

SCR 78

Testimony

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**SENATE COMMITTEE ON WAYS & MEANS
TESTIMONY REGARDING SCR 78**

**REQUESTING A MANAGEMENT AND FINANCIAL AUDIT OF
DEPARTMENT OF TAXATION CONTRACTS**

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)

DATE: APRIL 7, 2010

TIME: 9:30AM

ROOM: 211

This resolution requests the State Auditor to conduct a management and financial audit of the Department of Taxation's contracts with CGI Technologies & Solutions, Inc. The contracts at issue span several years, beginning in 1999, and relate to the creation of the Integrated Tax Information Management System and subsequent expansions thereto.

The Department of Taxation (Department) offers the following comments regarding SCR 78. The Department has always followed applicable procurement and legal requirements in the procurement of goods and services. The Department recommends that the matter be tabled because responding to an audit will likely overburden already-limited resources from revenue collections at a time when revenue collection is the highest priority.

TESTIMONY OF TU DUC PHAM, Ph.D.
Former, Tax Research and Planning Officer
Department of Taxation State of Hawaii

RE: April 7, 2010 Hearing on SCR 78: Requesting a Management and Financial Audit
of the Department of Taxation Contracts

Dear Chair Kim and Members of the Senate Ways and Means Committee,

My name is Tu Duc Pham. I was the Tax Research and Planning Officer of the Department of Taxation (DOTAX) from January 2005 to November 2009. I strongly support SCR 78 for the following reasons:

1. At a 2-day retreat in August 2008, 7 out of 9 top management officials identified the ITIMS (Intergrated Tax Information Management System) vendor, CGI, as DOTAX's single most troublesome problem. In a following retreat on October 15-16, 2008 to address the CGI problems, the Governor Chief of Staff Barry Fukunaga approved the cancellation of the CGI contract because of (1) a breach of trust and (2) the instability of the system, which has cost taxpayers at least \$53 million. However, the Mr. Fukunaga verbal approval was subsequently reversed.
2. During subsequent meetings, I was surprised to learn that Ms. Suzanne Efhan, DOTAX Administrative Officer, has been asked not to participate in the finalization of the original DOTAX's January 2008 contract with CGI. I was also surprised that Mr. Ronald Randall, Compliance Administrator, told all other management officials that the original January 2008 contract signed with an agreement to keep him out of that project. It was clear that Deputy Director Sandra Yahiro, a strong supporter of CGI, removed Mr. Ronald Randall and Ms. Suzanne Efhan from negotiations at the end and continued finalizing the original delinquent tax project contract.
3. Because of the continued problems with CGI and to make sure that CGI treated DOTAX as the customer and provided solid value to DOTAX and the public, Director Kawafuchi personally replaced Deputy Director Yahiro as Project Director on March 9, 2009. However, the Governor's Office removed Director Kawafuchi as Project Director and reinstated Deputy Director Yahiro on March 25, 2009 with broad authority.
4. Ms. Yahiro worked with CGI to draft an amended contract shrouded in secrecy and did the very best to maximize profit for CGI at the expense of the State as she became Project Director again.

DOTAX Division Heads and Staff Officers were not informed or consulted about a “sole source” request for CGI to the State procurement Office (SPO) in May 2009. Based on the information obtained from SPO website, Ms. Suzanne Efan, DOTAX Administrative Officer, did not participate in the administration of the sole source request for CGI to the SPO. As the 2009 legislature passed SB 1111 (increase in TAT rate from 7.25% to 8.25% and 9.25% in July 2009 and in July 2010, respectively), Ms. Yahiro threatened to “closely monitor” the Information Technology System Office (ITSO) if they solely work on the projects (rather than “co-developed” with CGI) in an email to Mr. Robert Su, Chief of ITSO, on May 18, 2009. Had Mr. Su yielded to Ms. Yahiro wish, the State would have to pay CGI \$350,000 for the work on SB1111. It is noted that Mr. Robert Su and his ITSO staff completed the work for approximately \$2,600 in overtime, less than 1% of the cost of contracting CGI for the same work.

