



STATE OF NEW MEXICO SOLE SOURCE REQUEST AND DETERMINATION FORM

A sole source *determination* is not effective until the *sole source request for determination* has been posted for thirty (30) calendar days without challenge, and subsequently approved in writing by the State Purchasing Agent or, for Professional Services Agreements, the Secretary of the Department of Finance and Administration. The foregoing requirement is regardless of whether the *sole source request for determination* has been signed by the Agency and/or the Contractor.

I. Name of Agency: New Mexico Secretary of State's Office

Agency Chief Procurement Officer: Lucas Gauthier

Telephone Number: (505) 827 - 3600

II. Name of prospective Contractor: BPro, Inc.

Address of prospective Contractor:

124 West Dakota
Pierre, SD 57501

Amount of prospective contract: **\$126,825**

Term of prospective contract: July 1, 2019 – June 30, 2020

III. Please thoroughly list the services (scope of work), construction or items of tangible personal property of the prospective contract:

The contract scope of work is as follows:

I. The purpose of this agreement is to provide information technology services related to *software support and enhancements/modifications of the SERVIS application (New Mexico Elections, Registration and Voting Integrity System)*.

Certified Project Name: **New Mexico Statewide Elections, Registration and Voting Integrity System (SERVIS) Project.**

A. SERVIS Project Goal:

The goal of the SOS SERVIS project is to maintain and enhance a modern, centralized election management system that will eliminate duplicate data entry, reduce manual processes, and better integrate the components of conducting a statewide election. The SOS strives for a system that allows for seamless transition between candidate data, ballot preparation, ballot on demand data, election results reporting, and electronic canvassing for counties and the state.

The Secretary of State has obtained ownership of a proven voter election management software system from the State of South Dakota and has been granted permission to modify the software in order to implement a customized and integrated election management system for the State of New Mexico -Statewide Elections, Registration and Voting Integrity System (SERVIS). SOS SERVIS is a modern, integrated system that reduced the 17 disparate and/or manual systems and allows for uniform data collection and statewide reporting as well as allow the public better access to voting information such as sample ballots and polling location information as well as quick dissemination of election night results.

B. Project Software Modernization and Implementation Objectives:

Primary Objectives are as follows:

1. Ensure SERVIS application meets Agency security requirements by applying enhancements/modifications to software code, database objects, application design and support.
2. Provide remote Election and Non-Election Cycle support services.
3. Provide Onsite Election Day/ Night support technical support.
4. Develop and implement software enhancement request prioritization

C. Contract Deliverables List

Task Item	Sub Tasks	Description
SERVIS Problem Support – Non-Election Cycle Remote Support	Sub 1	The Contractor shall perform the tasks required to support the SERVIS application, including, but not limited to: <ul style="list-style-type: none"> - Timely response to requests for review or assistance with issues; - Fast relief to high impact problems; - Timely problem resolution; - Corrections to defects; - Software enhancements to support the evolving needs of the Procuring Agency; and - Monitoring and response to system performance issues <u>Non-Election Cycle (non-critical) Remote Support:</u>

