

**Request for Qualifications
For Legal Services**

**County of San Diego
Independent Redistricting Commission
Special Voting Rights Act Counsel**

Request for Qualifications
County of San Diego Independent Redistricting Commission
Special Counsel
(This is not a competitive bid)

SECTION I - Introduction

County of San Diego Independent 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 County of San Diego Supervisor districts (also known as “Redistricting”) in conformance with the standards and process set forth in the California Elections Code sections 21550, et seq.

SECTION II – Purpose of this Request for Qualifications

The Independent 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 Elections Code § 21552(a)(2), “Districts shall comply with the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10101 et seq.).”

The SOQ will be used by the Commission to select special counsel specifically to provide legal guidance to the Commission about drafting maps to achieve compliance with the VRA, render opinions, written or oral, on the legal sufficiency of maps or portions of maps drafted by the Commission and legal questions relating thereto under the federal Voting Rights Act (“VRA”). Special legal counsel’s opinion on the legal sufficiency under the VRA of the Commission’s adopted map will be made part of the report the Commission is required to issue with its adopted map explaining the basis on which the Commission made its decisions in achieving compliance with the criteria described in Elections Code § 21552.

SECTION III – Submission Requirements, Due Date and Time

Statements of Qualifications must be received by 10:00 a.m. on Monday, September 20, 2021. The Statement of Qualifications should be addressed to: XXX

Questions Pertaining to this Request for Qualifications

Requests for clarification or interpretation related to the requested information must be submitted in writing by Tuesday, September 14, 2021 to the attention of Marguerite Mary Leoni, General Counsel to the County of San Diego Independent Redistricting Commission, by email to mleoni@nmgovlaw.com.

A. Key Action Dates

Listed below are the key 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 Request for Qualifications (“RFQ”)	3:00pm	9/10/21
Questions Due	3:00pm	9/14/21
Responses to Questions Posted to IRC Website	3:00pm	9/16/21
Submissions of SOQs Due	10:00am	9/20/21
Interview		
Selection		
Contract Award and Execution		

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

B. Evaluation Process

- The Commission’s Legal Ad Hoc Committee (the “Subcommittee”) will review all SOQs submitted.
- Following this initial review of the SOQs, the Subcommittee will invite those applicants deemed in the Subcommittee’s discretion most qualified, to interview with the Subcommittee as set forth above.
- 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 _____, 2021.

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 and will be placed on the Commission website.

Applicants must send all materials by email to the attention of Marguerite Mary Leoni, General Counsel to the County of San Diego Independent Redistricting Commission, at mleoni@nmgovlaw.com by 10:00 Monday, September 20, 2021.

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 RFQ. It is anticipated that work will begin as soon as practicable following the selection process and continue through approximately December 15, 2021, or until final map adoption, whichever is later.

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

Good Standing and Compliance

Applicants and/or firms 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 not limited to, California Business and Profession Codes (§6072, for example) and Elections Code § 21551(c)(4).

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 and the application of the VRA. This may include but is not limited to: analysis of Racially Polarized Voting (“RPV”) data developed by the Commission’s demographic consultant’s subcontractor to advise the Commission; legal guidance to the Commission with regard to drafting maps to achieve compliance with the VRA; rendering opinions, written or oral, on the legal sufficiency of maps or portions of maps drafted by the Commission and legal questions relating thereto under the VRA; preparation of a legal opinion on the legal sufficiency under the VRA of the final map selected by the Commission for adoption, which opinion will be made part of the report the Commission is required to issue with its final map explaining the basis on which the Commission made its decisions in achieving compliance with the criteria described in Elections Code § 21552; and virtual or in person attendance, as requested by the Commission , at Commission meetings.

Applicants must have demonstrated expertise in the federal Voting Rights Act, the California Elections Code provisions applicable to the Commission, the Fair Maps Act, and relevant federal and state case law.

Those responding to this RFQ should provide a description of their prior redistricting experience, including litigation experience as part of the response described in Section VI below.

All applicants to this RFQ shall demonstrate qualifications and will be required to perform timely 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 legal sufficiency of draft maps and the Commission’s adopted map under the VRA.

2. Advise the Commission and Commission legal staff regarding preparation of draft maps and the Commission's adopted map to comply with the VRA, and specifically work with Commission, Commission staff, the demographic services contractor, and Commission legal staff in connection with drawing new district boundaries.
3. Advise the Commission, Commission staff, demographic services contractor, and Commission legal staff regarding the requirements of State and Federal laws relevant to redistricting activities under the VRA, drawing on applicant's expertise and experience with Section 2 of the Voting Rights Act, and relevant cases. This advice will require the use and analysis of Racially Polarized Voting data developed by the Commission's demographic services contractor and subcontractor.
4. Advise the Commission, Commission staff and Commission legal staff of litigation risks associated with draft maps and the Commission's adopted map and provide Commission with alternative approaches to limit such risks.
5. Attend various Commission public meetings and hearings, virtually or in person, as requested by the Commission, Commission staff or Commission legal staff.
6. Submit written interim and final reports and summaries with specified deadlines as requested by the Commission, Commission staff or Commission legal staff.
7. Prepare a written opinion on the legality under the VRA of the Commission's adopted map including the rationale based in federal case law and the record of the Commission's proceedings to be made part of the report the Commission is required to issue with its final map explaining the basis on which the Commission made its decisions in achieving compliance with the criteria described in Elections Code section 21552.
8. Perform requested legal services on a timely basis as requested by the Commission given the statutory timeframe in which the Commission is required to perform its duty to redistrict the Supervisorial Districts of the County of San Diego. For reference, a copy of the Commissions tentative timeline can be found here [provide link to posted timeline on IRC website]

SECTION VI – Submission Requirements/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 10 pages, not including resumes and client lists. The responses must be whole and complete in the submitted document and not depend on hyperlinks for required

content.

