

**Virginia Redistricting Commission  
and Subcommittees Meeting Schedule**

**Monday, May 17**

Citizen Engagement subcommittee

- Discussion of the goals and needs for the Commission's citizen engagement efforts.
- Develop list of citizen engagement priorities to provide to the Budget & Finance subcommittee

**Wednesday, May 19**

Budget & Finance subcommittee

- Develop prioritized list of expenditure categories to propose to the full Commission for approval

**Thursday, May 20**

Citizen Engagement subcommittee

- Develop public input guidelines

**Monday, May 24**

Full Commission meeting

- Budget & Finance subcommittee to present proposed expenditure priorities
- Approve proposal

**Tuesday, May 25**

Budget & Finance subcommittee

- Develop proposed allocation of funds based on the Committee-approved priorities
- Discussion re: procurement process options

**Wednesday, May 26**

Citizen Engagement subcommittee

- Finalize advertising and accessibility plans based on B&F subcommittee's proposed allocation
- Finalize public input guidelines
- Develop schedule for Commission public hearings

**Thursday, May 27**

Budget & Finance subcommittee

- Finalize budget proposal to present to the full Commission for approval *at first meeting in June*
- Determine the procurement process to be followed

## **Budget and Finance Subcommittee**

### *Proposed Work Plan*

#### **Meeting Schedule**

- Wednesday, May 19 / 2:00-3:30pm
- Tuesday, May 25 / 10:00-11:30am
- Thursday, May 27 / 10:00-11:30am

#### **Meeting 1: Wednesday, May 19 (2-3:30)**

- Develop prioritized list of expenditure categories to propose to the full Commission for its approval.
  - Review the various potential expenditure categories.
    - Potential cost categories:
      - Consultants
        - Legal compliance
          - General counsel
          - Litigation counsel
          - Specialized VRA counsel
          - Section 2 statistical analyst
        - Mapping
          - Line drawer
          - Plan development consultant
          - Statistical analyst (communities of interest)
        - Public outreach
          - Communications consultant/director
          - Community outreach coordinator
        - Commission administration
          - Executive director
          - Event coordinator
      - Advertising
      - Accessibility costs: translation services; transcription services
      - Website maintenance
      - Public meetings and hearings
        - How many are required?
        - In-person or virtual?
          - In-person considerations: cost of travel, meals, lodging for commissioners and staff; facility rental costs
      - Administrative costs
        - Per diems
    - Discussion re: prioritization of expenditure categories based on the Commission's needs and goals.

- Determine topics that will require additional information or research from DLS staff in order for final decisions to be made.

**Meeting 2: Tuesday, May 25 (10-11:30)**

- Develop proposed allocation of funds based on the Committee-approved priorities
- Discussion re: procurement process options.
  - Determine the timeline for procuring goods and services needed by the Commission
  - Regular procurement process
    - Timeline
    - What is required?
  - VPPA exemption
    - How to get the exemption?
    - If granted, what process will the subcommittee follow?
- Determine topics that will require additional information or research from DLS staff in order for final decisions to be made.

**Meeting 3: Thursday, May 27 (10-11:30)**

- Finalize budget proposal *to present for full Commission approval at first meeting in June*
- Determine the procurement process and timeline to be followed.
  - Assign procurement process tasks to subcommittee members.

## Citizen Engagement Subcommittee

### Proposed Work Plan

#### Meeting Schedule

- Monday, May 17 / 2:00-3:30pm
- Thursday, May 20 / 10:00-11:30am
- Wednesday, May 26 / 10:00-11:30am

#### Meeting 1: Monday, May 17 (2-3:30)

- Discussion re: the needs and goals for citizen engagement
  - Public hearings
    - The purpose of the public hearings is to inform the public about the redistricting process, the purpose and responsibilities of the Commission, and, most significantly, solicit information and input from the public that will aid the Commission in its work.
    - The Constitution and the Code of Virginia requires a certain number of public hearings:
      - At least three prior to drawing a map
        - *Think of these as informal listening sessions*
      - At least three after a map has been drawn but before voting to submit to the General Assembly
        - *Think of these as formal hearings*
    - What will the Commission's role be?
      - All commissioners present or a subgroup of commissioners?
      - Staff support
    - Will the public hearings be held virtually or in-person?
      - In-person considerations: COVID restrictions; cost of travel, meals, lodging for commissioners and staff; should be held in locations across the Commonwealth
    - How will the Commission receive and synthesize information from the public so that it usefully informs the map making process?
  - Advertising
    - What are we advertising?
      - The Code of Virginia requires "All meetings and hearings held by the Commission" to be "adequately advertised"
    - Where are we advertising?
      - Regional vs. statewide; specific communities
    - How are we advertising?
      - Print media
      - Social media
      - Other media
      - Flyer for dissemination

- Consider how can this be disseminated, practically
    - Advertisement alternatives
      - Collaborate with community organizations
    - "Meetings and hearings shall be advertised in multiple languages as practicable and appropriate."
      - Which languages?
        - VRA minority language accessibility formula
      - Context-specific?
      - Translation services
  - Accessibility
    - Alternative languages
      - Website
        - Which content should be translated?
        - Which languages?
      - Meetings and hearings
        - Translated transcript available after meetings/hearings?
        - Which languages?
      - Cost considerations
        - Translation services
    - Deaf or hard-of-hearing individuals
      - Interpreter present in meetings/hearings?
      - Transcription of meeting/hearing available after?
      - Cost considerations
  - Additional outreach and communications needs
    - Will the commission solicit/accept draft map or information about communities of interest outside of designated public hearings?
    - How will the commission accept and synthesize this information?
- Develop list of citizen engagement priorities to provide to the Budget & Finance subcommittee.
- Determine topics that will require additional information or research from DLS staff in order for final decisions to be made.

## **Meeting 2: Thursday, May 20 (10-11:30)**

- Receive updates from staff.
- Develop public input guidelines.
  - These are the guidelines for the public to refer to and follow when providing input to the Commission.
    - *"To ensure a productive and meaningful input session, we ask for your cooperative participation by adhering to the following guidelines:"*
  - Two sets of guidelines:
    - Written public comment
    - Public comment at a Commission meeting or public hearing
  - The guidelines should cover:
    - How and when public input is accepted

- What identifying information about the individual must be given? What identifying information about the individual will be shared?
- Whether there is a specified format for the public input
- Content rules and restrictions

**Meeting 3: Wednesday, May 26 (10-11:30)**

- Finalize advertising and accessibility plans based on B&F subcommittee's proposed allocation.
- Develop schedule for Commission public hearings.
- Finalize public input guidelines.

## Virginia Redistricting Commission

### Budget and Finance Subcommittee

| Budget Worksheet |  |                       |
|------------------|--|-----------------------|
| Item             | Description  | Amount                |
| 1                | Software, pre-redistricting support, post-census data release support, redistricting support (Citygate LLC)                          | \$220,000.00          |
| 2                | Division of Legislative Services (Specialized computer equipment, server, and backup server)   | \$23,811.00           |
| 3                | Virginia Redistricting Selection Committee (Print and digital advertising supporting the the citizen application process; per diems) | \$160,516.49          |
| 4                | Public Hearings (8 in-person/8 virtual)  | \$250,000.00          |
| 5                | Commission Meetings (14 total in-person)   | \$136,192.00          |
| 6                | Commission member mapping software training  | \$9,728.00            |
| 7                | Racial Bloc Voting Analysis Professional   | \$100,000.00          |
| 8                | Map Drawer (3 estimated at \$80,000 each)  | \$240,000.00          |
| 9                | Communications and Outreach Coordinator/Consultant   | \$50,000.00           |
| 10               | Legal Counsel  |                       |
|                  |  |                       |
|                  |  |                       |
|                  |  |                       |
|                  |  |                       |
|                  |  |                       |
|                  |  |                       |
|                  |  |                       |
| <b>Total</b>     |  | <b>\$1,190,247.49</b> |

#### Available Funding

First fiscal year (7/1/20-6/30/21) **\$1,069,500**

Second fiscal year (7/1/21-6/30/22) **\$1,069,500**

**Total \$2,139,000**

REQUEST FOR PROPOSALS (RFP)  
PROFESSIONAL SERVICES

ISSUE DATE: June 8, 2021  
TITLE: Legal Services  
ISSUED BY: the Virginia Redistricting Commission  
PERIOD OF CONTRACT: Four (4) months from the date of execution, with monthly  
renewal options not to exceed a total of one (1) year.

