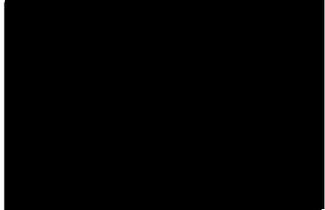


February 28, 2011

California Citizens Redistricting Commission  
1130 K Street, Suite 101  
Sacramento, CA 95814



Robert M. Hertzberg  
Partner



Re: Request for Proposals for Technical Consultant

Dear Sir and/or Madam:

As some of you may know, although I am a former Speaker of the State Assembly, I am also a strong supporter of Proposition 11 and worked hard to get it passed. Until now, I have been very pleased and impressed with the way you have approached the difficult task before you. I write now because I believe you may have made a serious mistake regarding the process for hiring a technical consultant to help you draw district lines.

The choice of a linedrawer is one of the most important decisions you will be asked to make. Linedrawing is difficult, chiefly because of the many requirements that must be satisfied for a redistricting plan to comply with state and federal law. Propositions 11 and 20, however, add an additional and critical requirement: that the linedrawing be neutral and fair. The voters who passed these measures were told again and again that they would produce a fair redistricting, one free of partisanship that would encourage greater public participation in the electoral process. That concept is woven into the very fabric of both measures and it must not be ignored.

The problem is that the standards that govern redistricting do not automatically lead to a particular set of lines. As the courts have emphasized, criteria, such as those in the California Constitution, can lead to numerous and varied redistricting plans. Even with the ranking of criteria in Propositions 11 and 20, there are many ways to draw lines, and the opportunities for subtle and not-so-subtle partisan judgment calls by the line-drawers will be manifold. Because of this and because of the tight timeline under which you must operate, it is far better to have confidence in the linedrawer's impartiality than to worry about whether you can catch or control a partisan bias in the details of a redistricting map.

Your recent decision to change the Request for Proposals for technical consultants to assist you with the linedrawing process will make these goals much harder to achieve. Unlike the draft RFP that had been circulated, the RFP you voted to issue had no scoring or ranking process at all. Instead, it was based on a "pass/fail" system whereby every qualified, responsive bid would be opened and the contract would be awarded to the lowest bid. Most importantly, the RFP makes no attempt to distinguish between bidders who may have partisan agendas or

California Citizens Redistricting  
Commission  
February 28, 2011  
Page 2

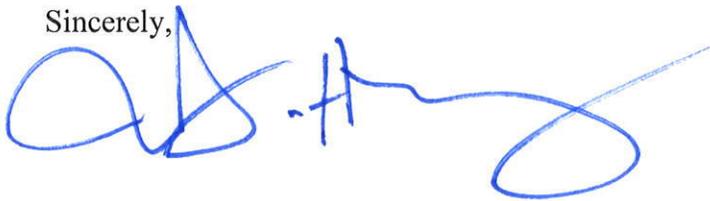
backgrounds and those who do not. If a bidder meets the other criteria in the RFP and submits the lowest bid, you have obligated yourself to accept that bid, with no examination of, or weight given to, the level of impartiality you may expect to receive from the linedrawers. In fact, you could even end up with a lowest bid subsidized by a partisan group determined to see that its linedrawers gain access to your process, and you would have no way of knowing it.

Such a result would seriously compromise your ability as commissioners to produce redistricting plans that meet the neutrality requirements of Propositions 11 and 20. Even if you avoid that pitfall and the plans you produce are in fact neutral, you will have difficulty convincing the public of that fact if the plans were prepared by linedrawers who had drawn partisan lines in the past or who are registered with one party or another.

I urge you to reconsider and to rewrite your RFP to make impartiality a centerpiece of the requirements in a way that will allow you to make an informed, careful decision rather than simply taking the lowest common denominator.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. Hertzberg", with a large, stylized flourish at the end.

Robert M. Hertzberg