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Payment for vote machines disgusts commissioner

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Miami-Dade Commission Chairwoman Barbara Carey-Shuler said Tuesday that she was "disgusted" to learn that the suppliers of the county's touch-screen voting machines have been paid the bulk of their \$24.5 million contract, despite an ongoing probe by county investigators into a possible breach of that agreement.

Carey-Shuler complained, moreover, that County Manager Steve Shiver and county legal advisors failed to keep commissioners informed about the payments.

Following the disastrous Sept. 10 primary election, commissioners repeatedly instructed county officials to take a tough stance in dealing with the supplier, Omaha, Neb.-based Election Systems & Software. "I am disappointed that we were not kept fully informed," Carey-Shuler said. ``It's another reason why we have to make this government more accountable."

She said commissioners instructed Shiver and his staff to consider withholding further payment, if appropriate.

County records indicate ES&S -- which last year sold the county 7,200 touch-screen voting machines -- has been paid \$23.4 million of the \$24.5 million contract.

GENERAL ELECTION

Nearly \$21 million of that was paid Oct. 3, 2002, more than a month before the Nov. 5 general election, records show. That election was judged a success by outside monitors but required a massive mobilization of county workers -- including Miami-Dade police and top department directors -- that cost \$5 million.

Michael Limas, ES&S' chief operating officer, expressed surprise at the sudden swirl of controversy over the payments.

"I think our position is, we performed and they paid according to the terms of the contract," Limas said.

Shiver said through a spokesman that the payments were made in consultation with the county's legal advisors.

First Assistant County Attorney Murray Greenberg said county officials had little option but to honor the contract. Had they withheld payments before the Nov. 5 election, ES&S could have abandoned the deal, he said.

"We could not run the risk of calling their bluff and having them walk on us," Greenberg said. ``Should Steve [Shiver] have issued one last report to the commissioners? I don't know, but in making the payments we didn't waive any rights."

LEGALLY OBLIGATED

Commissioner Dennis Moss, who chaired a task force investigating the Sept. 10 election, said it was also his understanding the county was legally obligated to pay ES&S.

"I don't have a problem with the manager, in consultation with our attorneys, making that call," Moss said, who noted that the county still could pursue legal action.

Other commissioners said they share Carey-Shuler's concerns. "It was so clear that we were upset about the process, so I cannot understand why the manager would have paid this much of the contract without coming back to the commission," Betty Ferguson said.

Ferguson, chair of the elections subcommittee, said she will ask Shiver for an accounting at its meeting Thursday.

Commissioner Jimmy Morales said he was "deeply troubled" to learn about the payments and issued a memorandum last week making reference to the continuing investigation by the county inspector general's office.

"There remains some concern that ES&S has failed to fulfill its contractual obligations with the county, which makes any form of payment to the company especially disturbing," the memo states.

The investigation has triggered wide speculation that the inspector general's office is likely to recommend that the county unload the voting machines, either by seeking a refund from ES&S or selling them to another county.

Inspector General Christopher Mazzella said such speculation could be "premature" and stressed that his report has not yet been issued.

ES&S lawyer Miguel De Grandy cautioned lawmakers against forming hasty opinions.

"The inspector general could be dead wrong in his assessment, if that is his assessment," De Grandy said. ``Is that any way to legislate?"