**Proposals for the above titled project will be received until 5:00 PM (EST) on June 18, 2021. Any proposals received after the specified time and date will not be considered. See Section VI and VII for specific instructions for the completion of proposals.**

TABLE OF CONTENTS  
REQUEST FOR PROPOSALS  
LEGAL SERVICES

Contents

|  |    |
|--|----|
| I. PURPOSE:.....                                       | 3  |
| II. BACKGROUND:.....                                   | 3  |
| III. SCOPE OF SERVICES: .....                          | 3  |
| IV. SCHEDULE OF EVENTS:.....                           | 5  |
| V. CONFLICTS AND QUESTIONS:.....                       | 5  |
| VI. PROPOSAL PREPARATION AND INSTRUCTIONS:.....        | 5  |
| VII. SPECIFIC PROPOSAL INSTRUCTIONS: .....             | 6  |
| VIII. DISCLOSURE OF PROPOSAL CONTENTS: .....           | 8  |
| IX. SUBMITTAL PROCESS AND INFORMATION: .....           | 8  |
| X. SELECTION CRITERIA: .....                           | 9  |
| XI. ORAL PRESENTATIONS .....                           | 10 |
| XII. AWARD OF CONTRACTS:.....                          | 10 |
| XIII. CONTRACT TERM AND REGULATORY COMPLIANCE: .....   | 11 |
| XIV. PREPROPOSAL CONFERENCE:.....                      | 11 |
| Appendix A: Required General Terms and Conditions..... | 11 |
| Appendix B: Special Terms and Conditions.....          | 11 |

## I. PURPOSE:

The Virginia Redistricting Commission (the Commission) is issuing a request for proposals (RFP) from prospective qualified independent counsel for the purpose of providing expert legal and advisory services specific to the analysis and application of the Voting Rights Act (VRA) and other state and federal laws applicable to redistricting. The goal is to acquire professional legal services from one or more highly qualified providers at a fair and reasonable price.

## II. BACKGROUND:

In 2020, Virginia voters amended the state constitution to put the power to draw state and congressional district lines in the hands of a commission comprised of citizens and legislators. The sixteen member commission constituted pursuant to Article II, Section 6-A of the Constitution of Virginia is charged with the timely creation of proposed district plans for submittal to the Virginia General Assembly. All meetings of the Commission are open to the public and all records and documents of the Commission, or of any individual or group performing delegated functions of or advising the Commission, related to the Commission's work, including internal communications and communications from outside parties, are considered public information. Such meetings and records are subject to the Virginia Freedom of Information Act. Pursuant to subsection H of § 30-392 of the Code of Virginia, in the event the Commission hires a lawyer or law firm, the Commission as an entity is the client of the lawyer or the law firm. No individual commissioner or group of commissioners shall be considered to be the client of the lawyer or the law firm.

## III. SCOPE OF SERVICES:

A. The Commission is seeking proposals from qualified, licensed, and bonded Lawyers or Law Firms (the Offeror) to provide all the necessary services required under the solicitation for a wide range of legal services related to state and congressional redistricting. Selected counsel must be able to work with members from all political persuasions in a highly politically charged environment.

B. The Offeror shall furnish all personnel and supplies/materials, to perform and complete all work required to provide Professional Legal Services to support the Commission in accordance with Scope of Services described herein.

C. The Offeror agrees to hold itself at all times ready and available to provide the legal services call for under the terms of this solicitation and subsequent contract, and to refrain from accepting employment from other clients which may be in conflict with the duties assumed by the Offeror in support of a contract pursuant to this solicitation.

D. The required legal and advisory services may include, but will not be limited to, legal support to the Commission as well as Commission staff, attorneys and consultants regarding the redistricting process based on publicly available data, specifically as it relates to compliance with the federal Voting Rights Act and similar criteria outlined in § 24.2-304.04 of the Code of Virginia.

E. Any Offeror selected by the Commission will be required to enter into a contract for the work described in this RFP. It is anticipated that work will begin as soon as practicable following the RFP selection process and continue through approximately November, 2021.

F. The Offeror must have demonstrated expertise in the federal Voting Rights Act and the application of it in evaluating redistricting plans during a redistricting process. In addition, expertise with Virginia election law (Title 24.2 of the Code of Virginia) and relevant federal and state case law are preferred. Participation in public meetings as requested by the Commission is required.

G. Qualifications and responsibilities for an Offeror are as follows 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. Work with and advise the Commission, its staff, attorneys and consultants with respect to legal issues (in particular pertaining to the Voting Rights Act) in connection with drawing new district boundaries and advise the Commission, its staff, attorneys, and consultants as to the procedures, legality of documents, policy concerns, and legal implications concerning redistricting activities.
3. Advise the Commission, its staff, attorneys, 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 relevant case law. This advice will require the use and analysis of Racially Polarized Voting data developed by consultants obtained by either legal counsel or the Commission, as decided by the Commission.
4. Advise the Commission, its staff, attorneys and consultants of litigation risks associated with redistricting activities and approaches to limit such risks.
5. Participate in litigation or provide expert witness services related to compliance with the Voting Rights Act as well as state and federal laws.
6. Attend various meetings and hearings, including but not limited to Commission public meetings and hearings when requested by Commission members or its staff.

H. Contractors, subcontractors, and employees must be in compliance with any applicable law or policy at all times, and if an attorney be in good standing with the Virginia State Bar through the full contract term and any extensions. If the Offeror is not licensed to practice in the Commonwealth of Virginia, please provide information on local counsel that would be engaged or the process that would be used to select local counsel if direct representation becomes necessary, and whether their role is anticipated to be advisory or more substantive in nature. The Offeror must possess the skill, experience, ability, background, certification, and knowledge to provide the services described on the terms and conditions described herein.

#### IV. SCHEDULE OF EVENTS:

| <b>Action</b>                                | <b>Time</b>   | <b>Date</b>     |
|--|---------------|-----------------|
| Issuance of RFP                              |               | June 8, 2021    |
| Questions Due                                | 5:00 PM (EST) | June 14, 2021   |
| Responses to Questions Posted to the Website | 5:00 PM (EST) | June 15, 2021   |
| Submissions Due                              | 5:00 PM (EST) | June 18, 2021   |
| Evaluation Period                            |               | June 18-25      |
| Interview Period                             |               | June 25- July 2 |
| Selection                                    |               | July 5          |
| Contract Award and Execution                 |               | July 12         |

#### V. CONFLICTS AND QUESTIONS:

Should there be conflicts between any proposal documents and the final executed contract document; the final executed contract shall take precedence. All questions and requests for clarification must be received by the Division of Legislative Services before 5:00 PM (EST) on June 15, 2021.

#### VI. PROPOSAL PREPARATION AND INSTRUCTIONS:

A. In order to be considered for selection, Offerors must submit a complete response to this solicitation. One (1) original (specifically marked “Original”), one (1) digital, seven (16) hard copies and one redacted copy if invoking trade secrets or proprietary information under § 2.2-4342 of the Code of Virginia, of the proposal must be submitted to the Division of Legislative Services. No other distribution of the proposal shall be made by the Offeror.

1. Proposals shall be signed by an authorized representative of the Offeror. All information requested must be submitted. Failure to submit all information requested may result in the Division of Legislative Services requiring prompt submission of missing information, giving a lowered evaluation of the proposal, and/or finding the proposal non responsive. Mandatory requirements are those required by law or such that they are determined in the sole discretion of the Budget and Finance Subcommittee of the Commission to be formalities that cannot be waived and are not subject to negotiation.

2. Proposals should be prepared simply and economically, providing a straightforward, concise description of capabilities to satisfy the requirements of the RFP. Emphasis should be placed on completeness and clarity of content. Elaborate brochures and excessive promotional materials are not required or desired.

