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FLYNN LEARNER DBA  
HAWAII METAL RECYCLING COMPANY

DEPT. OF COMMERCE  
AND CONSUMER AFFAIRS

2004 JUL 22 P 2: 52

HEARINGS OFFICE

OFFICE OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

STATE OF HAWAII

FLYNN LEARNER DBA HAWAII METAL	)	PCH NO.-2004-8
RECYCLING COMPANY,	)	
	)	STIPULATION RE SETTLEMENT
Petitioner,	)	OF PROTEST; ORDER
	)	
v.	)	
	)	
DEPARTMENT OF FINANCE, COUNTY OF	)	
MAUI, STATE OF HAWAII;	)	
	)	
Respondent.	)	
	)	
	)	

STIPULATION RE SETTLEMENT OF PROTEST

IT IS HEREBY STIPULATED by and between Petitioner FLYNN LEARNER DBA  
HAWAII METAL RECYCLING COMPANY and Respondent DEPARTMENT OF FINANCE,  
COUNTY OF MAUI, STATE OF HAWAII, by their respective counsel, and with the approval of the

Honorable Sheryl Lee A. Nagata as follows:

1. The parties hereby agree that the Invitation for Bids for the Recycling of Scrap Metal and Associated Recyclable Materials from the Molokai Landfill, Naiwa, Molokai, Job No. SW-04-1, by the Department of Finance, County of Maui, shall be reissued by Respondent the County of Maui under the following conditions:
  - a. The Invitation for Bids for Job No. SW-04-1 will be consist of the same overall scope of work as was initially issued and as subsequently modified by the changes in Addendum No. 1 to Job No. SW-04-1, except
    - 1) Section 3.2.1 of the Invitation for Bids will provide that “the successful bidder shall, within 10 days after the notification of the award of contract or within such further reasonable time as the Finance Director may allow, provide security by way of a performance bond in the amount equal to seventy-five percent (75%) of the contract price”;
    - 2) the Invitation to Bid may quantify the amount of trash to be removed; and
    - 3) the period to bid may be extended to sixty (60) days.
  - b. The County of Maui retains the right to clarify the bid response requirements, including but not limited to, 1) requiring bidders to list the final destination of the recycled materials; 2) requiring bidders to submit letters from each final destination center confirming the centers will accept the items and are licensed to do so; and 3) requiring bidders to identify the type of excavator, baler and other equipment to be used, but equipment shall not be make or model specific.

- c. The Invitation for Bids with these agreed to modifications shall be issued within ninety (90) days from the filing date of this Stipulation;
  - d. There shall be no ex parte communications between the purchasing agency and any potential bidders after the filing of this stipulation about any terms and provision in the Invitation for Bids, except that the bid may specify a date and time for a pre-proposal meeting after the issuance of the bid;
2. The hearing presently scheduled for June 22, 2004, is hereby cancelled;
  3. Petitioner and Respondent shall each bear their own respective attorney's fees and costs incurred in this matter;
  4. Petitioner and Respondent agree that the Hearing Officer retains jurisdiction over this protest and the terms of this stipulation;
  5. This protest will be dismissed upon the successful award of the contract under the Invitation for Bids to be issued herein; and
  6. The parties hereby waive the 21-day commencement of hearing requirement set forth in Haw. Rev. Stat. § 103D-709(b).


DATED: Honolulu, Hawaii, June 24, 2004.

FLYNN LEARNER DBA HAWAII METAL  
RECYCLING COMPANY


By   
Its President

DATED: Wailuku, Maui, Hawaii, ~~June~~ <sup>July</sup> 21, 2004.

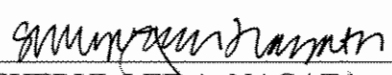
DEPARTMENT OF FINANCE, COUNTY OF  
MAUI, STATE OF HAWAII

By   
Its Finance Director

APPROVED AS TO FORM:

  
\_\_\_\_\_  
CHERYL A. TIPTON  
Attorney for Respondent  
DEPARTMENT OF FINANCE, COUNTY OF MAUI,  
STATE OF HAWAII

APPROVED AND SO ORDERED:

 JUL 22 2004  
\_\_\_\_\_  
SHERYL LEE A. NAGATA  
ADMINISTRATIVE HEARINGS OFFICE  
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