

**Request for Information
For Legal Services**

**Citizens Redistricting Commission
Voting Rights Act Counsel**

**State of California
Citizens Redistricting Commission
721 Capitol Mall, Suite 260
Sacramento, CA 95814**

**Request for Information
Citizens Redistricting Commission
Voting Rights Act Counsel
(This is not a competitive bid)**

SECTION I - Introduction

As required by the Voters First Act and the Voters First Act for Congress (Collectively the “Voters First Act”), the Citizens Redistricting Commission (the “Commission”) is charged with the responsibility, in the year following the year in which the national census is taken under the direction of Congress at the beginning of each decade, to adjust the boundary lines of the Congressional, State Senatorial, Assembly, and Board of Equalization districts (also known as “Redistricting” or “Redistricting Activities”) in conformance with the standards and process set forth in Section 2 of Article XXI of the California Constitution.

SECTION II – Purpose of this Request for Information

The Citizens Redistricting Commission is seeking Statements of Qualifications (“SOQ”) from attorneys, including law firms and other entities to provide legal services to assist the Commission with its responsibilities pursuant to the Voters First Act.

The SOQ will be used by the Commission to select counsel to advise specifically on Voting Rights Act (“VRA”) matters. An applicant may apply to provide such services either as an independent contractor or as an employee of the Commission, by responding to this Request for Information (“RFI”) in the manner described in Section III.

SECTION III – Submission Requirements, Due Date and Time

Statements of Qualifications must be received by 5:00 p.m. on Jan. 15, 2021.

The Statement of Qualifications should be addressed to:

Kary Marshall
Chief Counsel
Citizens Redistricting Commission
721 Capitol Mall, Suite 260
Sacramento, CA 95814

Questions Pertaining to this Request for Information

Requests for clarification or interpretation related to the requested information must be submitted in writing by 4:00pm PST, December 22, 2020 to the attention of Kary Marshall, Chief Counsel, at the address listed above, or by email to kary.marshall@crc.ca.gov.

A. Key Action Dates

Listed below are the important dates and times by which the actions are expected to be completed. If the Commission finds it necessary to change any of these dates, it will be accomplished by addendum.

Action	Time	Date
Release RFI		Dec. 14, 2020
Questions Due	4:00 p.m.	Dec. 22, 2020
Responses to Questions Posted to our Website	5:00 p.m.	Dec. 28, 2020
Submissions Due	5:00 p.m.	Jan. 15, 2021
Evaluation Period		Jan. 21, 2021
Interview Period		Jan 26-28, 2021
Selection		Jan. 28, 2021
Contract Award and Execution		Feb. 1, 2021

B. Evaluation Process

- The Commission's Legal Advisory Subcommittee (the "Committee") will review all SOQs submitted, at a publicly noticed meeting in Sacramento, California, tentatively scheduled Jan. 21, 2021.
- Following this initial review of the SOQs, the Subcommittee will invite those applicants deemed in the Committee's discretion most qualified, to interview with the Committee at a publicly noticed meeting in Sacramento, California, tentatively scheduled between Jan. 26-28, 2021.
- The Subcommittee will make a recommendation on the hiring or retention of one or more applicants to the full Commission at a public meeting, tentatively scheduled between Jan. 26-28, 2021.
- Any applicant recommended by the Subcommittee to the full Commission must also be available to meet with the Commission during the Jan. 26-28, 2021, meeting. (During these meetings, members of the public will have an opportunity to comment.).

The Commission reserves the right to change these dates if necessary. Changes in date will be communicated by email to all individuals/firms responding to this RFI and posted to the Commission website.

C. Documents Submitted

Preparation and submission of the SOQ will be at no cost or obligation to the Commission. All materials submitted will become the property of the Commission and will not be returned. **The materials submitted are not confidential, will be made available to members of the public attending the meetings referenced above, and will be placed on the Commission website.**

Copies Required

Applicants must send all materials by email to kary.marshall@crc.ca.gov and provide 3 copies to the address above.

SECTION IV – General Information

Terms and Conditions

Any attorney, law firm or legal entity selected by the Commission will be required to enter into a Legal Services Agreement for the work described in this RFI. It is anticipated that work will begin as soon as practicable following the selection process and continue through approximately August 15, 2021 (though possibly as late as December 15, 2021, pending current developments).

