



State of Utah

SPENCER J. COX
Governor

DEIDRE M. HENDERSON
Lieutenant Governor

Department of Administrative Services
Division of Purchasing and General Services

JENNEY REES
Executive Director

CHRISTOPHER W. HUGHES
Division Director

03/11/2021

Elaine Moore
1187 E. 180 S.
Payson, Utah 84651.
Elainemoore3@hotmail.com
(385) 225-7310

RE: GRAMA Request Response – Software Escrow Agreement for Voting System Vendors

Dear Elaine Moore,

On February 24, 2021 you submitted a GRAMA request to the Division of Purchasing & General Services for the following documents:

- 1) I am requesting a copy of software escrow agreement with the vender: Dominion Voting Systems Inc. Utah has expired contract AR1910 with Dominion Voting Systems that is available online. Dominion requires a software escrow agreement with each state who they have a contract with.
- 2) I am requesting a copy of software escrow agreement with the vender: Election Systems & Software. The purchasing contract AR2762 references the state of Utah software escrow agreement with Iron Mountain Intellectual Property Management. ES&S equipment escrow in attachment E, Detailed Scope of Work for Purchasing Contract #AR2762: "ES&S maintains in escrow with Iron Mountain Intellectual Property Management, a copy of all program source code developed and used for our proprietary software and firmware, as well as any changes, modifications or updates to source code. Should ES&S cease operations and become unable to maintain and support proprietary software and firmware while under an obligation to do so, the State shall have the right to obtain the source code to the extent necessary to enable the State to use ES&S' proprietary software and firmware in accordance with the terms of the final contract to be mutually agreed upon by the parties. The source code will remain property of ES&S and may not be otherwise used by the State except as set forth in the escrow agreement.
- 3) I am requesting a copy of the software escrow agreement with vendor Knowink, LCC.

Your request for records is DENIED.

Pursuant to 63G-2-201(8), In response to a request, a governmental entity is not required to create a record. Furthermore, 63G-2-204 provides that a person making a request for a record shall submit the request to the governmental entity that prepares, owns, or retains the record.

The copies of the contracts for Dominion Voting Systems Inc, Election Systems and Software, and Knowink LCC has been made available to you. The State Division of Purchasing is not the holder of records for those additional document requested.

You have the right to appeal the decision within 30 days. You may submit a written notice of appeal providing information required under Subsection 63G-2-401 to:

Kenneth A. Hansen, Deputy Executive Director
Chief Administrative Officer for GRAMA Appeals
Department of Administrative Services
dasinfo@utah.gov

The notice of appeal must contain the following: petitioners name; mailing address; daytime telephone number and the relief sought.

If you have any questions, please contact me at cogbuehi@utah.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'C. Ogbuehi', is written over the printed name.

Chike Ogbuehi
Division of Purchasing and General Services