		<p>The Contractor shall make technical support personnel available to address requests for assistance and corrections to defects by phone and email on the following schedule:</p> <p style="text-align: center;">Monday through Friday, 8:00 AM MT to 5:00 PM Mountain Time (MT), excluding State holidays.</p>
<p>SERVIS Problem Support – Election Cycle Remote Support</p>	<p>Sub 2</p>	<p>The Contractor shall perform the tasks required to support the SERVIS application, including, but not limited to:</p> <ul style="list-style-type: none"> - Timely response to requests for review or assistance with issues; - Fast relief to high impact problems; - Timely problem resolution; - Corrections to defects; - Software enhancements to support the evolving needs of the Procuring Agency; and - Monitoring and response to system performance issues <p><u>Election Cycle (Critical) Remote Support:</u></p> <p>The SOS will confirm with Contractor the date of the statewide election day for the state of New Mexico. The Contractor shall provide election cycle and election day onsite support for the specified statewide election day.</p> <p>The Contractor shall make technical support personnel available to address requests for assistance and corrections to defects by phone and email on the following schedule:</p> <p style="text-align: center;">Seven days per week, Monday through Sunday, 7:00 AM MT to 9:00 PM MT beginning 45 days prior to the statewide election day and ending at midnight 14 days after the statewide election day.</p>
<p>SERVIS Support and Enhancement Request Prioritization</p>	<p>Sub 3</p>	<p>The Contractor shall log requests and shall provide to the SOS with technical support services for SERVIS based on the following priority levels and problem resolution processes.</p> <p>The SOS will provide a priority assignment to each support request:</p> <ul style="list-style-type: none"> • High Priority is the most severe program error and represents a situation where mission critical features and functions of the SERVIS application are unavailable and no practical alternate mode of operation is available. The Contractor shall correct or provide a solution within two (2) hours for all problems deemed by the SOS to be High Priority problems. • Medium Priority indicates a problem in which certain features and functionality are not available and no practical alternate mode of operation is available. The Contractor shall correct or provide a solutions within one (1) business day for all problems deemed by the SOS to be Medium Priority problems. • Regular Priority is the normal “next in line” problem priority assessment. At this level, the Contractor shall work on requests in the order in which they

		<p>are received. The Contractor shall correct or provide a plan of resolution within five (5) business days for all problems deemed by the SOS to be Regular Priority problems.</p> <ul style="list-style-type: none"> • Enhancement Work is the release assignment for enhancements and corrections requiring a code release. At this level, requests are worked on as deemed appropriate by the SOS. When preparing a software releases, the Contractor is responsible for documenting Application Deployment Package release notes and for scheduling delivery at the discretion of the SOS. <p>Using a support and ticketing system agreed upon with the Procuring Agency, the Contractor shall provide release notes describing each change made in a code release or a description of other bug fixes.</p> <p>The Contractor shall respond to technical and functional questions about SERVIS. Such requests will by default be assigned as a Regular Priority unless the Procuring Agency requests a higher priority to the request.</p>
<p>Election Day/Night Onsite Support</p>	<p>Sub 4</p>	<p><u>Election Day Onsite Support:</u> The Contractor shall make technical support personnel available onsite at the Office of the Secretary of State during the statewide election day as follows:</p> <ul style="list-style-type: none"> • The day before election day from 8:00 AM MT to 5:00 PM MT • Election day from 6:00 AM MT through the close of election night reporting the day after election day after all results have been reported into the system by the counties offices. <p>The Contractor shall meet with Procuring Agency election and IT staff the day before the statewide election to assess readiness for election day and to complete any last minute system updates and server resource changes to accommodate election day system load.</p> <p>The Contractor shall be available throughout election day and election night to assist with any technical issues that may arise, as well as to provide ongoing SERVIS performance monitoring and tuning.</p> <p>Upon completion of election night services, the Contractor shall provide analytic reports on traffic and site usage related to viewing election result reporting on election night.</p>
<p>SERVIS Enhancements and Software Fixes</p>	<p>Sub 5</p>	<p>In addition to the day to day SERVIS support provided by the Contractor, the SOS may request that the Contractor develop enhancements or corrections to SERVIS to ensure that SERVIS functionality aligns with statutory and operational requirements.</p> <p>To request an enhancement, the SOS shall provide a functional specification or detailed support request detailing the expected work and outcome of the Contractor. In turn, the Contractor shall provide a time and delivery estimate to the SOS for approval. Upon approval, the Contractor shall begin development of the enhancement.</p> <p>Enhancements are subject to a cap of 480 total work hours over the term of the Agreement and are requested and worked on as deemed appropriate by the SOS.</p> <p>When preparing a software release, the Contractor is responsible for preparing the Application Deployment Package and release notes and for scheduling delivery of the new code with the SOS.</p>

	The Contractor shall develop and deploy application enhancements or software fixes in a TEST environment to meet SOS specifications. The Contractor shall provide the SOS with documentation that each enhancement was tested and runs as requested. The SOS will review the application and documentation for approval and final acceptance and work with the Contractor on scheduling the code release into PRODUCTION.
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Provide an explanation of the criteria developed and specified by the agency as necessary to perform and/or fulfill the contract and upon which the state agency reviewed available sources. (Do not use "technical jargon;" use plain English. Do not tailor the criteria simply to exclude other contractors if it is not rationally related to the purpose of the contract.)

