



June 30, 2020

Elaine M. Howle
California State Auditor
621 Capitol Mall
Sacramento, CA 95814
Transmitted via electronic mail

RE: California State Auditor’s Request for Proposal No. 21-01

Dear State Auditor Howle:

We write today to urge you to withdraw Request for Proposal No. 21-01 (Line Drawing and Technical Services for Districting), posted by your office on June 15, 2020. This RFP should be developed and issued by the next California Citizens Redistricting Commission (CRC). It is critical that your office honor the purpose of the CRC, which is to be fully independent, transparent and open to public engagement. We believe the premature publication of RFP No. 21-01 undermines that intent in critical ways by (a) infringing on the new CRC’s authority to determine the qualifications and criteria it will use in selecting its demographer and (b) stripping the public of its ability to engage with the CRC as it makes critical determinations about its operations, hiring, and the public mapping process.

Our organizations include the chief proponents of the propositions that launched California’s independent redistricting process; civil rights organizations that ensure redistricting complies with state and federal law, including the federal Voting Rights Act; and statewide alliances of dozens of grassroots, community-based organizations that engage California’s diverse communities in our democracy. Together, our organizations have worked in collaboration with your office to ensure a broad set of stakeholders applied for and engaged in the selection process for the next CRC.

We appreciate and commend the work your office is doing to facilitate the selection, seating, and support of the next CRC. We understand this includes setting up the new CRC for success by ensuring it has administrative support and training once it is seated. However, the primary line-drawing consultant, for which RFP No. 21-01 solicits proposals, is not an administrative position. To the contrary, the consultant will play one of the most critical, substantive roles in assisting the CRC with carrying out its responsibility to produce maps that meet state and federal constitutional and statutory criteria. This is why it is so important that the policy decisions underlying the formulation of the RFP, the responses to questions from potential bidders, and the ultimate selection of the line-drawing consultant should be made by the CRC through an open and public process.

Indeed, the CRC signals its intentions and goals for the public line-drawing process when it develops critical components of the RFP for the line-drawing consultant, including the line-drawer's role in the outreach and public input process, the number and mode of public meetings and hearings, and the timeline for the line-drawing process. However, RFP 21-01, drafted and posted before the new CRC has even been selected, does not reflect the new CRC's goals and plans for the public line-drawing process. Instead, it is modeled after the 2011 line-drawing consultant RFP and therefore reflects the thinking of the soon-to-be-former CRC and implies the California State Auditor's potential endorsement or preference for a particular process.

This situation is entirely avoidable by ensuring that the RFP for the line-drawing consultant is first issued by the CRC itself. We understand and appreciate that the State Auditor's office hopes to be as supportive of the CRC as possible by issuing the RFP in advance, and laying the foundation for the CRC so it can "hit the ground running" on the consultant selection. We also understand that assessments of the 2011 redistricting process highlighted the fact that the state's first Commission did not feel it had the time or the preparation to effectively address many urgent tasks from the outset. However, the State Auditor's issuance of the line-drawing consultant RFP is not needed to ameliorate this challenge. Advocates, policymakers, and the current CRC recognized this challenge. This is why the California legislature, at the urging of the current CRC, in 2012 passed SB 1096 (Senate Elections & Constitutional Amendments), which moved up the application and selection process for the CRC by four and one-half months with the specific intent that future commissions be given "more time to hire staff and consultants *in an open, public process.*"⁽¹⁾

Your office's premature posting of RFP 21-01 prevents the open, public hiring process recommended by the current CRC and intended by SB 1096. Not only was the proposal not drafted in an open process, the proposal submission deadline is prior to the deadline by which the CRC will even be seated or could have a first meeting. Further, your office's proposed window for awarding the line-drawing contract – this August or September – would occur before the new CRC is even fully trained on important concepts, like the Voting Rights Act and the Statewide Database. This training will inform the CRC's important, *public* discussions and decision-making about what it needs and seeks from the primary line-drawing consultant. These timelines reflect an unnecessary sense of urgency for the selection of a line-drawing consultant when there quite simply is no objective or practical reason to post the RFP well before the CRC has been selected, let alone more than a year before the current, constitutional deadline for map adoption.

The fact that the new CRC could arguably modify or reject the RFP, along with the proposals carefully drafted and already submitted by potential demographers, is problematic for two reasons. First, it puts the newly selected CRC in the uncomfortable position of deciding whether to modify or reject the work your office put into facilitating the RFP process and of possibly rejecting proposals that busy professionals took considerable time to draft. Second, it undermines the credibility of the RFP process and potentially the CRC, and could deter qualified line-drawing firms from re-applying or submitting proposals in the first instance.

Proceeding with an RFP that was not drafted by or with input from the new CRC will deprive the CRC of the valuable process of discussing and determining the role and deliverables for the primary line-drawing consultant, and will deprive the public of the opportunity to provide input on the critical policy decisions that go into the drafting of the RFP. Thus, your office's issuance of the RFP could needlessly undermine the independence and credibility of the redistricting process from its start.

For all of these reasons, we ask that you withdraw RFP 21-01 immediately and allow the new CRC to determine the content and timing of the RFP process for the primary line-drawing consultant. If you have any questions, please contact Lori Shellenberger, Redistricting Consultant, California Common Cause, at 917.226.0514.

Best regards,

Jonathan Mehta-Stein
Executive Director
California Common Cause

Thomas Saenz
President and General Counsel
MALDEF

Arturo Vargas
Chief Executive Officer
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Carol Moon Goldberg
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[¹] http://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201120120SB1096#
(emphasis added).