3. Proposals should be organized in the order in which the requirements are presented in the RFP. All pages of the proposal should be numbered. Each paragraph should reference the paragraph number of the corresponding section of the RFP. It is also helpful to cite the paragraph number, sub-number, and repeat the text of the requirement as it appears in the RFP. If a response covers more than one page, the paragraph number and sub-number should be cross repeated at the top of the next page. The proposal should contain a table of contents which cross references the RFP requirements. Information which the Offeror desires to present that does not fall within an area of the requirement of the RFP should be inserted at an appropriate place or be attached at the end of the proposal and designated as additional material. Proposals that are not organized in this manner risk elimination from consideration if the evaluators are unable to find where the RFP requirements are specifically addressed

## VII. SPECIFIC PROPOSAL INSTRUCTIONS:

A. Offerors interested in performing the legal services as described herein are asked to submit the following information formatted into Sections 1-5 as requested below. Responses should not exceed 20 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 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 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 Offeror is 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
- (g) Identification of three (3) major cases or other matters in which the lawyer has participated, together with the names, addresses, and telephone number of all co-counsel and opposing counsel involved.

Please end with a summary of how the Offeror's experience prepares them to perform the services sought by this RFP.

#### 4. Conflicts of Interest

The Commission has expressed a desire to contract with private counsel in a manner that promotes public confidence in its independence and impartiality. The Offeror shall provide the following as part of this Solicitation:

- (a) Identification of any actual, as well as potential, conflicts of interest under either the Rules of Professional Conduct which govern attorneys or the state conflict-of-interest statutes.
- (b) Identification of any current or previous political activity or representation, whether as a candidate, a lobbyist, an officer of a political committee, campaign worker or fundraiser, or as an attorney for the above or for any political party or governmental or political entity.
- (c) Whether the lawyer(s) has ever been subject to any disciplinary proceeding or been sanctioned by a court.

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.

#### 5. 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 November, 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.

## VIII. DISCLOSURE OF PROPOSAL CONTENTS:

Offerors should be aware that, with the exception of trade secrets or proprietary information under § 2.2-4342 of the Code of Virginia, the contents of proposals will be made public as will the terms of any contract entered into with an Offeror or Offerors selected by the commission. The Commission may use any ideas presented in any proposal. Selection or rejection of a proposal does not affect this provision.

## IX. SUBMITTAL PROCESS AND INFORMATION:

A. One (1) original (specifically marked “Original”), one (1) digital, and seven (16) hard copies of the proposal shall be submitted. Facsimile copies will not be accepted. Sealed proposals should be delivered to the Virginia Division of Legislative Services

B. Offerors that submit a response to this RFP may be required to make an oral presentation of their proposal with participation by key personnel pursuant to Section XI. The Budget and Finance Subcommittee reserves the right to request clarification of information submitted. Failure to provide this additional information within a reasonable time period, as specified by the Commission, the Budget and Finance Subcommittee, or Commission staff, shall be reason for the Offeror’s proposal to be considered non-responsive.

C. The Commission shall not be responsible for any expense incurred by the Offeror in preparing and submitting a proposal, for answering any subsequent inquiries, interviews for evaluation, or contract negotiations. All submissions are final.

D. Ownership of all data, materials and documentation originated and prepared pursuant to the RFP shall belong exclusively to the Commission and shall be subject to public inspection in accordance with the Virginia Freedom of Information Act and Virginia Public Procurement Act. Data, materials, and documents prepared in furtherance of any contract issued as a result of this RFP shall not be distributed to any third parties without the Commission’s authorization. Any requests for data, materials, and documents by third parties (other than approved subconsultants) made to a Consultant prepared in furtherance of any contract issued as a result of this RFP should be redirected to the Commission as the owner and custodian of the records.

Trade secrets or proprietary information submitted by the Offeror shall not be subject to public disclosure under the Virginia Freedom of Information Act, provided that the Offeror invokes the protection of Section 2.2-4342 of the Code of Virginia, in writing, either before or at the time the data is submitted. The written notice must specifically identify the data or materials to be protected and state the reasons why protection is necessary. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must be indicated on the specific words, figures, or paragraphs that constitute trade secret or proprietary information. The classification of an entire proposal as proprietary or trade secrets is not acceptable and will result in rejection and return of the proposal.

E. Late Proposals: To be considered for selection, proposals must be received in the issuing agency’s office by the designated date and hour. Proposals received in the issuing office after the date and hour designated may be disqualified and may not be considered. The Commission

is not responsible for delays in the delivery of mail by the U.S. Postal Service or private couriers. It is the sole responsibility of the Offeror to insure that its proposal reaches the issuing agency's office by the designated date and hour. Receipt of proposals scheduled during a period of suspended Commission business operations will be rescheduled for processing at the same time on the next business day.

## X. SELECTION CRITERIA:

A. Evaluation of proposals shall be in accordance with Virginia Code § 2.2-4302.2(A)(4). A Selection Committee composed of representatives from the Budget and Finance Subcommittee will evaluate each proposal received and submit a recommendation. Selection will be made on the basis of responsive/responsible determination, qualifications and experience, references and resources.

B. The evaluation of the proposals and subsequent interview evaluations of the shortlisted candidates will focus on the following:

| <b>Factors</b>  | <b>Point Value</b> |
|---|--------------------|
| <b>Qualifications and experience of Law Firm</b> , including (a) past performance on similar undertakings, (b) experience with similar clients, (c) qualifications and expertise of personnel and, (d) resources committed to the Commission.   | 30                 |
| <b>Demonstrated competence and knowledge.</b> General quality of submission, including (a) an understanding of the Commission's requirements under this RFP and (b) responsiveness to terms and conditions.   | 30                 |
| <b>Capacity and Resources.</b> The Offeror must have the capacity and resources to perform all of the previously-described services in a prompt, responsive manner and with excellent work quality in the timeframe needed.   | 30                 |
| <b>Client List Summary/References.</b><br>Provide a minimum of four (4) past or current clients where the Offeror has demonstrated its qualifications in any or all of the areas requested under this RFP. Must include the name, title, organization, address, telephone and e-mail address of the person most familiar with work completed. | 10                 |
| <b>Total</b>  | 100                |

## XI. ORAL PRESENTATIONS

Offerors who submit a proposal in response to this RFP may be required to give an oral presentation of their proposal. This will provide an opportunity for the offeror to clarify or elaborate on the proposal. This is a fact finding and explanation session only and will not include negotiation. The Budget and Finance Subcommittee will schedule the time and location of these presentations. Oral presentations are an option of the Budget and Finance Subcommittee and may or may not be conducted. Should an Offeror receive a request for an oral presentation, the evaluation criteria relative to the oral presentation will be detailed in a written notice of the request.

## XII. AWARD OF CONTRACTS:

A. The Budget and Finance Subcommittee shall evaluate proposals received. The Subcommittee shall consider proposals that comply with the requirements contained in this RFP. Based on analysis of the proposals submitted by the Offerors, the Subcommittee shall rank the Offerors considered to be the most qualified based on the evaluation factors specified above.

B. The Commission shall engage in individual discussions with two or more Offerors deemed fully qualified, responsible and suitable on the basis of initial responses and ranking and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. The Offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. At the discussion stage, the Commission may discuss nonbinding estimates of total project costs, including, but not limited to, life-cycle costing, and where appropriate, nonbinding estimates of price for services. Proprietary information from competing Offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion, outlined in this subdivision, on the basis of evaluation factors published in the Request for Proposal and all information developed in the selection process to this point, the Commission shall select in the order of preference two or more Offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the Offeror ranked first. If a contract satisfactory and advantageous to the Commission can be negotiated at a price considered fair and reasonable, the award shall be made to that Offeror. Otherwise, negotiations with the Offeror ranked first shall be formally terminated and negotiations conducted with the Offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Should the Subcommittee or the Commission determine in writing and in its sole discretion that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded solely to that Offeror. If multiple contracts are to be awarded, the Commission may begin negotiations with the top two ranked Offerors and proceed down the ranking until the sought after number of fair and reasonable contracts can be negotiated.

C. Any and all costs associated with the preparation of responses to this Request for Proposals, including site visits, oral presentations and any other costs shall be entirely the responsibility of the Offeror and shall not be reimbursable in any manner by the Commission.

D. The Commission reserves the right to reject any or all proposals, to waive any technicalities in proposals received, and to negotiate and to accept the proposal which shall be in the Commission's best interest.

E. The Commission may cancel this Request for Proposals at any time prior to an award, and is not required to furnish a reason why a particular proposal was not deemed the most advantageous.

### XIII. CONTRACT TERM AND REGULATORY COMPLIANCE:

Contract term shall be for four (4) months from the date of execution, with monthly renewal options not to exceed a total of one (1) year.