Section 1-5-17(A) NMSA 1978 provides, "Voter registration system software and instructions for its use in controlling the processing of information derived from the voter file shall be verified functionally, identified and approved by the Secretary of State."

The Secretary of State finds that the voter registration system, the voting tabulation systems, the ballot printing systems, and the election night reporting and canvassing programs must interface and efficiently exchange information in order to meet the Secretary's standards for the processing of information from the voter file and the accurate and auditable reporting of election results. The required functionality has been included in the Scope of Work and the product being purchased has been verified as having the capability to perform these required functions.

- IV. Provide a detailed, sufficient explanation of the reasons, qualifications, proprietary rights or unique capabilities of the prospective contractor that makes the prospective contractor ***the one source*** capable of providing the required professional service, service, construction or item(s) of tangible personal property. (Please do not state the source is the "best" source or the "least costly" source. Those factors do not justify a "sole source.")

The Former Secretary of State of South Dakota, Jason Gant, issued a letter to the New Mexico Secretary of State, authorizing the State of New Mexico to utilize the software platform developed by South Dakota for use in New Mexico. As set forth in the letter from Secretary Gant, the only vendor who can develop and modify the program to meet New Mexico's needs is BPro.

Having acquired the South Dakota platform, the Secretary of State's Office has determined that the South Dakota system can be sufficiently modified to create a system that contains the appropriate functionality necessary for all of the voter registration and election management activities conducted by the New Mexico county clerk offices and the Office of the Secretary of State while meeting all of the requirements set out in the New Mexico Election Code.

Having made that determination, the Secretary of State's Office finds that BPro is the sole source vendor who is authorized to provide the needed modifications to the South Dakota system to finish implementing New Mexico's own system. Using the South Dakota platform and BPro's software development and analysis services, the Secretary of State

will implement the New Mexico Statewide Elections, Registration, and Voting Integrity System, a customized software owned by the State of New Mexico.

- V. Provide a detailed, sufficient explanation of how the professional service, service, construction or item(s) of tangible personal property is/are *unique and how this uniqueness is substantially related to the intended purpose of the contract*.

TotalVote is a proprietary software product. Likewise, the underlying database design is also proprietary. South Dakota is the owner of the source code for the South Dakota TotalVote platform. It has granted New Mexico the rights to use the source code, but BPro, the software's creator and trademark owner, is the only vendor authorized to modify and adapt the source code to meet New Mexico's system requirements.

- VI. Explain why other similar professional services, services, construction or item(s) of tangible personal property *cannot* meet the intended purpose of the contract.

The Secretary of State's Office has determined that the TotalVote software platform addresses a number of the integration issues identified by the Secretary of State, and has been used in other states to address those issues. South Dakota in particular has very similar voting and election laws to New Mexico so the base system provided by the South Dakota Secretary of State can be customized for use in New Mexico.

One of the key criteria established by the Secretary of State is that New Mexico develop a system which "provides for upgrades and improvements on an as-needed basis so that New Mexico develops a system that is fully customized to the laws and election practices in this state as they exist and as they may change from time to time." The Secretary of State believes these criteria will be met by the new system that can be adapted to new legislation and improvements in voting technology and practices. Additionally, use of the TotalVote platform that was gifted by South Dakota will result in significant improvements in election management statewide.