The Commission may also choose to select more than one lawyer or law firm to perform the legal services described herein.

Travel and Per Diem Expenses

All travel and per diem rates shall be limited to rates published by the California Department of Human resources (CalHR). Refer to the CalHR website at <https://www.calhr.ca.gov/employees/Pages/travel-reimbursements.aspx> for rates pertaining to Method of Travel, Meals and Incidentals, Lodging Reimbursement and Personal Vehicle Mileage Reimbursement.

SECTION V – Statement of Work and Experience

The required legal services may include, but will not be limited to, legal support to the Commission, staff and consultants regarding the redistricting process, based upon publicly available data. This may include, but is not limited to: review of documents including proposed district maps; development and/or use and analysis of Racially Polarized Voting (“RPV”) data to advise the Commission; review and preparation of legal memoranda related to applicable legal issues; advice to the Commission, Commission staff and consultants; and attendance from time to time at Commission meetings in Sacramento and throughout the state. Attendance may be in-person or virtually depending on the Governor’s orders guiding the state’s response to the current pandemic.

Applicants must have demonstrated expertise in the federal Voting Rights Act. In addition, expertise with the California Elections Code, the Voters First Act, open government/sunshine laws, and relevant federal and state case law are desirable.

Those responding to this Request for Information (RFI) should provide a description of their prior redistricting litigation experience as part of the response. Note that the Commission is seeking proposals for litigation counsel separately; however, a given attorney or firm may respond to both RFIs and potentially provide both VRA and litigation counsel services.

All applicants to this RFI shall demonstrate qualifications to perform legal services in each of the areas described below:

1. Perform all normal and customary duties required of special redistricting counsel in connection with legal issues related to the full range of redistricting activities.
2. Advise the Commission, Commission staff and consultants as to procedures, legality of documents, policy concerns, and legal implications concerning the redistricting activities, and specifically work with Commission, Commission staff and consultants with respect to legal issues in connection with drawing new district boundaries.
3. Advise the Commission, Commission staff and consultants regarding the requirements of State and Federal laws relevant to redistricting activities, and in particular demonstrate expertise and experience with Section 2 and Section 5 of the Voting Rights Act, and subsequent relevant cases. This advice will require the use and analysis of Racially Polarized Voting data developed by consultants obtained by either VRA Counsel or the Commission, as decided by the Commission.
4. Advise the Commission, Commission staff and consultants of litigation risks associated with redistricting activities and approaches to limit such risks.
5. Attend various Commission public meetings and hearings as requested by the Commission or Commission staff.

The attorney or firm selected may be required to submit written interim and final reports and summaries with specified deadlines as requested by the Commission or Chief Counsel.

All applicants to this RFI must be in good standing with the State Bar of California, and in compliance with any applicable law or policy at all times. Applicable laws and/or policies include, but are limited to, the California Business and Profession Codes, and the Citizens Redistricting Commission Code of Conduct, etc.

SECTION VI – Submission Format

Attorneys, law firms and other entities qualified and interested in performing the legal services as described herein are asked to submit the following information formatted into Sections 1-4 as requested below. Responses should not exceed 15 pages, not including resumes and client lists.

1. Personnel

In the case of a law firm or other entity, identify the lead lawyer and other lawyers, if any, who will be assigned to the work and the anticipated percentage of time for each. Also please attach a resume for each lawyer.

Please indicate whether, as VRA Counsel, you would prefer to be responsible to obtain an RPV analyst, or would prefer the Commission do so. In either case, the Commission will make the final decision in this matter.

2. Attorney/Firm General Description

All applicants should describe their overall approach to handling redistricting matters. If the Statement of Qualifications is submitted by a law firm or other entity, provide a general description of the firm.

3. Experience

List significant experience in districting, redistricting, and elections activities, as described in Section V above, as to each of the attorneys listed above. The list should include:

- (a) The names of the public entities or private parties represented in redistricting matters, including experience representing boards or commissions in connection with this work
- (b) The principal legal issues presented in each matter handled by the attorney, law firm or entity
- (c) Experience with Section 2 and Section 5 of the Voting Rights Act
- (d) The outcome of prior redistricting representations, e.g., resolved without litigation, negotiated settlement, or trial
- (e) Any experience with voting rights litigation not related to the VRA
- (f) Any relevant published work

Please end with a summary of how this experience prepares the attorney and/or law firm to perform the services sought by this RFI.

