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May 7, 2013

Board of County Commissioners
Boulder County Courthouse
1325 Pearl St.
Boulder, CO 80301
commissioners@bouldercounty.org

Boulder County Clerk and Recorder
1750 33rd Street, Suite 100
Boulder, CO 80301
clerkandrecorder@bouldercounty.org

Dear County Commissioners and Clerk

I am here to ask you to take the following actions to reduce the potential for Election Fraud:

1. Make public the actual performance of the Bell & Howell system
2. Return the defective Bell & Howell system for full credit
3. Investigating the accuracy of using any Automatic Signature Verification system
4. Identification of detailed requirements for an automated Mail Ballot processing system
5. Procure a replacement by competitive bid if reasonable

Your reasons for taking these actions are

1. Get rid of the political embarrassment caused by the Bell & Howell system
2. Improve the integrity of the election process in Boulder County
3. Provide increased transparency into Boulder County Government
4. Improve election integrity
5. Hopefully have following elections certified.

I am sorry that I will get technical but the problems I observed are technical. I believe all election problems are technical at some point.

I want to start with a quotation that is credited to a well-known person of my generation.

“It is enough that the people know there was an election. Those who vote decide nothing; those who count the votes decide everything.” By Joseph Stalin. I fear that Stalin’s statement may be coming true for Boulder County.

I believe that in Boulder County, the greatest failure in the 2012 General election was in the **great experiment** in the process of **selecting whose ballot** to count and **whose** not to count by using the Bell & Howell Vote By Mail (VBM) system.

Without completing successful testing of both the hardware and software, followed by strict configuration control there is no way to know all of that the decisions and actions that were made by the **machine** were correct.

Even though we were told that signature verification was performed manually, how do we have any way of knowing that the untested, malfunctioning machine with no configuration control processed each and every operator input accurately. I observed cases where it did not respond correctly to operator input.

Based upon what I observed during the election and what I have discovered in my post election investigation, leaves me greatly **confused**. Is there a **conspiracy to cover up incompetency** or is it just plain **election fraud** since it appears there was no real control over the repeatedly malfunctioning VBM Envelope processing system.

The current problems are only going to get much worse when the election system is changed over to Mail Only voting. So we must fix this VBM problem NOW.

Voter / ballot qualification is the main critical function performed by the VBM system. Registration and signature verification are the most significant methods used to qualify a mail ballot for counting. With the VBM system used in Boulder County the registration verification is totally automatic except for a very few envelopes that need to be handled manually. The signature verification can be by automatic and or manual processes.

Based on VBM machine reports, the automatic signature verification used in the 2012 General Election had, over a 50% false reject rate and an unknown false accept rate.

The manual process is a whole different subject and won’t be discussed in detail in this report.

I have received no documentation that any of the 18 objections or suggestions made 2 months ago have been acted on by BOCC except making an excuse for one item and then passing the buck to the Clerk for the remainder of the items.

- a. The Commissioners did state in their email to me on 4-1-13, “it was in the best interest of Boulder County to use cooperative bidding”. But look at the junk the County purchased through this process which still has not been paid for because of problems

- b. The Clerk's office has many problems, however all 18 of these issues in my March 7th letter are the responsibility of the commissioners since they approved the Purchase Order.
- c. How can you say the county had a quality election when the results are still not certified, placing all local candidates status in question?
- d. After 2 months, has the Clerk yet completed the investigation on the problems they knew about over 6 months ago which was before Election Day
- e. Please note that 9 months have passed of the 12-month period allowed in the contract for a return with full credit. We can get out of this mess now but you must act NOW.

It is a documented fact that the Clerk knew about the VBM system malfunctions before 10-28-12 since she was recorded on security video watching a malfunction. And an **undocumented** hold was placed on the second invoice. Kimberly Smith wrote to Alan Smith On 1-23-13 **"The invoice has not been paid yet due to the fact that several deadlines were not meet for the original install and upgrades. Hillary and our election staff are working with the vendor."** We now know one reason why it wasn't paid. Formal testing was not completed.

Of all Boulder County Government departments, I would expect the Boulder County Clerk and Recorder's office to be the best at record keeping. We, the public are many times required to provide **originals** of some of our most important documents to the Clerks' office, yet that office is very poor at election record keeping. They simply cannot find documents that they should have in a file cabinet near the machine.

I have been asked to deposit \$7,500 in one case and \$4,380 in another case for the Clerk to review and redact documents where there is no proof these documents even **exist** and why do any test documents need to be reviewed and redacted? Is there something being hidden?

After many different CORA requests looking for any documents that would prove any FORMAL test was successfully complete, I have not been provided a single page of proof. So I believe that one of the deadlines that was not meet in October 2012 was the performance of the "Acceptance Testing" as identified in the purchase contract.

Here are some of the problems I have found since last month based on County supplied data.

The document titled "Cumulative Report – Official" shows 130,252 absentee ballots counted yet the VBM final "Fine Sort" report shows only 125,106.
Where did 5,146 ballots come from?