1. Personnel

In the case of a law firm or other entity, identify the lead attorney and other attorneys, if any, who will be assigned to the work and the anticipated percentage of time for each; a statement of the attorneys' availability to perform the work on a timely basis as requested by the Commission considering other client commitments of the attorney(s); and a statement of availability to interview in the timeframe specified in this RFQ. Also please attach a resume for each attorney.

If the law firm or entity that is awarded the contract contemplates additional attorney assignments after the award of the contract, the personnel must be approved individually by the Commission. The lead attorney must remain the same. Prior to the date of additional assignment, the law firm or entity must submit a resume for preliminary review and approval by Commission staff, Commission legal staff and/or Chairperson and Vice-Chairperson. The individual may be provisionally cleared to work on behalf of the Commission until final approval. Final approval must be obtained by vote of nine members of the Commission.

2. Attorney/Firm General Description

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, VRA matters, and other relevant elections activities, as described in Section V above, for 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; if the matters are numerous, the principal legal issues presented in at least five of the matters;
- (c) Experience with Section 2 and/or Section 5 of the Voting Rights Act;
- (d) The outcome of prior redistricting representations, e.g., completed without litigation, negotiated settlement, trial on the merits, etc.;
- (e) 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 RFQ.

4. Certification re Conflicts of Interest

a. Compliance with California Elections Code section 21551(c)(4).

California Elections Code section 21551(d)(1) prohibits the Commission from retaining a consultant who would not be qualified as an applicant pursuant to paragraph (4) of subdivision (c) of Section 21550. All personnel assigned to work in connection with this representation must certify eligibility to do so pursuant to section 21551(d)(1). Also, please disclose whether any of the activities described in Elections Code Section 21551(c)(4)(B) - (D) were performed on a volunteer basis.

b. Work that Could Present the Appearance of a Conflict of Interest.

In addition: (1) identify any lobbying work the firm has performed in California during the past 10 years; and (2) identify any political contributions to members or candidates for election to the San Diego County Board of Supervisors during the past ten years.

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 and was not related to Redistricting, that could present the appearance of a conflict with representing the Commission. For example, if the attorney or law firm represents or has represented an entity seeking an approval from the San Diego County Board of Supervisors or opposing the issuance of such an approval, such work must be disclosed and the implications of the current or prior representation for this assignment must be described.

c. Other Conflicts.

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 or potentially adverse to the Commission. 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 in San Diego County. 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 for election to the San Diego County Board of Supervisors.

5. Contracting and Fee Arrangements

The applicant must be prepared to execute a professional services agreement in the form attached hereto as Exhibit _____, with exceptions/additions agreeable to the County of San Diego. Please indicate your acceptance of the terms of the professional services agreement and any proposed exceptions/ additions.

The Commission requests all applicants to provide a fee estimate based on the description of the work contained in this RFQ, section V. 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 from October 15 through December 15, 2021, or until final map adoption, whichever is later. (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 assuming the appearance of Special Counsel virtually.) The Commission will accept offers up to \$60,000.00 for these legal services.

Please describe your willingness to contract in this manner and how you would structure such a proposal.

SECTION VII – Evaluation Criteria & Scoring

The following elements represent the evaluation criteria that will be considered during the evaluation process:

Criteria	Max. Evaluation Points
1. Certification of Compliance with California Elections Code section 21551(c)(4) by all attorneys assigned to this work.	Pass/fail
2. No work that could give the appearance of a Conflict of Interest	Pass/fail
3. Acceptance of terms of professional services agreement	Pass/fail
4. Number and acceptability of exceptions/additions to professional service agreement	10
3. Responsiveness to the RFP. a. Requested information included and thoroughness of response. b. Understanding of the project. c. Clarity of the response.	15
3. Staffing Plan.	15

<ul style="list-style-type: none"> a. Qualification of personnel to perform the work. b. c. Clearly defined roles of lead attorney and other assigned attorneys. d. Availability to perform the work on a timely basis. 	
<ul style="list-style-type: none"> 4. <ul style="list-style-type: none"> a. Experience in districting, redistricting, VRA matters, and other relevant elections activities of the lead attorney and other assigned attorneys, and b. Clarity and quality of interview. 	40
5. Fee proposal.	20

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 phasing of activities designated by the Commission.
3. Submit and adhere to legal budgets as designated by the Commission.
4. Maintain legal malpractice insurance and other insurances as set forth in Section 5 of the professional services agreement, which is attached hereto as Exhibit ____ .
5. 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.
6. Remain in good standing with the State Bar of California, and in compliance with any applicable law or policy. 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.