New Mexico has already acquired the necessary platform to build an in-house system from South Dakota and the project is now nearing completion after successful development and implementation of some software modules already complete. New Mexico owns the current and future source code with South Dakota also maintaining rights and no other vendor is allowed to modify or access the underlying code or database structures that comprise the TotalVote system for development of the SERVIS system.

The SOS acknowledges that other vendors may have products which could be used for election management and system integration that may meet the Secretary's criteria. But the State of New Mexico only has the right to the source code of one such system- TotalVote - without the need to purchase a software platform. Since the TotalVote platform was developed using federal HAVA funding, it is entirely appropriate that it be used by more than one state to develop a unique voter registration and election management system. The current lack of integration between the existing systems is an impediment to the efficiency and accuracy of our elections.

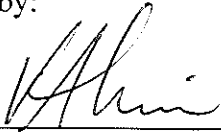
- VII. Provide a narrative description of the agency's due diligence in determining the basis for the procurement, including procedures used by the agency to conduct a review of available sources such as researching trade publications, industry newsletters and the internet; reviewing telephone books and other advertisements; contacting similar service providers; and reviewing the State Purchasing Agent's vendor list. Include a list of businesses contacted (*do not state that no other businesses were contacted*), date of contact, method of contact (telephone, mail, e-mail, other), and documentation demonstrating an explanation of why those businesses could not or would not, under any circumstances, perform the contract; or an explanation of why the agency has determined that no businesses other than the prospective contractor can perform the contract.

As stated above, no other business other than the prospective contractor BPro can provide the modifications to the South Dakota TotalVote platform obtained by the New Mexico Secretary of State's office.

The Office has undertaken significant due diligence to determine whether the use of the TotalVote platform to develop the new SERVIS system justifies the sole source procurement. BPro provided a test site for the New Mexico Secretary of State's office and certain county clerks to review the various aspects of the South Dakota program. A team of election administrators from the Secretary's office travelled to South Dakota and spent two days reviewing the TotalVote platform with the vendor to determine if it could be sufficiently and easily modified to create a system for New Mexico. They also took all questions generated by the New Mexico county clerks who had reviewed the test site. The staff spent time with the TotalVote administrator in the South Dakota Secretary of State's office, and visited the offices of two county auditors who utilize the TotalVote program in South Dakota. Upon completion, the staff determined that South Dakota's election statutes were sufficiently similar to the State of New Mexico.

Certified by:

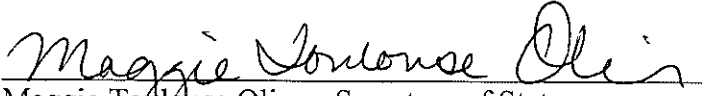
Date: 4/8/19



Veronica Albin, Secretary of State Chief Financial Officer

Agency Approval by:

Date: 4/8/19



Maggie Toulouse Oliver, Secretary of State

APPROVED:

Date: _____

State Purchasing Agent

If this sole source relates to a procurement of general services:

- 1) the signature of the State Purchasing Agent on this form certifies the sole source has been posted for thirty (30) calendar days and has received no challenges;
- 2) the sole source is granted as of the date of signature by the State Purchasing Agent; and
- 3) the signature of the State Purchasing Agent on this form is the final signature required for this sole source procurement.

If this sole source relates to a procurement of professional services:

- 1) the email from State Purchasing or the printout from the SPD database certifies the sole source has been posted for thirty (30) calendar days and has received no challenge(s); and
- 2) the signature of the Cabinet Secretary of the Department of Finance and Administration (below) is required; and
- 3) this sole source is granted as of the date of signature by the Cabinet Secretary of the Department of Finance and Administration.

APPROVED:

Date: _____

Cabinet Secretary Department of Finance and Administration

If this sole source is being submitted by a governmental agency or governmental entity not under the final authority of the State Purchasing Agent or the Department of Finance and Administration, neither the State Purchasing Agent's nor the Department of Finance and Administration Secretary's signature are required. Those signature lines may be removed from this form or marked as N/A.