4. Conflicts of Interest

a. Compliance with Government Code Section 8252

With respect to the attorneys who are expected to work in connection with this representation, please disclose any financial, business, professional, lobbying or other relationship that presents a potential conflict as described in California Government Code Section 8252. In addition: (1) identify any lobbying work the firm has performed in California during the past 10 years; and (2) identify any political contributions, including contributions made by a firm political action committee, to candidates as described in California Government Code Section 8252, during the past ten years.

If the law firm or entity that is awarded the contract contemplates additional staff assignments after the award of the contract, the personnel must be approved individually by the Commission. Prior to the date of additional assignment, the law firm or entity must submit a resume and certification of non-conflict, identified in 4 below, for preliminary review and approval by the

Commission's legal staff and/or Executive Director and current Chairperson and Vice-Chairperson. The individual may be cleared to work on behalf of the Commission until final approval. Final approval must be obtained by a "super majority" vote of the full Commission at the next Commission business meeting.

Please describe any work relating to Redistricting or other work for current or prior clients during the past 10 years, even if such work has concluded, that could present the appearance of a conflict in connection with the representation of the Commission in connection with the defense of its maps. For example, if the attorney or law firm either presently, or has in the past represented a political party or an interest group funded by or working on behalf of a political party, such work must be disclosed and the implications of the current or prior representation for this assignment must be described.

b. Other Conflicts

In addition to compliance with Government Code Section 8252, the attorney or law firm must comply with the rules as set forth in the California Rules of Professional Conduct. Please identify any matter in which the attorney or firm is presently adverse to the State of California. In addition, identify any work previously provided by the attorney or law firm on behalf of any potential adverse party or witness, to the extent known.

Finally, for all attorneys expected to work in connection with this representation, please disclose any active volunteering for, consulting for, or service as paid staff for any candidate for public office or any public office holder for the past 10 years. If retained by the Commission, all attorneys will be expected, for the duration of the representation, to continue such disclosures, as well as to refrain from such activities for any candidate or officeholder in a jurisdiction under the Commission's purview.

The fact that a conflict is identified pursuant to this section is not an automatic disqualification, but is information the Commission will consider in the selection process.

SECTION VII – Fee Arrangements

The Commission requests all applicants to provide a fee estimate based on the description of the work contained in this Request for Information. It is the Commission's preference to contract for the legal services described herein – exclusive of litigation and attendance at public meetings – on a fixed fee rather than an hourly basis, assuming the assignment will continue through August 15, 2021. (The Commission recognizes that it is not presently possible to state the number of meetings at which counsel will need to be present, and as such requests an estimate of such fees on a per meeting basis.)

Please describe your willingness to contract in this manner and how you would structure such a proposal. In the alternative, the Commission will also consider an hourly fee estimate, as well as the option to work for the Commission as a salaried employee.

SECTION VIII – Miscellaneous

Any attorney, law firm or legal entity selected by the Commission will be required to:

1. Agree to adhere to legal cost and billing guidelines designated by the Commission.
2. Adhere to litigation plans designated by the Commission.
3. Adhere to case phasing of activities designated by the Commission.
4. Submit and adhere to legal budgets as designated by the Commission.
5. Maintain legal malpractice insurance in an amount not less than the amount designated by the Commission.
6. Submit to legal, bill audits and law firm audits if so requested by the Commission. The audits may be conducted by employees or designees of the Commissions or by any legal cost-control provider retained by the Commission for that purpose.
7. Pursuant to Business and Professions Code § 6072, “[Agree] to make a good faith effort to provide a minimum number of hours of pro bono legal services [in the State of California] during each year of the contract equal to the lesser of 30 multiplied by the number of full time attorneys in the firm’s offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State of California. Failure to make a good faith effort may be cause for non-renewal of a State contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.” Note: The attorney, law firm, or legal entity may be required to submit to a legal cost and utilization review as determined by the Commission. (PCC § 10353.5).
8. Remain in good standing with the State Bar of California, and in compliance with any applicable law or policy at all times. The latter is also applicable to any attorney’s, law firms’, or legal entities’ attorney staff or subcontractor assigned to work on this matter and/or on behalf of the Commission.