



April 27, 2017 | ☀️ 79° | 🚗 Check Traffic

## Hawaii News

# State plans to continue suit against tech company

By [Kevin Dayton](#)

Posted April 20, 2017

April 20, 2017



GEORGE F. LEE / GLEE@STARADVERTISER.COM

**"Ciber's bankruptcy filing is a vindication of HDOT's decision to resist Ciber's demands for payment, given that the system Ciber attempted to deliver was incomplete and defective."**

**Ford Fuchigami**

*Director, Department of Transportation*

An information technology firm that is battling the state in court over a failed state Department of Transportation computer project has filed for bankruptcy, but

transportation officials say they plan to pursue their claims against the company.

The state sued Ciber Inc. alleging fraud, false claims, breach of contract and unfair competition in connection with the failed implementation of a new financial software system for the Transportation Department's Highways Division.

The state paid a total of \$13.88 million to Ciber and other consultants working on what was known as the Financial Accounting System Transportation project, but the new system didn't work. The state claimed the system was unable to perform even simple tasks, and federal highway officials refused to certify it. Gov. David Ige scrapped the entire project in 2015.

Last week Ciber and two affiliated companies filed Chapter 11 bankruptcy proceedings in federal court in Wilmington, Del., meaning the companies are seeking court protection from creditors while they reorganize. Ciber's filing shows it has more than 5,000 creditors, and that the company has assets and liabilities that both total between \$50 million and \$100 million.

The state alleges Ciber abandoned the Hawaii project in 2014, leaving the department with an unfinished software system that was "unable to carry out essential HDOT functions," according to a statement from the Transportation Department.

The lawsuit revealed that in internal Ciber documents, senior managers acknowledged submitting "erroneous invoices and fictitious change orders" and payment demands to the state, according to transportation officials.

State officials also allege that the court case turned up documents showing that Ciber "substantially underreported to the Hawaii State Ethics Commission certain lobbying expenditures."

The state has alleged in court filings that Ciber "used lobbyists and exercised inappropriate political influence" to persuade the state to continue making payments to the company, and to counter pressure from state transportation officials who were trying to enforce the terms of the contract.

The court documents also show the company allegedly billed the department for work that Ciber knew was of no value, and demonstrate Ciber deliberately understaffed the Hawaii project to meet the company's internal profitability benchmarks, according to a statement released Wednesday by the Transportation Department.

"Ciber's bankruptcy filing is a vindication of HDOT's decision to resist Ciber's demands for payment, given that the system Ciber attempted to deliver was incomplete and defective," DOT Director Ford Fuchigami said in a written statement.

"HDOT will take all necessary steps to preserve its claims in Ciber's bankruptcy case, and will consider additional measures to ensure that vendors and others who violate

the public trust will be held accountable for their misconduct, and that the people of Hawaii will be protected,” Fuchigami said.

The bankruptcy filing will cause the Hawaii lawsuit against the company to be temporarily suspended, but First Deputy Attorney General Russell Suzuki said his office is “actively looking into every legal option to make the state whole.”

The state is seeking tens of millions of dollars in damages, including fees it paid to Ciber, fees paid to third parties, and the cost of replacing the existing software system. Ciber could also face possible punitive damages, and the state is making allegations of false claims and unfair competition that could expose Ciber to triple damages.

The state alleges Ciber used “bait and switch” tactics by misrepresenting its capabilities to land a contract to replace the existing Highways Division computer system with a new system to run the state’s highway financial management operations.

The state alleges Ciber was unable to design and implement a system that could perform the necessary functions, including obtaining reimbursements from the Federal Highway Administration.

 **Get the latest news by email** [Sign Up](#)