

## Summary

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The Maricopa County (County) Elections Tabulation System contract provides the County with an election management system that utilizes a hybrid approach of early voting and in-person Election Day voting for all County vote centers. The \$6 million contract was awarded to Dominion Voting System, Inc. in 2019. The Office of Procurement Services (OPS) facilitated the lease procurement, with coordination from evaluation committee members, subject matter experts, and the Recorder and Elections Department. BerryDunn noted that the Office of Procurement Services generally complied with the Maricopa County Procurement Code and County Procurement Procedures, with the exception of the discrepancies identified in this report, which were all determined to have a low impact on compliance with the evaluation objectives.

## Observations and Recommendations

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Corresponding recommendations and responses are included below each finding. The responses were approved by Kevin Tyne, Chief Procurement Officer (CPO), on April 22, 2021.

Objective 1: Verify that the Office of Procurement Services (OPS) conducted the procurement and awarded the contract with integrity, honesty, and fairness, in accordance with the Maricopa County Procurement Code and County Procurement Procedures.

**Background** – Evaluation procedures included reviewing supporting documentation and interviewing OPS employees and evaluation committee members to assess whether:

- The Request for Proposals (RFP) was developed properly
- The RFP was issued properly
- The pre-proposal conference was conducted appropriately
- Addenda for the RFP were developed properly
- The process for the receipt of proposals was conducted appropriately
- Due diligence of vendor experience was conducted adequately
- The evaluation committee was formed appropriately
- The established evaluation criteria and weighting process were developed properly
- The selection committee evaluated the proposals based on the factors and criteria set forth in the RFP
- The proposal evaluation process was performed in an objective and impartial manner, and in accordance with procurement requirements and procedures

- Negotiations with individual respondents were conducted fairly

**Observations** – BerryDunn reviewed the supporting documentation for the procurement of the RFP and for the award of the contract, and interviewed the Procurement Officer (PO) and all evaluation committee members who evaluated the proposals. Based on BerryDunn’s observations, OPS performed its duties in accordance with the Maricopa County Procurement Code and County Procurement Procedures, except for the identified discrepancies described below. The impact of the identified discrepancies on OPS’ compliance with Objective 1 is considered low.

Sections 1.4 through 1.5 of the internal OPS Operating Procedures require the Chief Procurement Officer (CPO) to provide signed approval of the RFP, evaluation committee members, and the evaluation criteria and weights prior to the advertisement of the solicitation. The solicitation was advertised in the Arizona Business Gazette on March 28, 2019 and April 4, 2019, but the CPO did not sign the approval form until May 1, 2019. BerryDunn observed documentation of email communication and meeting invites, which verified that the CPO was informed of and involved with the procurement throughout the creation of the solicitation.

Recommendation to the Office of Procurement Services (OPS)	Response
1 Improve internal controls to help ensure that the Management Authorization is signed prior to posting the Request for Proposals (RFP) on BidSync and advertising the solicitation.	In accordance with Code, the Chief Procurement Officer had approved the solicitation method prior to the start of the solicitation both verbally and through email, however the form was not signed until May 1, 2019. OPS will re-train applicable staff on the procedure.

Sections 1.4.4 and 2.6.3 of the internal OPS Operating Procedures require that all evaluation committee members must sign a Nondisclosure Agreement (NDA). All evaluation committee members signed NDAs before the evaluation process started. However, we noted that Sections 1.4.4 and 2.6.3 had conflicting information regarding when evaluation committee members must sign the NDAs.

Recommendation to the Office of Procurement Services (OPS)	Response
2 Update the Internal OPS Operating Procedures to remove the conflicting information.	OPS will eliminate the conflict in the Operating Procedures by removing Section 1.4.4 and will continue to have all NDA’s signed prior to the release of any confidential information to evaluation committee members.

Section 1.8.1 of the internal Operating Procedures requires signed approvals of the solicitation from all primary department users prior to the release of the solicitation. Formal signatures were not provided, but BerryDunn examined an email from the Director of Elections that confirmed approval of the RFP documents by the Recorder and Elections Department.

Recommendation to the Office of Procurement Services (OPS)	Response
3 Update the internal OPS Operating Procedures to indicate that it is acceptable to receive electronic approval of the solicitation from the primary department user.	OPS relied upon an email from the using department's management. OPS will adjust procedures to specifically allow for email approval or the use of the form.

BerryDunn observed that all four companies meeting the federal and state minimum certification requirements received the solicitation and three of them submitted proposals by the date specified in the RFP. Article 3 MC1-329.D of the Procurement Code states that proposals shall be opened publicly at the time and place designated in the RFP. MC1-333.B states that proposals shall be opened in the presence of a witness at the time, date, and location specified in the Request for Proposals (RFP). The RFP specified a date, but not a time or location for the public opening of proposals. BerryDunn noted that the advertisement of the RFP contained the date, time, and location for the public opening of proposals.

Recommendation to the Office of Procurement Services (OPS)	Response
4 Improve internal controls to help ensure that relevant solicitation documents clearly specify a time and location for the public opening of proposals.	The formal advertisement is part of the RFP process. The opening date, time and location were advertised for two consecutive weeks in the newspaper of record, as required by law, on March 28, and April 4, 2019.

Objective 2: Determine whether the specifications for requested services were prepared, issued, maintained, and monitored in accordance with the Procurement Code and County Procurement Procedures.

**Background** – Evaluation procedures included reviewing supporting documentation and interviewing OPS employees to determine that the established specifications were not unduly restrictive, unnecessarily exclusive, or discouraging competition.

**Observations** – BerryDunn reviewed supporting documentation for creating the specifications and interviewed the PO and all evaluation committee members who evaluated the proposals. BerryDunn did not identify any issues that resulted in findings related to the Procurement Code or internal OPS Operating Procedures for Objective 2.

Objective 3: Determine whether OPS evaluated and monitored conflicts of interest of Maricopa County employees in regard to the procurement of the contract.

**Background** – Evaluation procedures included reviewing supporting documentation and interviewing OPS employees and evaluation committee members to assess whether adequate procedures were conducted for detecting or handling conflicts of interest, including review and authorization of exemptions.

**Observations** – BerryDunn reviewed the internal controls for conflicts of interest and examined how conflicts of interest are detected and handled. BerryDunn interviewed the PO and all evaluation committee members who evaluated the proposals. All evaluation committee members were present at the kickoff (OPS conducts training at this time), and the NDAs they signed attested to the absence of conflicts of interest. BerryDunn did not receive documented evidence that evaluation committee members were provided with the evaluation panel training PowerPoint as part of the evaluator packet, as suggested in the internal OPS Operating Procedures.

### **OPS Summary Comment**

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OPS conducted the solicitation and award of the Elections Tabulation System in a fair and ethical manner that was transparent and in accordance with all requirements of state statute and the Maricopa County Procurement Code. Minor informalities observed had no bearing on the solicitation or the resultant award.