### XIV. PREPROPOSAL CONFERENCE:

No pre-proposal conference is scheduled for this procurement.

Appendix A: Required General Terms and Conditions

Appendix B: Special Terms and Conditions

REQUEST FOR PROPOSALS (RFP)  
PROFESSIONAL SERVICES

ISSUE DATE: June 8, 2021  
TITLE: Legal Services (Non-partisan)  
ISSUED BY: the Virginia Redistricting Commission  
PERIOD OF CONTRACT: Four (4) months from the date of execution, with monthly  
renewal options not to exceed a total of one (1) year.

**Proposals for the above titled project will be received until 5:00 PM (EST) on June 18, 2021. Any proposals received after the specified time and date will not be considered. See Section VI and VII for specific instructions for the completion of proposals.**

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TABLE OF CONTENTS  
REQUEST FOR PROPOSALS  
LEGAL SERVICES

Contents

|  |    |
|--|----|
| I. PURPOSE:.....                                       | 3  |
| II. BACKGROUND:.....                                   | 3  |
| III. SCOPE OF SERVICES: .....                          | 3  |
| IV. SCHEDULE OF EVENTS:.....                           | 5  |
| V. CONFLICTS AND QUESTIONS:.....                       | 5  |
| VI. PROPOSAL PREPARATION AND INSTRUCTIONS:.....        | 5  |
| VII. SPECIFIC PROPOSAL INSTRUCTIONS: .....             | 6  |
| VIII. DISCLOSURE OF PROPOSAL CONTENTS: .....           | 8  |
| IX. SUBMITTAL PROCESS AND INFORMATION: .....           | 8  |
| X. SELECTION CRITERIA: .....                           | 9  |
| XI. ORAL PRESENTATIONS .....                           | 10 |
| XII. AWARD OF CONTRACTS:.....                          | 10 |
| XIII. CONTRACT TERM AND REGULATORY COMPLIANCE: .....   | 11 |
| XIV. PREPROPOSAL CONFERENCE:.....                      | 11 |
| Appendix A: Required General Terms and Conditions..... | 11 |
| Appendix B: Special Terms and Conditions.....          | 11 |

## I. PURPOSE:

The Virginia Redistricting Commission (the Commission) is issuing a request for proposals (RFP) from prospective qualified independent counsel for the purpose of providing expert legal and advisory services specific to the analysis and application of the Voting Rights Act (VRA) and other state and federal laws applicable to redistricting. The goal is to acquire **non-partisan** professional legal services from a highly qualified provider at a fair and reasonable price.

## II. BACKGROUND:

In 2020, Virginia voters amended the state constitution to put the power to draw state and congressional district lines in the hands of a commission comprised of citizens and legislators. The sixteen member commission constituted pursuant to Article II, Section 6-A of the Constitution of Virginia is charged with the timely creation of proposed district plans for submittal to the Virginia General Assembly. All meetings of the Commission are open to the public and all records and documents of the Commission, or of any individual or group performing delegated functions of or advising the Commission, related to the Commission's work, including internal communications and communications from outside parties, are considered public information. Such meetings and records are subject to the Virginia Freedom of Information Act. Pursuant to subsection H of § 30-392 of the Code of Virginia, in the event the Commission hires a lawyer or law firm, the Commission as an entity is the client of the lawyer or the law firm. No individual commissioner or group of commissioners shall be considered to be the client of the lawyer or the law firm.

## III. SCOPE OF SERVICES:

- A. The Commission is seeking proposals from qualified, licensed, and bonded Lawyers or Law Firms (the Offeror) to provide all the necessary services required under the solicitation for a wide range of legal services related to state and congressional redistricting. Selected counsel must represent the Commission in a **non-partisan** manner and be able to work with members from all political persuasions in a highly politically charged environment.
- B. The Offeror shall furnish all personnel and supplies/materials, to perform and complete all work required to provide Professional Legal Services to support the Commission in accordance with Scope of Services described herein.
- C. The Offeror agrees to hold itself at all times ready and available to provide the legal services call for under the terms of this solicitation and subsequent contract, and to refrain from accepting employment from other clients which may be in conflict with the duties assumed by the Offeror in support of a contract pursuant to this solicitation.
- D. The required legal and advisory services may include, but will not be limited to, legal support to the Commission as well as Commission staff, attorneys and consultants regarding the redistricting process based on publicly available data, specifically as it relates to compliance with the federal Voting Rights Act and similar criteria outlined in § 24.2-304.04 of the Code of Virginia.

E. Any Offeror selected by the Commission will be required to enter into a contract for the work described in this RFP. It is anticipated that work will begin as soon as practicable following the RFP selection process and continue through approximately November, 2021.

F. The Offeror must have demonstrated expertise in the federal Voting Rights Act and the application of it in evaluating redistricting plans during a redistricting process. In addition, expertise with Virginia election law (Title 24.2 of the Code of Virginia) and relevant federal and state case law are preferred. Participation in public meetings as requested by the Commission is required.

G. Qualifications and responsibilities for an Offeror are as follows 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. Work with and advise the Commission, its staff, attorneys and consultants with respect to legal issues (in particular pertaining to the Voting Rights Act) in connection with drawing new district boundaries and advise the Commission, its staff, attorneys, and consultants as to the procedures, legality of documents, policy concerns, and legal implications concerning redistricting activities.
3. Advise the Commission, its staff, attorneys, 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 relevant case law. This advice will require the use and analysis of Racially Polarized Voting data developed by consultants obtained by either legal counsel or the Commission, as decided by the Commission.
4. Advise the Commission, its staff, attorneys and consultants of litigation risks associated with redistricting activities and approaches to limit such risks.
5. Participate in litigation or provide expert witness services related to compliance with the Voting Rights Act as well as state and federal laws.
6. Attend various meetings and hearings, including but not limited to Commission public meetings and hearings when requested by Commission members or its staff.

H. Contractors, subcontractors, and employees must be in compliance with any applicable law or policy at all times, and if an attorney be in good standing with the Virginia State Bar through the full contract term and any extensions. If the Offeror is not licensed to practice in the Commonwealth of Virginia, please provide information on local counsel that would be engaged or the process that would be used to select local counsel if direct representation becomes necessary, and whether their role is anticipated to be advisory or more substantive in nature. The Offeror must possess the skill, experience, ability, background, certification, and knowledge to provide the services described on the terms and conditions described herein.

#### IV. SCHEDULE OF EVENTS:

| <b><u>Action</u></b>                         | <b><u>Time</u></b> | <b><u>Date</u></b> |
|--|--------------------|--------------------|
| Issuance of RFP                              |                    | June 8, 2021       |
| Questions Due                                | 5:00 PM (EST)      | June 14, 2021      |
| Responses to Questions Posted to the Website | 5:00 PM (EST)      | June 15, 2021      |
| Submissions Due                              | 5:00 PM (EST)      | June 18, 2021      |
| Evaluation Period                            |                    | June 18-25         |
| Interview Period                             |                    | June 25- July 2    |
| Selection                                    |                    | July 5             |
| Contract Award and Execution                 |                    | July 12            |

#### V. CONFLICTS AND QUESTIONS:

Should there be conflicts between any proposal documents and the final executed contract document; the final executed contract shall take precedence. All questions and requests for clarification must be received by the Division of Legislative Services before 5:00 PM (EST) on June 15, 2021.

#### VI. PROPOSAL PREPARATION AND INSTRUCTIONS:

A. In order to be considered for selection, Offerors must submit a complete response to this solicitation. One (1) original (specifically marked “Original”), one (1) digital, seven (16) hard copies and one redacted copy if invoking trade secrets or proprietary information under § 2.2-4342 of the Code of Virginia, of the proposal must be submitted to the Division of Legislative Services. No other distribution of the proposal shall be made by the Offeror.

1. Proposals shall be signed by an authorized representative of the Offeror. All information requested must be submitted. Failure to submit all information requested may result in the Division of Legislative Services requiring prompt submission of missing information, giving a lowered evaluation of the proposal, and/or finding the proposal non responsive. Mandatory

requirements are those required by law or such that they are determined in the sole discretion of the Budget and Finance Subcommittee of the Commission to be formalities that cannot be waived and are not subject to negotiation.

2. Proposals should be prepared simply and economically, providing a straightforward, concise description of capabilities to satisfy the requirements of the RFP. Emphasis should be placed on completeness and clarity of content. Elaborate brochures and excessive promotional materials are not required or desired.

