



Department of Justice

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**JUSTICE DEPARTMENT WILL NOT OPPOSE PUBLIC LANDFILL'S
PROPOSAL TO ENTER INTO A ONE-YEAR CONTRACT
TO PROVIDE DISPOSAL SERVICES**

WASHINGTON — The Department of Justice announced today that it would not oppose a proposal by the Southeastern Public Service Authority of Virginia (SPSA) to enter into a contract with a competitive provider of disposal services. SPSA proposed a one-year contract with John C. Holland Enterprises Inc. (Holland) for Holland's disposal of construction and demolition debris (CDD) waste at SPSA's landfill in Suffolk, Va. The Department said the proposed contract is not likely to reduce competition or facilitate coordination of CDD disposal services or rates between SPSA and Holland. Although contracts between competitors can, in some circumstances, raise competitive concerns, the proposed one-year contract does not appear likely to have anticompetitive effects, the Department said.

The Department's position was stated in a business review letter from Thomas O. Barnett, Assistant Attorney General in charge of the Department's Antitrust Division, to counsel for SPSA. SPSA is a public authority established under the laws of the Commonwealth of Virginia that provides, among other things, waste disposal services in the Norfolk, Va. area. SPSA and Holland, an independent landfill owner, compete for CDD waste disposal in the Norfolk, Va. area.

SPSA requested a business review letter from the Antitrust Division expressing its enforcement intentions regarding SPSA's conduct relating to a proposed contract with Holland for CDD waste disposal service at SPSA's landfill. SPSA's request explained that terms in the proposed one-year contract, such as disposal rates, volumes and duration, were not negotiated between the contracting parties but were based on SPSA's pre-existing terms and conditions set

independently every year by SPSA's board. SPSA publicly announces its contract rates, and it also publishes them on its web site and offers them to any waste hauler who commits to providing SPSA with the required threshold volumes of CDD waste. The maximum volume of CDD waste covered by the proposed contract would represent a small fraction of SPSA's CDD capacity, and thus would not affect SPSA's ability to compete effectively for CDD disposal, the Department stated in the letter.

“The contract does not affect either party's independent control of assets necessary to compete, or give either party a financial interest in the waste disposal services provided by the other,” Barnett said in the letter. He further stated that the proposed contract “does not entail or facilitate the exchange of any significant competitively sensitive information that is not otherwise publicly available, or link either party's pricing or output to conduct of the other party.”

Under the Department's Business Review Procedure, an organization may submit a proposed action to the Antitrust Division and receive a statement as to whether the Division would likely challenge the action under the antitrust laws.

A file containing the business review request and the Department's response may be examined in the Antitrust Documents Group of the Antitrust Division, U.S. Department of Justice, Suite 215, Liberty Place, 325 7th Street, N.W., Washington, D.C. 20530. After a 30-day waiting period, the documents supporting the business review will be added to the file, unless a basis for their exclusion for reasons of confidentiality has been established pursuant to paragraph 10(c) of the Business Review Procedure, 28 C.F.R. § 50.6.

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