

Colorado Voter Group

2867 Tincup Circle
Boulder, CO 80305
303-494-1540

Ms. Dana Williams
Communications Director
Colorado Department of State
1700 Broadway
Denver, CO 80290

September 14, 2007

By FAX and Email

Dear Ms. Williams:

RE: NOTICE OF NON-COMPLIANCE

Colorado Open Records Act, request for inspection of SCORE II records.

On September 11, 2007 we submitted a well formed Open Records Request as per Title 24, Article 72 C.R.S. This letter is to serve as a notice that the Colorado Department of State is not compliant with Colorado law.

[24-72-201. Legislative declaration.](#)

It is declared to be the public policy of this state that all public records shall be open for inspection by any person at reasonable times, except as provided in this part 2 or as otherwise specifically provided by law.

“... exceptions to the act must be narrowly construed”

“In construing the open records provisions, the courts are guided by the clear legislative intent manifested in the declaration of policy and the language of the provisions themselves.”

“This section establishes the basic premise that in the absence of a specific statute permitting the withholding of information, a public official has no authority to deny any person access to public records.”

An exchange of correspondence between the Colorado Department of STATE (CDOS) and me is listed below:

9/13 -- Kolwicz to Coffman – Email 9:09 PM
9/14 – Kolwicz to Williams – Email 11:29 AM
9/14 – Williams to Kolwicz – Email 11:48 AM
9/14 – Kolwicz to Williams – Email 12:10 PM
9/14 – Kolwicz to Williams – FAX 3:34 PM

The 11:48 AM email says,

“Due to extenuating circumstances, the Department of State will not be able to respond to your Open Records Act request, dated September 11, by the close of business on September 14, 2007. Your request involves review of a large volume of records that the custodian cannot prepare or gather within the three day period without substantially interfering with the obligation to prepare the SCORE II project for deployment in a timely manner.”

In an attempt to be sensitive to this plea, in our email of 12:10 PM (also sent by FAX at 3:34 PM) we offered to accept our requested items 1 and 2, today, as an installment on the records lawfully due for our inspection. We also explained the urgency we sense regarding access to these records.

The lack of any response by the department of state is distressing.

In the first place, the reason cited for denial of records, in the 11:48 AM email, is not, to our understanding, among the valid grounds for denial of inspection.

In the second place, the reason given appears to be more of an excuse than a reason. We offered to accept inspection of some of the documents that we believe to exist and to be easily accessible by the department. We received no response to this offer. The lack of cooperation by the department is alarming because the testing reports indicate that the project is currently in a “go-live” phase and we fear that it is the intent of the department to deploy the application before the public has had an opportunity to have its concerns addressed.

In particular, in our 12:10 PM email, we asked for the following subset of documents which we believe to be readily available to the department. With each item is our rationale for believing that the document exists and is readily available to the department.

1. Letter transmitting the information security plan to the chief information security officer.

There should be no problem producing the security plan because it is a document that was to be produced on or before July 1, 2007.

[24-37.5-404. Public agencies - information security plans](#) (1) On or before July 1, 2007, each public agency shall develop an information security plan utilizing the information security policies, standards, and guidelines developed by the chief information security officer. The information security plan shall provide information security for the communication and information resources that support the operations and assets of the public agency.

2(a) SCORE documentation to include: User manuals.

There should be no problem producing the User manuals because according to the August 19 – 25, 2007 IV-V report, “The SCORE IV&V continued to perform Acceptance Testing over the period.” To our knowledge, there is no way that a meaningful acceptance test can be performed without the user manuals. We estimate that in addition to the Colorado

Department of State, Saber Software, and Wyant Data Systems, several Colorado counties must have access to these manuals.

2(b) SCORE documentation to include: Procedures manuals.

There should be no problem producing the procedures manuals because according to the August 19 – 25, 2007 IV-V report, “The SCORE IV&V continued to perform Acceptance Testing over the period.” To our knowledge, there is no way that a meaningful acceptance test can be performed without the procedures manuals. We estimate that in addition to the Colorado Department of State, Saber Software, and Wyant Data Systems, several Colorado counties must have access to these manuals.

2(c) SCORE documentation to include: Entity Relationship Diagrams.

There should be no problem producing the Entity Relationship Diagrams because according to the August 19 – 25, 2007 IV-V report, “The SCORE IV&V provided the State with a copy of the draft Code Review reports.” To our knowledge there is no way to conduct a meaningful code review without the Entity Relationship Diagrams.

2(d) SCORE documentation to include: Threat Models.

There should be no problem producing the Threat Models because according to the August 19 – 25, 2007 IV-V report, “The Independent Security Testing was completed over the period.”, and “The SCORE IV&V provided the State and Saber with the Final Independent Security Test Report.” To our knowledge neither of these can be true unless the threat models were tested.

2(e) SCORE documentation to include: Security Development Lifecycle.

There should be no problem producing the security development lifecycle because according to the August 19 – 25, 2007 IV-V report, “The Independent Security Testing was completed over the period.”, and “The SCORE IV&V provided the State and Saber with the Final Independent Security Test Report.” To our knowledge neither of these can be true unless compliance with the security development lifecycle was tested.

The department is failing to comply with public records law. The department has cost us valuable time that we need to review the documents. It is not in the public interest to attempt to hide these records, or to sneak the SCORE II project into production before the public has had its concerns completely addressed..

Al

Al Kolwicz

Colorado Voter Group

CC: Mike Coffman, Colorado Secretary of State