3. Proposals should be organized in the order in which the requirements are presented in the RFP. All pages of the proposal should be numbered. Each paragraph should reference the paragraph number of the corresponding section of the RFP. It is also helpful to cite the paragraph number, sub-number, and repeat the text of the requirement as it appears in the RFP. If a response covers more than one page, the paragraph number and sub-number should be cross repeated at the top of the next page. The proposal should contain a table of contents which cross references the RFP requirements. Information which the Offeror desires to present that does not fall within an area of the requirement of the RFP should be inserted at an appropriate place or be attached at the end of the proposal and designated as additional material. Proposals that are not organized in this manner risk elimination from consideration if the evaluators are unable to find where the RFP requirements are specifically addressed

## VII. SPECIFIC PROPOSAL INSTRUCTIONS:

A. Offerors interested in performing the legal services as described herein are asked to submit the following information formatted into Sections 1-5 as requested below. Responses should not exceed 20 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 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 you would prefer to be responsible to obtain an Racially Polarized Voting 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 Offerors should describe their overall approach to handling redistricting matters. If the Offeror is 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
- (g) Identification of three (3) major cases or other matters in which the lawyer has participated, together with the names, addresses, and telephone number of all co-counsel and opposing counsel involved.

Please end with a summary of how the Offeror's experience prepares them to perform the services sought by this RFP.

#### 4. Conflicts of Interest

The Commission has expressed a desire to contract with private counsel in a manner that promotes public confidence in its independence and impartiality. The Offeror shall provide the following as part of this Solicitation:

- (a) Identification of any actual, as well as potential, conflicts of interest under either the Rules of Professional Conduct which govern attorneys or the state conflict-of-interest statutes.
- (b) Identification of any current or previous political activity or representation, whether as a candidate, a lobbyist, an officer of a political committee, campaign worker or fundraiser, or as an attorney for the above or for any political party or governmental or political entity. Offerors with a history of representing or contributing to partisan interests should explain why such activities should not disqualify them for the position of nonpartisan legal counsel.
- (c) Whether the lawyer(s) has ever been subject to any disciplinary proceeding or been sanctioned by a court.

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.

#### 5. 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 November, 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.

## VIII. DISCLOSURE OF PROPOSAL CONTENTS:

Offerors should be aware that, with the exception of trade secrets or proprietary information under § 2.2-4342 of the Code of Virginia, the contents of proposals will be made public as will the terms of any contract entered into with an Offeror or Offerors selected by the commission. The Commission may use any ideas presented in any proposal. Selection or rejection of a proposal does not affect this provision.

## IX. SUBMITTAL PROCESS AND INFORMATION:

A. One (1) original (specifically marked “Original”), one (1) digital, and seven (16) hard copies of the proposal shall be submitted. Facsimile copies will not be accepted. Sealed proposals should be delivered to the Virginia Division of Legislative Services

B. Offerors that submit a response to this RFP may be required to make an oral presentation of their proposal with participation by key personnel pursuant to Section XI. The Budget and Finance Subcommittee reserves the right to request clarification of information submitted. Failure to provide this additional information within a reasonable time period, as specified by the Commission, the Budget and Finance Subcommittee, or Commission staff, shall be reason for the Offeror’s proposal to be considered non-responsive.

C. The Commission shall not be responsible for any expense incurred by the Offeror in preparing and submitting a proposal, for answering any subsequent inquiries, interviews for evaluation, or contract negotiations. All submissions are final.

D. Ownership of all data, materials and documentation originated and prepared pursuant to the RFP shall belong exclusively to the Commission and shall be subject to public inspection in accordance with the Virginia Freedom of Information Act and Virginia Public Procurement Act. Data, materials, and documents prepared in furtherance of any contract issued as a result of this RFP shall not be distributed to any third parties without the Commission’s authorization. Any requests for data, materials, and documents by third parties (other than approved subconsultants) made to a Consultant prepared in furtherance of any contract issued as a result of this RFP should be redirected to the Commission as the owner and custodian of the records.

Trade secrets or proprietary information submitted by the Offeror shall not be subject to public disclosure under the Virginia Freedom of Information Act, provided that the Offeror invokes the protection of Section 2.2-4342 of the Code of Virginia, in writing, either before or at the time the data is submitted. The written notice must specifically identify the data or materials to be protected and state the reasons why protection is necessary. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must be indicated on the specific words, figures, or paragraphs that constitute trade secret or proprietary information. The classification of an entire proposal as proprietary or trade secrets is not acceptable and will result in rejection and return of the proposal.

E. Late Proposals: To be considered for selection, proposals must be received in the issuing agency's office by the designated date and hour. Proposals received in the issuing office after the date and hour designated may be disqualified and may not be considered. The Commission is not responsible for delays in the delivery of mail by the U.S. Postal Service or private couriers. It is the sole responsibility of the Offeror to insure that its proposal reaches the issuing agency's office by the designated date and hour. Receipt of proposals scheduled during a period of suspended Commission business operations will be rescheduled for processing at the same time on the next business day.

**X. SELECTION CRITERIA:**

A. Evaluation of proposals shall be in accordance with Virginia Code § 2.2-4302.2(A)(4). A Selection Committee composed of representatives from the Budget and Finance Subcommittee will evaluate each proposal received and submit a recommendation. Selection will be made on the basis of responsive/responsible determination, qualifications and experience, references and resources.

B. The evaluation of the proposals and subsequent interview evaluations of the shortlisted candidates will focus on the following:

| <b><u>Factors</u></b>   | <b><u>Point Value</u></b> |
|---|---------------------------|
| <b>Qualifications and experience of Law Firm</b> , including (a) past performance on similar undertakings, (b) experience with similar clients, (c) qualifications and expertise of personnel and, (d) resources committed to the Commission.   | 30                        |
| <b>Demonstrated competence and knowledge.</b> General quality of submission, including (a) an understanding of the Commission's requirements under this RFP and (b) responsiveness to terms and conditions.   | 30                        |
| <b>Capacity and Resources.</b> The Offeror must have the capacity and resources to perform all of the previously-described services in a prompt, responsive manner and with excellent work quality in the timeframe needed.   | 30                        |
| <b>Client List Summary/References.</b><br>Provide a minimum of four (4) past or current clients where the Offeror has demonstrated its qualifications in any or all of the areas requested under this RFP. Must include the name, title, organization, address, telephone and e-mail address of the person most familiar with work completed. | 10                        |
| <b>Total</b>  | 100                       |

## XI. ORAL PRESENTATIONS

Offerors who submit a proposal in response to this RFP may be required to give an oral presentation of their proposal. This will provide an opportunity for the offeror to clarify or elaborate on the proposal. This is a fact finding and explanation session only and will not include negotiation. The Budget and Finance Subcommittee will schedule the time and location of these presentations. Oral presentations are an option of the Budget and Finance Subcommittee and may or may not be conducted. Should an Offeror receive a request for an oral presentation, the evaluation criteria relative to the oral presentation will be detailed in a written notice of the request.

## XII. AWARD OF CONTRACTS:

A. The Budget and Finance Subcommittee shall evaluate proposals received. The Subcommittee shall consider proposals that comply with the requirements contained in this RFP. Based on analysis of the proposals submitted by the Offerors, the Subcommittee shall rank the Offerors considered to be the most qualified based on the evaluation factors specified above.

B. The Commission shall engage in individual discussions with two or more Offerors deemed fully qualified, responsible and suitable on the basis of initial responses and ranking and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. The Offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. At the discussion stage, the Commission may discuss nonbinding estimates of total project costs, including, but not limited to, life-cycle costing, and where appropriate, nonbinding estimates of price for services. Proprietary information from competing Offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion, outlined in this subdivision, on the basis of evaluation factors published in the Request for Proposal and all information developed in the selection process to this point, the Commission shall select in the order of preference two or more Offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the Offeror ranked first. If a contract satisfactory and advantageous to the Commission can be negotiated at a price considered fair and reasonable, the award shall be made to that Offeror. Otherwise, negotiations with the Offeror ranked first shall be formally terminated and negotiations conducted with the Offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Should the Subcommittee or the Commission determine in writing and in its sole discretion that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded solely to that Offeror. If multiple contracts are to be awarded, the Commission may begin negotiations with the top two ranked Offerors and proceed down the ranking until the sought after number of fair and reasonable contracts can be negotiated.