5. As the amended contract has already finalized, approved to form by the Attorney General (AG) Office and signed by CGI on June 23, 2009 without the knowledge of Division Heads and Staff Officers of the Department, an executive meeting was organized by Ms. Yahiro on June 24, 2009. The copy of the amended contract was not given to most, if not all, executives attended the June 24, 2009 meeting. Few hours before the meeting, Ms. Yahiro emailed everybody “Summary of Contracts Modifications” prepared by Mr. Hugh Jones of the AG Office. I was completely surprised that the draft re-scoping contract was heavily skewed in favor of CGI. Over the next two-year period, CGI receives \$15.2 million, provided that CGI to provide 10 people for 2 years to assist the Department Of Taxation. CGI does not have to provide any deliverables as shown in the original contract. All CGI obligations regarding their work in the original contract were forgiven. The new re-scoping contract releases CGI from performing millions of dollars of services including designing, developing, and integrating a tax system to many miscellaneous taxes, including public service company taxes, franchise taxes, liquor, tobacco, cigarette, fuel, etc... and matching federal data against state data. Thus, ten CGI jobs are warranted, at a cost of \$760,000 per person per year for two years while state employees are under hiring freeze/furlough/layoff. As a matter of comparison, DOTAX Deputy Director Stanley Shiraki indicated that it would cost the State \$50,000 to \$60,000 to hire equivalent staff at the most recent budget hearing before your Senate Ways and Means Committee. The June 24, 2009 meeting did not result in the approval of regarding the amended contract by DOTAX executives. In late afternoon Friday June 26, 2009, Ms. Yahiro invited DOTAX executives to meet again on Monday morning June 29, 2009 regarding the same matter.
6. On late evening Sunday June 28, 2009, I sent an email to Chief of Staff Barry Fukunaga, requesting him to order Ms. Yahiro not to sign the amended contract as that action will only serve the interest of CGI at the expenses of the State and ask him to remove Ms. Yahiro as Project Director as well as to review her qualifications as Deputy Director of Taxation.
7. At the June 29, 2009 meeting, Ms. Yahiro indicated that she did not need the recommendation of executives attended the meeting regarding the draft re-scoping contract and she was under

“marching order” to sign the contract. DOTAX executives attended the June 29, 2009 finally received a copy of the re-scoping contract after Ms. Yahiro signed on that day.

8. Right after that, the Governor appointed Ms. Yahiro as Deputy Comptroller and Mr. Stanley Shiraki as Deputy Director of Taxation. Mr. Stanley Shiraki has also assumed additional duty as Projector Director of ITIMS project. Unlike previous emails from me to Chief of Staff Barry Fukunaga, to date Mr. Fukunaga has not provided answer to my June 28, 2009 email to him and copied to all DOTAX executives.
9. My own estimate is that under the original delinquent tax contract, at the very least, CGI was supposed to complete work on miscellaneous taxes which is worth about \$2.1 million, plus \$1.3 million for data warehouse before CGI is allowed to collect any money beyond the limitation of \$9.8 million in the first phase of the contract. In other words, without the amended contract, CGI services would only be \$9.8 million to date. To date, I believe that CGI has collected at least \$24 million. My estimate is based on tax collection data I received before I retired from the State service.
10. I would also like to note that while there are claims that CGI generated money for the State, the dollar amount is questionable as CGI, rather than DOTAX, programmed and provided the State data on the increase of tax collections due to the projects. DOTAX has also contributed tremendous DOTAX staff resources for the project including matching accounts against federal data and third party information, for example, Form 1099; responding to taxpayer's questions, in person, via telephone, correspondence, and email; making any necessary adjustments; and enforcing and collecting the taxes owed including billings, filing liens, and levies. Had these DOTAX staff resources been devoted to other tax collection projects, it would result substantial increase in tax collections also. The amount of money that DOTAX employees would have been produced is not deducted from the gross amount generated by the project. I am also surprised to learn that once CGI programmed and identified delinquent taxpayers, any subsequent tax payments by these delinquent taxpayers for life will be counted as new money generated by the project. I strongly believe that if ITSO is given ten additional staff members, at a cost of about \$80,000/year each, they would be able to perform the \$25 million job given to CGI since January 2008 much more efficient.
11. For your information, the Council on Revenues (COR) has never used the amount of money that CGI claimed that they generated for the State in the forecasts of state general fund tax revenues. DOTAX and COR econometric models, including those developed by the UCLA Forecasting Project in 2009, have not found any evidence that CGI has produced an increase in general fund tax revenue collections since 1999.

I would like to suggest that you will subpoena all current and former executives of the Department of Taxation and compel them to testify re: CGI contract. Thank you for the opportunity to provide my opinion on the CGI contracts with the Department of Taxation.

Thank you very much for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Tu Duc Pham", with a long horizontal line extending to the right.

Tu Duc Pham, Ph.D.

Former Tax Research and Planning Officer

Of the Hawaii Department of Taxation

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