spoke in support of Tech Ready.

One testifier, a co-chair of the fundraising effort for Tech Ready, spoke on the merits of the program and provided background information. He stated that the goal was to raise 1.5 million dollars, and that if the private fundraising did not meet the goal in 1½ years, the County was committed to finance the rest of the project.

Former Mayor Apana provided background information on Tech Ready. He stated that the project was initiated to provide the best opportunity for school

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children to succeed in the future. In addition, he stated that the County is not obligated to pay for the equipment. Former Mayor Apana informed your Committee that he, in participation with the private sector, will continue to fundraise for Tech Ready.

One testifier expressed concerns regarding the handling of Tech Ready.

Your Committee received the following documents:

1. Copy of "ENVIRONMENTAL AND SPATIAL TECHNOLOGY (EAST) PROJECT - AN INDUSTRY/EDUCATION COLLABORATION THAT WORKS FOR FEMALES AND MINORITIES", written by Christine L. Andrews, J.D. and Leslie Wilkins, submitted by Leslie Wilkins, MEDB;
2. Copy of "Women in Technology", submitted by Leslie Wilkins, MEDB;
3. Written testimony from Emily Haines, EAST Lab Facilitator, King Kekaulike High School, and testimony dated February 18, 2003, from nine students;
4. Correspondence dated February 14, 2003, from the Director of Finance, transmitting a Receipts and Disbursements Summary through January 31, 2003, including a Detailed Trial Balance breakdown dated 01/25/01-01/14/03 for Tech Ready;
5. Copy of correspondence dated May 22, 2000 to John Strong, Hawaii Account Manager, Sun Microsystems from Mayor Apana, submitted by Mayor Arakawa;
6. Copy of pages 1 and 14 of the Master Lease Agreement, submitted by Mayor Arakawa;
7. Copy of the Maui Tech Ready Structure, submitted by Mayor Arakawa;

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8. Written testimony from Richard Tadaki, Technology Coordinator at Iao School; and
9. Video of "Hawaii EAST Conference - Women in Technology" submitted by Keola Rogat, Lahainaluna High School EAST Project Facilitator.

Your Committee received an overview of the matter from Mayor Arakawa's perspective. He informed your Committee that the Master Lease Agreement identifies Sun Microsystems as the Lessor and the County of Maui as the Lessee. In addition, he referred to a letter dated May 22, 2000 to John Strong of Sun Microsystems from former Mayor Apana that stated "it is the intent of the County of Maui to finance the balance due through a third-party leasing company", and that the County will have title to the equipment at the ship date.

The Managing Director reviewed a display portraying the structure of Tech Ready, and a funding analysis that demonstrated a shortfall for the remaining five months of FY 2003 and for FY 2004, totaling \$468,364. He stated that the County had three options regarding Tech Ready. These options are summarized as follows:

1. Default on the lease agreement. This will result in the repossession of equipment, and the County incurring attorneys fees, shipping costs, costs for any equipment shortages and the remaining FY 2003 lease payments.
2. Continue to fund the lease payments in FY 2003 and terminate the lease effective in FY 2004. There will be no obligation for payments in FY 2004, but the County will incur shipping costs and costs for equipment shortages.
3. Continue to fund the lease payments for FY 2003 and FY 2004.

Mayor Arakawa informed your Committee that there are pros and cons with the use of the equipment in the schools. He noted that there are benefits to using the equipment in computer labs versus individual classrooms. He stated

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that his Administration recommends continuing to make payments for the computers for FY 2003 and FY 2004.

In addition, the Mayor stated that his Administration will not continue the fundraising effort initiated by former Mayor Apana.

In response to a question, the Deputy Corporation Counsel stated that no procurement laws were violated. In addition, she also stated that the use of debt service funds to make the lease payments was a gray area. The language in the budget ordinance is very general. She added that the Department of the Corporation Counsel agreed that the Council may choose to add a provision to the Countywide Bond Issuance and Debt Service appropriation, stating that \$137,426 of the appropriation shall be for Tech Ready.

Your Committee agreed that Tech Ready had merits and successes, as supported by various testifiers involved with Tech Ready and Project EAST. In addition, your Committee noted that Tech Ready is a proven program, and that students have benefited from the technology, regardless of income or family status.

Your Committee notes that Section 4.3 Intent To Continue Lease Term; Appropriations of the Master Lease Agreement states that the rental payments are subject to appropriation by the Council of Lessee and that the Council is not obligated to appropriate funds for the rental payments.

Your Committee requested that the Department of the Corporation Counsel review the requirements of the Master Lease Agreement and find a mechanism to transfer the ownership of the equipment to the State Department of Education.

Your Committee voted to recommend adding a provision to the proposed bill under Countywide Costs Bond Issuance and Debt Service "that \$137,426 shall be for the Maui County Tech Ready Program" rather than reducing appropriations in CIP projects in South Maui and Countywide Government Facilities. Your Committee stated that this budget amendment was considered an advance to pay the \$137,426 shortfall in lease payments, and that this appropriation will provide the time and opportunity for former Mayor Apana and

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the private sector to continue fundraising efforts. Future County funding will be reviewed during the FY 2004 Budget Session.

Your Committee is in receipt of a revised proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2003 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO THE MAUI COUNTY TECH READY PROGRAM", revising the title to provide a clearer description of the bill, and incorporating changes recommended by your Committee.

Your Budget and Finance Committee RECOMMENDS the following:

1. That Bill No. _____ (2003), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING THE FISCAL YEAR 2003 BUDGET FOR THE COUNTY OF MAUI AS IT PERTAINS TO THE MAUI COUNTY TECH READY PROGRAM", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication No. 03-48 be FILED.

Adoption of this report is respectfully requested.

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G. RIKI HOKAMA **Chair**

DANNY A. MATEO **Member**

WAYNE K. NISHIKI **Vice-Chair**

MICHAEL J. MOLINA **Member**

ROBERT CARROLL **Member**

JOSEPH PONTANILLA **Member**

JO ANNE JOHNSON **Member**

CHARMAINE TAVARES **Member**

DAIN P. KANE **Member**