C. Any and all costs associated with the preparation of responses to this Request for Proposals, including site visits, oral presentations and any other costs shall be entirely the responsibility of the Offeror and shall not be reimbursable in any manner by the Commission.

D. The Commission reserves the right to reject any or all proposals, to waive any technicalities in proposals received, and to negotiate and to accept the proposal which shall be in the Commission's best interest.

E. The Commission may cancel this Request for Proposals at any time prior to an award, and is not required to furnish a reason why a particular proposal was not deemed the most advantageous.

### XIII. CONTRACT TERM AND REGULATORY COMPLIANCE:

Contract term shall be for four (4) months from the date of execution, with monthly renewal options not to exceed a total of one (1) year.

### XIV. PREPROPOSAL CONFERENCE:

No pre-proposal conference is scheduled for this procurement.

Appendix A: Required General Terms and Conditions

Appendix B: Special Terms and Conditions

REQUEST FOR PROPOSALS (RFP)  
PROFESSIONAL SERVICES

ISSUE DATE: June 8, 2021  
TITLE: Legal Services (Republican)  
ISSUED BY: the Virginia Redistricting Commission  
PERIOD OF CONTRACT: Four (4) months from the date of execution, with monthly  
renewal options not to exceed a total of one (1) year.

**Proposals for the above titled project will be received until 5:00 PM (EST) on June 18, 2021. Any proposals received after the specified time and date will not be considered. See Section VI and VII for specific instructions for the completion of proposals.**

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TABLE OF CONTENTS  
REQUEST FOR PROPOSALS  
LEGAL SERVICES

Contents

|  |    |
|--|----|
| I. PURPOSE:.....                                       | 3  |
| II. BACKGROUND:.....                                   | 3  |
| III. SCOPE OF SERVICES: .....                          | 3  |
| IV. SCHEDULE OF EVENTS:.....                           | 5  |
| V. CONFLICTS AND QUESTIONS:.....                       | 5  |
| VI. PROPOSAL PREPARATION AND INSTRUCTIONS:.....        | 5  |
| VII. SPECIFIC PROPOSAL INSTRUCTIONS: .....             | 6  |
| VIII. DISCLOSURE OF PROPOSAL CONTENTS: .....           | 8  |
| IX. SUBMITTAL PROCESS AND INFORMATION: .....           | 8  |
| X. SELECTION CRITERIA: .....                           | 9  |
| XI. ORAL PRESENTATIONS .....                           | 10 |
| XII. AWARD OF CONTRACTS:.....                          | 10 |
| XIII. CONTRACT TERM AND REGULATORY COMPLIANCE: .....   | 11 |
| XIV. PREPROPOSAL CONFERENCE:.....                      | 11 |
| Appendix A: Required General Terms and Conditions..... | 11 |
| Appendix B: Special Terms and Conditions.....          | 11 |

## I. PURPOSE:

The Virginia Redistricting Commission (the Commission) is issuing a request for proposals (RFP) from prospective qualified independent counsel for the purpose of providing expert legal and advisory services specific to the analysis and application of the Voting Rights Act (VRA) and other state and federal laws applicable to redistricting. The goal is to acquire professional legal services from a highly qualified provider with a demonstrated background representing Republican Party institutions or individuals in or affiliated with such institutions at a fair and reasonable price.

## II. BACKGROUND:

In 2020, Virginia voters amended the state constitution to put the power to draw state and congressional district lines in the hands of a commission comprised of citizens and legislators. The sixteen member commission constituted pursuant to Article II, Section 6-A of the Constitution of Virginia is charged with the timely creation of proposed district plans for submittal to the Virginia General Assembly. All meetings of the Commission are open to the public and all records and documents of the Commission, or of any individual or group performing delegated functions of or advising the Commission, related to the Commission's work, including internal communications and communications from outside parties, are considered public information. Such meetings and records are subject to the Virginia Freedom of Information Act. Pursuant to subsection H of § 30-392 of the Code of Virginia, in the event the Commission hires a lawyer or law firm, the Commission as an entity is the client of the lawyer or the law firm. No individual commissioner or group of commissioners shall be considered to be the client of the lawyer or the law firm.

## III. SCOPE OF SERVICES:

- A. The Commission is seeking proposals from qualified, licensed, and bonded Lawyers or Law Firms (the Offeror) with a demonstrated background representing Republican Party institutions or individuals in or affiliated with such institutions to provide all the necessary services required under the solicitation for a wide range of legal services related to state and congressional redistricting. Selected counsel must be able to work with members from all political persuasions in a highly politically charged environment.
- B. The Offeror shall furnish all personnel and supplies/materials, to perform and complete all work required to provide Professional Legal Services to support the Commission in accordance with Scope of Services described herein.
- C. The Offeror agrees to hold itself at all times ready and available to provide the legal services call for under the terms of this solicitation and subsequent contract, and to refrain from accepting employment from other clients which may be in conflict with the duties assumed by the Offeror in support of a contract pursuant to this solicitation.
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4. Advise the Commission, its staff, attorneys and consultants of litigation risks associated with redistricting activities and approaches to limit such risks.
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#### IV. SCHEDULE OF EVENTS:

| <b><u>Action</u></b>                         | <b><u>Time</u></b> | <b><u>Date</u></b> |
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| Issuance of RFP                              |                    | June 8, 2021       |
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### 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 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 and Political Affiliation

All Offerors should describe their overall approach to handling redistricting matters. If the Offeror is a law firm or other entity, provide a general description of the firm. The offeror should identify any current or previous political activity or representation, whether as a candidate, a lobbyist, an officer of a political committee, campaign worker or fundraiser, or as an attorney for the above or for any political party or governmental or political entity.

### 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
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- (f) Any relevant published work
- (g) Identification of three (3) major cases or other matters in which the lawyer has participated, together with the names, addresses, and telephone number of all co-counsel and opposing counsel involved.

Please end with a summary of how the Offeror's experience prepares them to perform the services sought by this RFP.

#### 4. Conflicts of Interest

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- (a) Identification of any actual, as well as potential, conflicts of interest under either the Rules of Professional Conduct which govern attorneys or the state conflict-of-interest statutes.
- ~~(b) Identification of any current or previous political activity or representation, whether as a candidate, a lobbyist, an officer of a political committee, campaign worker or fundraiser, or as an attorney for the above or for any political party or governmental or political entity.~~
- (c) Whether the lawyer(s) has ever been subject to any disciplinary proceeding or been sanctioned by a court.

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.

#### 5. 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 November, 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.

#### VIII. DISCLOSURE OF PROPOSAL CONTENTS:

Offerors should be aware that, with the exception of trade secrets or proprietary information under § 2.2-4342 of the Code of Virginia, the contents of proposals will be made public as will the terms of any contract entered into with an Offeror or Offerors selected by the commission. The Commission may use any ideas presented in any proposal. Selection or rejection of a proposal does not affect this provision.

#### IX. SUBMITTAL PROCESS AND INFORMATION:

A. One (1) original (specifically marked “Original”), one (1) digital, and seven (16) hard copies of the proposal shall be submitted. Facsimile copies will not be accepted. Sealed proposals should be delivered to the Virginia Division of Legislative Services

B. Offerors that submit a response to this RFP may be required to make an oral presentation of their proposal with participation by key personnel pursuant to Section XI. The Budget and Finance Subcommittee reserves the right to request clarification of information submitted. Failure to provide this additional information within a reasonable time period, as specified by the Commission, the Budget and Finance Subcommittee, or Commission staff, shall be reason for the Offeror’s proposal to be considered non-responsive.

C. The Commission shall not be responsible for any expense incurred by the Offeror in preparing and submitting a proposal, for answering any subsequent inquiries, interviews for evaluation, or contract negotiations. All submissions are final.

D. Ownership of all data, materials and documentation originated and prepared pursuant to the RFP shall belong exclusively to the Commission and shall be subject to public inspection in accordance with the Virginia Freedom of Information Act and Virginia Public Procurement Act. Data, materials, and documents prepared in furtherance of any contract issued as a result of this RFP shall not be distributed to any third parties without the Commission’s authorization. Any requests for data, materials, and documents by third parties (other than approved subconsultants) made to a Consultant prepared in furtherance of any contract issued as a result of this RFP should be redirected to the Commission as the owner and custodian of the records.

