



November 28, 2006

Mr. John Gaydeski, Exec. Director
Denver Election Commission
Minoru Yasui Plaza
303 W. Colfax Ave, Dept. 101
Denver, CO 80202

Dear Mr. Gaydeski:

It has come to my attention that you may be using Denver Election Commission purchase orders to pay for product from Sequoia Voting Systems – specifically to pay in part for the E-Poll book – rather than normal City purchase orders. This circumvention of the City’s normal contracting and purchasing system is highly irregular and raises serious concerns and questions.

1. Why are you circumventing the City’s normal purchasing system and not using normal City-generated purchase orders?
2. Why are you even using purchase orders in this circumstance rather than a contract which would be the more appropriate vehicle for this type of transaction?

The purchase of an E-Poll book should have been included in the overall contract that the Denver Election Commission has with Sequoia to purchase goods and services (GE61152). Frankly I am mystified as to why the E-Poll book was not included in the original contract or the amendment (both of which were processed and signed in May of 2006) that added additional items to the contract. Did you not know that you were going to need an E-Poll book? Or was there some other reason that you chose not to include this item in the contract or some subsequent amendment? There has been plenty of time since June of 2006, when you knew that you were purchasing this item to seek an additional amendment to the contract to include the purchase of the item.

A contract gives the City and the Denver Election Commission far greater protections and recourse in the event of the failure of any purchased item than does even the City’s purchase orders. In the case of something like the E-Poll book with a price far in excess of \$50,000, use of a contract would have been much more prudent. Again, I can only wonder why you made a conscious design to avoid that process.

Page 2

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November 28, 2006

None the less, let me remind you that I will not pay any voucher for this (or any other item, good or service) from Sequoia until I am satisfied that the payment is appropriate, fully authorized, legal, and protects the taxpayers of Denver. As I noted to you before, I believe the City's fiscal rules require City Council approval for the purchase of any capital asset in excess of \$50,000. The fact that you might try to use multiple purchase orders in individual amounts of less than \$50,000 does not change the requirement to have Council approval for this purchase.

Moreover, should it turn out that indeed the E-Poll book failed and was to blame at least in part for the debacle on Election Day, I am not comfortable issuing payment for something that may have been flawed and for which the vendor has some liability.

Sincerely,

Dennis J. Gallagher

Auditor

cc: Denver Election Commissioners
City Attorney Cole Finegan
Members of Denver City Council