

Request for Information for Legal Services for the Colorado Independent Congressional Redistricting Commission

Inquiries and submittals should be directed to:

Jeremiah B. Barry, Managing Attorney
Independent Redistricting Commissions Staff
1580 Logan Street, Suite 420
Denver, Colorado 80203
(303) 866-4341
jerry.barry@state.co.us

I. General Information

- A. **Background:** Sections 44 to 44.6 of Article V of the Colorado Constitution, require the establishment of the Colorado Independent Congressional Redistricting Commission ("Congressional Commission") and requires it to redraw Colorado's congressional districts following each federal decennial census. The first Congressional Commission under these sections was convened on March 15, 2021. The constitution specifically authorizes the Congressional Commission to retain legal counsel.
- B. **Congressional Commission:** The Congressional Commission is composed of twelve members: four members who are registered with the Republican party, four members who are registered with the Democratic party, and four members who are not registered with any political party. The Congressional Commission is assisted by nonpartisan staff who were employed by nonpartisan service agencies of the Colorado General Assembly.
- C. **Expectations:** Section 44 (1) of Article V of the Colorado Constitution specifically declared that political gerrymandering of congressional districts must end. To that end, the Colorado Constitution created the Congressional Commission to include members of both major political parties and members who are unaffiliated with any political party. Selected counsel must represent the Congressional Commission in a nonpartisan manner and be able to work with members from all political persuasions in a highly politically charged environment.

II. Legal Work

- A. **General legal advice.** Selected legal counsel with the assistance of attorneys on the nonpartisan staff would be expected to provide general legal advice to

the Congressional Commission related to the Colorado constitutional provisions and Colorado laws governing their service as Commissioners. The scope of this work may include:

a. Administrative Law As a newly created independent entity, the Commission may have basic questions on how it should conduct itself and interpret the constitutional provisions concerning its work. This may also include:

1. Assessing rules and procedures to determine whether they meet constitutional requirements;
2. Assisting in handling and responding to records requests under the Colorado Open Records Act, C.R.S., §24-72-201, et seq.;
3. Assisting in handling and responding to any open meetings issues that may arise, including those pertaining to privileged executive sessions, pursuant to the Open Meetings Act, C.R.S., §24-6-201, et seq.;
4. Preparing necessary legal memoranda for the Congressional Commission that may include issues arising under the Colorado Constitution or Colorado law;
5. Assisting the Congressional Commission in potential issues raised by the Colorado General Assembly or the Governor;
6. Giving general advice and guidance to the Congressional Commission; and
7. At request of the Congressional Commission, attending Commission meetings, hearings on public testimony, and executive sessions.

b. Redistricting Law

8. Assessing maps and plans to determine whether they meet state and federal constitutional requirements;
9. Reviewing expert reports and advising the Congressional Commission on any legal issues identified; and
10. Preparing necessary legal memoranda on redistricting that may include issues arising under the federal constitution, the Colorado Constitution and laws, and the Voting Rights Act, including assessing and advising on implications of racial bloc voting analysis of districts.

B. Representation before the Colorado Supreme Court. While the Nonpartisan Staff of the Independent Congressional Redistricting Commission includes attorneys, those attorneys do not have recent experience in litigating cases or handling appeals. Pursuant to the Colorado constitution, after the

Congressional Commission approves a plan of congressional redistricting, it submits the plan, including maps of the districts and statements describing the plan and its implementation, to the Colorado Supreme Court for its approval. Following the submission of the plan, the Congressional Commission is to file explanatory materials and any legal memoranda in support of the plan. Following receipt of any statements of opposition to the plan filed with the court, the Congressional Commission may file a reply to the statements in opposition. The Supreme Court may also require oral arguments on issues raised in the pleadings. While the attorneys on the Nonpartisan Staff will assist in this work, it is anticipated that selected counsel will file necessary pleadings and appear at any oral arguments. The scope of this work may include:

1. Analyzing relevant redistricting cases from both Colorado and federal courts;
2. Advising and guiding on potential objections to plans;
3. Submitting final plan, exhibits, and legal memoranda in support of the plans to the Colorado Supreme Court;
4. Submitting replies to objections to the plan;
5. Filing and arguing any appropriate motion;
6. Presenting oral argument before the Colorado Supreme Court; and
7. Consulting and working with the Congressional Commission during the process before the Supreme Court.

C. **Census Data Delay.** Due to the COVID-19 pandemic, the United States Census Bureau will be unable to meet its statutory deadlines for both the necessary data to reapportion the seats in Congress and the population and demographic data at the block level necessary to redraw congressional districts. This delay may cause the Congressional Commission to adjust some of its deadlines and to alter some of the steps in completing its work. Again, the attorneys on the Nonpartisan Staff will assist in this work, but it is anticipated that selected counsel may need to file necessary pleadings and appear at any court proceedings. The scope of this work may include:

1. Advising the Congressional Commission on the interpretation of certain constitutional provisions;
2. Recommending appropriate steps for the Congressional Commission to take due to the delays; and
3. Representing the Congressional Commission in any court proceedings commenced to deal with the delays and the actions of the Commission in response to the delays.

- D. **Congressional Commission meetings.** Selected legal counsel is not required to be at all Congressional Commission meetings, but is expected to complete its work within the Commission's deadlines and to be available on an as-needed basis and at times on short notice.
- III. **Required Information:** The following information must be included in any response:
- A. Names of the firm and principal attorney or attorneys who will be assigned to the work, together with their business addresses, telephone numbers, and email addresses;
 - B. A description of the firm, number of attorneys, and practice areas;
 - C. Educational background and political party affiliation of the principal attorney or attorneys who will be assigned to the work;
 - D. A description of any relevant experience in administrative law, including any dealing with the Colorado General Assembly and Governor;
 - E. A description of any relevant experience in redistricting and election law, including the identification of any political party represented in these areas;
 - F. A description of any experience of the assigned attorneys in representation before the Colorado Supreme Court;
 - G. Identification of any other attorneys, paralegals, and staff who may be involved in providing the legal services to the Congressional Commission;
 - H. Usual hourly rates for attorneys, paralegals, law clerks, and legal secretaries who are identified as likely to be involved in providing legal services to the Congressional Commission, and any discount below the usual hourly rates proposed for the Commission work;
 - I. Any fees associated with the firm following the Congressional Commission's work, including attendance at any meeting where attendance is not specifically requested;
 - J. Estimated fees and costs, including but not limited to research, travel, and copying; and
 - K. A cover letter signed by a partner authorized to execute contracts on behalf of the law firm.
- IV. **Due Date:** All proposals should be submitted by 5:00 pm on April 23, 2021.