Trade secrets or proprietary information submitted by the Offeror shall not be subject to public disclosure under the Virginia Freedom of Information Act, provided that the Offeror invokes the protection of Section 2.2-4342 of the Code of Virginia, in writing, either before or at the time the data is submitted. The written notice must specifically identify the data or materials to be protected and state the reasons why protection is necessary. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or

underlining and must be indicated on the specific words, figures, or paragraphs that constitute trade secret or proprietary information. The classification of an entire proposal as proprietary or trade secrets is not acceptable and will result in rejection and return of the proposal.

E. Late Proposals: To be considered for selection, proposals must be received in the issuing agency's office by the designated date and hour. Proposals received in the issuing office after the date and hour designated may be disqualified and may not be considered. The Commission is not responsible for delays in the delivery of mail by the U.S. Postal Service or private couriers. It is the sole responsibility of the Offeror to insure that its proposal reaches the issuing agency's office by the designated date and hour. Receipt of proposals scheduled during a period of suspended Commission business operations will be rescheduled for processing at the same time on the next business day.

## X. SELECTION CRITERIA:

A. Evaluation of proposals shall be in accordance with Virginia Code § 2.2-4302.2(A)(4). A Selection Committee composed of representatives from the Budget and Finance Subcommittee will evaluate each proposal received and submit a recommendation. Selection will be made on the basis of responsive/responsible determination, qualifications and experience, references and resources.

B. The evaluation of the proposals and subsequent interview evaluations of the shortlisted candidates will focus on the following:

| <b><u>Factors</u></b>   | <b><u>Point Value</u></b> |
|---|---------------------------|
| <b>Qualifications and experience of Law Firm</b> , including (a) past performance on similar undertakings, (b) experience with similar clients, (c) qualifications and expertise of personnel and, (d) resources committed to the Commission.   | 30                        |
| <b>Demonstrated competence and knowledge.</b> General quality of submission, including (a) an understanding of the Commission's requirements under this RFP and (b) responsiveness to terms and conditions.   | 30                        |
| <b>Capacity and Resources.</b> The Offeror must have the capacity and resources to perform all of the previously-described services in a prompt, responsive manner and with excellent work quality in the timeframe needed.   | 30                        |
| <b>Client List Summary/References.</b><br>Provide a minimum of four (4) past or current clients where the Offeror has demonstrated its qualifications in any or all of the areas requested under this RFP. Must include the name, title, organization, address, telephone and e-mail address of the person most familiar with work completed. | 10                        |

|              |     |
|--------------|-----|
|              |     |
| <b>Total</b> | 100 |

## XI. ORAL PRESENTATIONS

Offerors who submit a proposal in response to this RFP may be required to give an oral presentation of their proposal. This will provide an opportunity for the offeror to clarify or elaborate on the proposal. This is a fact finding and explanation session only and will not include negotiation. The Budget and Finance Subcommittee will schedule the time and location of these presentations. Oral presentations are an option of the Budget and Finance Subcommittee and may or may not be conducted. Should an Offeror receive a request for an oral presentation, the evaluation criteria relative to the oral presentation will be detailed in a written notice of the request.

## XII. AWARD OF CONTRACTS:

A. The Budget and Finance Subcommittee shall evaluate proposals received. The Subcommittee shall consider proposals that comply with the requirements contained in this RFP. Based on analysis of the proposals submitted by the Offerors, the Subcommittee shall rank the Offerors considered to be the most qualified based on the evaluation factors specified above.

B. The Commission shall engage in individual discussions with two or more Offerors deemed fully qualified, responsible and suitable on the basis of initial responses and ranking and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. The Offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. At the discussion stage, the Commission may discuss nonbinding estimates of total project costs, including, but not limited to, life-cycle costing, and where appropriate, nonbinding estimates of price for services. Proprietary information from competing Offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion, outlined in this subdivision, on the basis of evaluation factors published in the Request for Proposal and all information developed in the selection process to this point, the Commission shall select in the order of preference two or more Offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the Offeror ranked first. If a contract satisfactory and advantageous to the Commission can be negotiated at a price considered fair and reasonable, the award shall be made to that Offeror. Otherwise, negotiations with the Offeror ranked first shall be formally terminated and negotiations conducted with the Offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price. Should the Subcommittee or the Commission determine in writing and in its sole discretion that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded solely to that Offeror. If multiple contracts are to be awarded, the Commission may begin negotiations with the top two ranked

Offerors and proceed down the ranking until the sought after number of fair and reasonable contracts can be negotiated.

C. Any and all costs associated with the preparation of responses to this Request for Proposals, including site visits, oral presentations and any other costs shall be entirely the responsibility of the Offeror and shall not be reimbursable in any manner by the Commission.

D. The Commission reserves the right to reject any or all proposals, to waive any technicalities in proposals received, and to negotiate and to accept the proposal which shall be in the Commission's best interest.

E. The Commission may cancel this Request for Proposals at any time prior to an award, and is not required to furnish a reason why a particular proposal was not deemed the most advantageous.

### XIII. CONTRACT TERM AND REGULATORY COMPLIANCE:

Contract term shall be for four (4) months from the date of execution, with monthly renewal options not to exceed a total of one (1) year.

### XIV. PREPROPOSAL CONFERENCE:

No pre-proposal conference is scheduled for this procurement.

Appendix A: Required General Terms and Conditions

Appendix B: Special Terms and Conditions

REQUEST FOR PROPOSALS (RFP)  
PROFESSIONAL SERVICES

ISSUE DATE: June 8, 2021  
TITLE: Legal Services (Democratic)  
ISSUED BY: the Virginia Redistricting Commission  
PERIOD OF CONTRACT: Four (4) months from the date of execution, with monthly  
renewal options not to exceed a total of one (1) year.

**Proposals for the above titled project will be received until 5:00 PM (EST) on June 18, 2021. Any proposals received after the specified time and date will not be considered. See Section VI and VII for specific instructions for the completion of proposals.**

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TABLE OF CONTENTS  
REQUEST FOR PROPOSALS  
LEGAL SERVICES

Contents

|  |    |
|--|----|
| I. PURPOSE:.....                                       | 3  |
| II. BACKGROUND:.....                                   | 3  |
| III. SCOPE OF SERVICES: .....                          | 3  |
| IV. SCHEDULE OF EVENTS:.....                           | 5  |
| V. CONFLICTS AND QUESTIONS:.....                       | 5  |
| VI. PROPOSAL PREPARATION AND INSTRUCTIONS:.....        | 5  |
| VII. SPECIFIC PROPOSAL INSTRUCTIONS: .....             | 6  |
| VIII. DISCLOSURE OF PROPOSAL CONTENTS: .....           | 8  |
| IX. SUBMITTAL PROCESS AND INFORMATION: .....           | 8  |
| X. SELECTION CRITERIA: .....                           | 9  |
| XI. ORAL PRESENTATIONS .....                           | 10 |
| XII. AWARD OF CONTRACTS:.....                          | 10 |
| XIII. CONTRACT TERM AND REGULATORY COMPLIANCE: .....   | 11 |
| XIV. PREPROPOSAL CONFERENCE:.....                      | 11 |
| Appendix A: Required General Terms and Conditions..... | 11 |
| Appendix B: Special Terms and Conditions.....          | 11 |

## I. PURPOSE:

The Virginia Redistricting Commission (the Commission) is issuing a request for proposals (RFP) from prospective qualified independent counsel for the purpose of providing expert legal and advisory services specific to the analysis and application of the Voting Rights Act (VRA) and other state and federal laws applicable to redistricting. The goal is to acquire professional legal services from a highly qualified provider with a demonstrated background representing Democratic Party institutions or individuals in or affiliated with such institutions at a fair and reasonable price.

## II. BACKGROUND:

In 2020, Virginia voters amended the state constitution to put the power to draw state and congressional district lines in the hands of a commission comprised of citizens and legislators. The sixteen member commission constituted pursuant to Article II, Section 6-A of the Constitution of Virginia is charged with the timely creation of proposed district plans for submittal to the Virginia General Assembly. All meetings of the Commission are open to the public and all records and documents of the Commission, or of any individual or group performing delegated functions of or advising the Commission, related to the Commission's work, including internal communications and communications from outside parties, are considered public information. Such meetings and records are subject to the Virginia Freedom of Information Act. Pursuant to subsection H of § 30-392 of the Code of Virginia, in the event the Commission hires a lawyer or law firm, the Commission as an entity is the client of the lawyer or the law firm. No individual commissioner or group of commissioners shall be considered to be the client of the lawyer or the law firm.

