

COUNCIL OF THE COUNTY OF MAUI  
**BUDGET AND FINANCE COMMITTEE**

November 7, 2003

**Committee**  
**Report No.** 03-131

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 October 14, 2003, makes reference to County Communication No. 03-222, from the Council Chair, transmitting a report entitled "Performance Audit Report of the County of Maui's Co-Composting Program of the Department of Public Works and Environmental Concerns For the Contract Years 1996 to 2003" (Performance Audit Report).

Your Committee notes that Subsection 3-6.3 of the Charter of the County of Maui empowers the Council "To conduct investigations of (a) the operation of any department or function of the county and (b) any subject upon which the council may legislate".

Your Committee further notes that the Council has authorized this performance audit in order to determine the overall effectiveness of the County's Co-Composting Program, which involves the Solid Waste Division and its contractor, EKO Systems, Inc., dba Maui EKO Systems (EKO).

By correspondence dated October 3, 2003, your Committee's Chair transmitted a copy of correspondence entitled "Maui EKO Systems Response to Performance Audit of County's Co-Composting Operation".

By correspondence dated October 3, 2003, your Committee's Chair requested that a spokesperson for EKO attend your Committee's October 14, 2003 meeting to answer questions regarding the Performance Audit Report.

At its meeting, your Committee met with the Director of Public Works and Environmental Management; a Deputy Corporation Counsel; John Carbonaro and Natalie Luckau, Carbonaro CPAs & Management Group; and Thomas Pawlish, President, EKO.

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Your Committee received copies of the following documents:

1. Correspondence dated June 22, 1995, from the Solid Waste Division Chief, Department of Public Works and Waste Management, to the Corporation Counsel; and
2. Correspondence dated May 2, 2003, from John D. Carbonaro, CPA, to Tom Pawlish, Maui EKO Systems, Inc.

Mr. Carbonaro provided a brief overview of the Performance Audit Report, noting that the audit was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. He informed your Committee that their examination disclosed two material noncompliance issues with the operating permit issued by the State of Hawaii, Department of Health (DOH). He stated that four batches of compost were sold without written approval from the DOH, and there are no thermometer calibration logs to document compliance with monthly calibration requirements.

Your Committee inquired whether there were public health and safety issues regarding the current Co-Composting Program. Mr. Carbonaro informed your Committee that the Co-Composting Program complies with current United States Environmental Protection Administration (EPA) standards for biosolids and health protection; however, there is no scientific research available that proves that these standards are or are not adequate to ensure public health. Mr. Carbonaro stated that besides addressing the two material noncompliance issues, the Solid Waste Division needs to improve and document their monitoring of the Co-Composting Program.

The Director of Public Works and Environmental Management stated that he agrees with the basic conclusions of the Performance Audit Report, and acknowledged that there is a need for better contract management by the Solid Waste Division. He confirmed that the public's health and safety is not at risk. He also stated that there are many areas in the Solid Waste Division that are in need of additional resources.

Your Committee raised questions regarding monitoring of EKO operations by the Solid Waste Division. The Director of Public Works and Environmental

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Management informed your Committee that the Solid Waste Division is working with EKO to make improvements to the monitoring process.

Your Committee inquired if EKO is in violation of their contract since their biosolid co-composting permit issued by the DOH expired on June 30, 2001. The Deputy Corporation Counsel stated that since EKO has permission from the DOH to operate until final action is taken on their pending permit, there is no contract violation.

Your Committee inquired if EKO is in violation of their contract since four batches of compost were sold without written approval from the DOH. The Deputy Corporation Counsel stated she would have to investigate the circumstances before providing an opinion. She also stated that if a violation has occurred, there are various remedies available to the County.

Your Committee requested that the Solid Waste Division provide a written response to the findings and recommendations of the Performance Audit Report.

Your Committee asked Mr. Carbonaro how he concluded that there was a significant amount of profit earned by EKO from the Co-Composting Program in 2002 and 2003. Mr. Carbonaro stated that because EKO did not provide some of the financial records requested, he based his opinion on industry averages and other external sources of information.

Your Committee inquired why EKO did not provide the financial records requested. Mr. Pawlish informed your Committee that he was concerned about the amount of records requested and the confidentiality of these records.

Your Committee noted that Section 5.3.2 of the "Request for Proposal from EKO Systems, Inc.", which was incorporated in the "CONTRACT FOR THE OPERATION OF CO-COMPOSTING FACILITY AT THE CENTRAL MAUI SANITARY LANDFILL, MAUI, HAWAII", allows the County to perform performance reviews that may involve third-party review of operational and cost data.

Your Committee asked the Deputy Corporation Counsel if the County has the right to review EKO's financial records. The Deputy Corporation Counsel

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stated that, generally, the County has that right, but it would depend on the specific information requested.

Your Committee expressed concerns regarding the lack of competition in the County's Co-Composting Program. Mr. Carbonaro stated that EKO was the only bidder for the last two Request for Proposals (RFP) issued by the Solid Waste Division. He also stated that future RFPs should be structured to encourage competition.

Your Committee questioned why the Council received EKO's response to the audit findings before the Performance Audit Report was finalized. Mr. Carbonaro stated that a confidential draft was given to the Solid Waste Division Chief for comment, and unfortunately, it was transmitted to EKO for response before being finalized.

Your Committee expressed concerns regarding the documentation of employee training on safety, and requested that EKO provide a written response to the Performance Audit Report's findings on employee safety.

Your Committee voted to recommend referral of the report entitled "Performance Audit of the County of Maui's Co-Composting Program of the Department of Public Works and Environmental Concerns For the Contract Years 1996 to 2003" to your Public Works and Traffic Committee for further consideration, and the transmittal of a copy of the Performance Audit Report to the EPA and the DOH.

Your Budget and Finance Committee RECOMMENDS the following:

1. That a copy of the report, attached hereto, entitled "Performance Audit of the County of Maui's Co-Composting Program of the Department of Public Works and Environmental Concerns For the Contract Years 1996 to 2003" be REFERRED to your Public Works and Traffic Committee for further consideration;
2. That a copy of the report, attached hereto, entitled "Performance Audit of the County of Maui's Co-Composting Program of the Department of Public Works and Environmental Concerns For the Contract Years 1996 to 2003" be TRANSMITTED to the United

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States Environmental Protection Agency and the State of Hawaii,  
Department of Health; and

3.     That County Communication No. 03-222 be FILED.

Adoption of this report is respectfully requested.

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**G. RIKI HOKAMA** **Chair**

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**DANNY A. MATEO** **Member**

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**WAYNE K. NISHIKI** **Vice-Chair**

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**MICHAEL J. MOLINA** **Member**

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**ROBERT CARROLL** **Member**

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**JOSEPH PONTANILLA** **Member**

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**JO ANNE JOHNSON** **Member**

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**CHARMAINE TAVARES** **Member**

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**DAIN P. KANE** **Member**