Of the total 364 VBM batches processed **about 10%** were voided with most having no explanation and no reports generated. Sorry I cannot give a precise number because I am still trying to sort through the **sloppy, inaccurate and incomplete** records.

Of the First pass reports, The VBM system typically rejected over 60% for “no signature match” while performing Automatic Signature Verification. This seems bad since Boulder County paid an extra \$40,000 for the “Automatic Signature Verification function. Yet the Clerk has stated in writing several times that the “Automatic Signature Verification” (ASV) function was not used. Then why did the County pay \$40,000 extra? I don’t believe ASV can ever come close to the federal mandated accuracy.

I have proof that the software was changed several times on the VBM system and when I asked for associated documents, I was told in writing “No such documents exist”. Standard quality control practices in the computer field mandate configuration control management of all software. Doesn’t the County have staff that maintains the computers and provides configuration control?

It appears that a lot of the communication, such as holding payments was verbal, even with the vender. Shouldn’t those communications have been in writing? I was told that no written documents exist between the BOCC, staff and the Clerk as a result of my letter I gave you on March 7th so it must have all been verbal. Please be transparent.

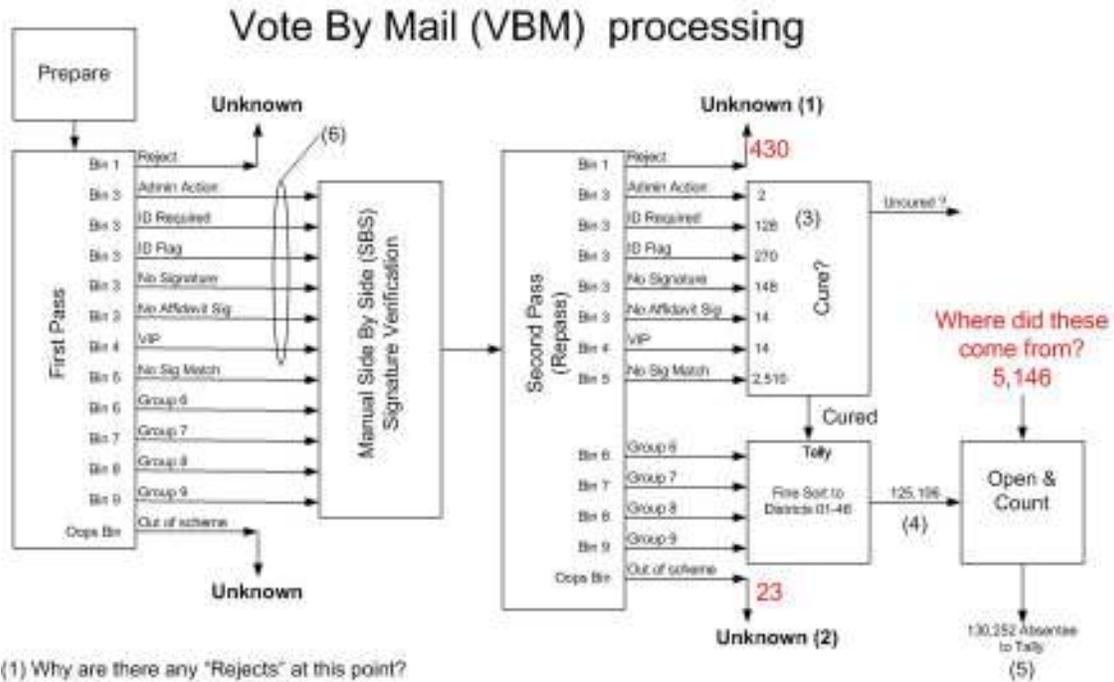
I found out why the price appeared to be changed from \$219, 960.68 to \$205,410 with no documentation. Bell & Howell did not bill for the \$14,550 “Software Maintenance Agreement (SMA) ” that was listed in the contract. Was this not provided? But they made undocumented changes to the software.

See the attached flow diagram, which is more than the County, could provide me. Please read the notes in the diagram. .

Closing

1. Please get rid of the defective Bell & Howell VBM machine. This unit is a lemon.
2. If there is a desire to procure a replacement, then lets develop a valid requirements documents so the County can purchase what is needed.
3. I strongly doubt that an Automatic Signature Verification process can ever meet the HAVA maximum error rate of 1 per 500,000.
4. Please keep in mind that I am not backing away from this major threat to our election process and will consider ratcheting up my efforts if necessary.

This is simplified flow diagram that I have been able to construct from the information I have been able to pull out from the limited documents I have received from the County via CORA Requests.



- (1) Why are there any "Rejects" at this point?
- (2) Why are there any "Out of Scheme" at this point?
- (3) These are totals from Re-pass Batch reports
- (4) This total is from Last Fine Sort Batch report
- (5) This total is from "Official Cumulative Report" report
- (6) Why were any of these passed to Manual SBS Sig Verify?