## III. SCOPE OF SERVICES:

- A. The Commission is seeking proposals from qualified, licensed, and bonded Lawyers or Law Firms (the Offeror) with a demonstrated background representing Democratic Party institutions or individuals in or affiliated with such institutions to provide all the necessary services required under the solicitation for a wide range of legal services related to state and congressional redistricting. Selected counsel must be able to work with members from all political persuasions in a highly politically charged environment.
- B. The Offeror shall furnish all personnel and supplies/materials, to perform and complete all work required to provide Professional Legal Services to support the Commission in accordance with Scope of Services described herein.
- C. The Offeror agrees to hold itself at all times ready and available to provide the legal services call for under the terms of this solicitation and subsequent contract, and to refrain from accepting employment from other clients which may be in conflict with the duties assumed by the Offeror in support of a contract pursuant to this solicitation.
- D. The required legal and advisory services may include, but will not be limited to, legal support to the Commission as well as Commission staff, attorneys and consultants regarding the redistricting process based on publicly available data, specifically as it relates to compliance with the federal Voting Rights Act and similar criteria outlined in § 24.2-304.04 of the Code of Virginia.

E. Any Offeror selected by the Commission will be required to enter into a contract for the work described in this RFP. It is anticipated that work will begin as soon as practicable following the RFP selection process and continue through approximately November, 2021.

F. The Offeror must have demonstrated expertise in the federal Voting Rights Act and the application of it in evaluating redistricting plans during a redistricting process. In addition, expertise with Virginia election law (Title 24.2 of the Code of Virginia) and relevant federal and state case law are preferred. Participation in public meetings as requested by the Commission is required.

G. Qualifications and responsibilities for an Offeror are as follows 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. Work with and advise the Commission, its staff, attorneys and consultants with respect to legal issues (in particular pertaining to the Voting Rights Act) in connection with drawing new district boundaries and advise the Commission, its staff, attorneys, and consultants as to the procedures, legality of documents, policy concerns, and legal implications concerning redistricting activities.
3. Advise the Commission, its staff, attorneys, 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 relevant case law. This advice will require the use and analysis of Racially Polarized Voting data developed by consultants obtained by either legal counsel or the Commission, as decided by the Commission.
4. Advise the Commission, its staff, attorneys and consultants of litigation risks associated with redistricting activities and approaches to limit such risks.
5. Participate in litigation or provide expert witness services related to compliance with the Voting Rights Act as well as state and federal laws.
6. Attend various meetings and hearings, including but not limited to Commission public meetings and hearings when requested by Commission members or its staff.

H. Contractors, subcontractors, and employees must be in compliance with any applicable law or policy at all times, and if an attorney be in good standing with the Virginia State Bar through the full contract term and any extensions. If the Offeror is not licensed to practice in the Commonwealth of Virginia, please provide information on local counsel that would be engaged or the process that would be used to select local counsel if direct representation becomes necessary, and whether their role is anticipated to be advisory or more substantive in nature. The Offeror must possess the skill, experience, ability, background, certification, and knowledge to provide the services described on the terms and conditions described herein.

#### IV. SCHEDULE OF EVENTS:

| <b>Action</b>                                | <b>Time</b>   | <b>Date</b>     |
|--|---------------|-----------------|
| Issuance of RFP                              |               | June 8, 2021    |
| Questions Due                                | 5:00 PM (EST) | June 14, 2021   |
| Responses to Questions Posted to the Website | 5:00 PM (EST) | June 15, 2021   |
| Submissions Due                              | 5:00 PM (EST) | June 18, 2021   |
| Evaluation Period                            |               | June 18-25      |
| Interview Period                             |               | June 25- July 2 |
| Selection                                    |               | July 5          |
| Contract Award and Execution                 |               | July 12         |

#### V. CONFLICTS AND QUESTIONS:

Should there be conflicts between any proposal documents and the final executed contract document; the final executed contract shall take precedence. All questions and requests for clarification must be received by the Division of Legislative Services before 5:00 PM (EST) on June 15, 2021.

#### VI. PROPOSAL PREPARATION AND INSTRUCTIONS:

A. In order to be considered for selection, Offerors must submit a complete response to this solicitation. One (1) original (specifically marked "Original"), one (1) digital, seven (16) hard copies and one redacted copy if invoking trade secrets or proprietary information under § 2.2-4342 of the Code of Virginia, of the proposal must be submitted to the Division of Legislative Services. No other distribution of the proposal shall be made by the Offeror.

1. Proposals shall be signed by an authorized representative of the Offeror. All information requested must be submitted. Failure to submit all information requested may result in the Division of Legislative Services requiring prompt submission of missing information, giving a lowered evaluation of the proposal, and/or finding the proposal non responsive. Mandatory

requirements are those required by law or such that they are determined in the sole discretion of the Budget and Finance Subcommittee of the Commission to be formalities that cannot be waived and are not subject to negotiation.

2. Proposals should be prepared simply and economically, providing a straightforward, concise description of capabilities to satisfy the requirements of the RFP. Emphasis should be placed on completeness and clarity of content. Elaborate brochures and excessive promotional materials are not required or desired.

3. Proposals should be organized in the order in which the requirements are presented in the RFP. All pages of the proposal should be numbered. Each paragraph should reference the paragraph number of the corresponding section of the RFP. It is also helpful to cite the paragraph number, sub-number, and repeat the text of the requirement as it appears in the RFP. If a response covers more than one page, the paragraph number and sub-number should be cross repeated at the top of the next page. The proposal should contain a table of contents which cross references the RFP requirements. Information which the Offeror desires to present that does not fall within an area of the requirement of the RFP should be inserted at an appropriate place or be attached at the end of the proposal and designated as additional material. Proposals that are not organized in this manner risk elimination from consideration if the evaluators are unable to find where the RFP requirements are specifically addressed

## VII. SPECIFIC PROPOSAL INSTRUCTIONS:

A. Offerors interested in performing the legal services as described herein are asked to submit the following information formatted into Sections 1-5 as requested below. Responses should not exceed 20 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 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 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 and Political Affiliation

All Offerors should describe their overall approach to handling redistricting matters. If the Offeror is a law firm or other entity, provide a general description of the firm. The offeror should identify any current or previous political activity or representation, whether as a candidate, a lobbyist, an officer of a political committee, campaign worker or fundraiser, or as an attorney for the above or for any political party or governmental or political entity.

### 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
- (g) Identification of three (3) major cases or other matters in which the lawyer has participated, together with the names, addresses, and telephone number of all co-counsel and opposing counsel involved.

Please end with a summary of how the Offeror's experience prepares them to perform the services sought by this RFP.

#### 4. Conflicts of Interest

The Commission has expressed a desire to contract with private counsel in a manner that promotes public confidence in its independence and impartiality. The Offeror shall provide the following as part of this Solicitation:

- (a) Identification of any actual, as well as potential, conflicts of interest under either the Rules of Professional Conduct which govern attorneys or the state conflict-of-interest statutes.
- ~~(b) Identification of any current or previous political activity or representation, whether as a candidate, a lobbyist, an officer of a political committee, campaign worker or fundraiser, or as an attorney for the above or for any political party or governmental or political entity.~~
- (c) Whether the lawyer(s) has ever been subject to any disciplinary proceeding or been sanctioned by a court.

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.

#### 5. 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 November, 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.

#### VIII. DISCLOSURE OF PROPOSAL CONTENTS:

Offerors should be aware that, with the exception of trade secrets or proprietary information under § 2.2-4342 of the Code of Virginia, the contents of proposals will be made public as will the terms of any contract entered into with an Offeror or Offerors selected by the commission. The Commission may use any ideas presented in any proposal. Selection or rejection of a proposal does not affect this provision.

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| <b><u>Factors</u></b>   | <b><u>Point Value</u></b> |
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| <b>Qualifications and experience of Law Firm</b> , including (a) past performance on similar undertakings, (b) experience with similar clients, (c) qualifications and expertise of personnel and, (d) resources committed to the Commission.   | 30                        |
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| <b>Total</b> | 100 |

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