

**Draft - Request for Proposals  
MICRC Litigation Counsel**

**RFP Timeline**

Event	Time	Date
<b>RFP issue date</b>	N/A	Friday, May 21, 2021
<b>Deadline for bidders to submit questions about this RFP</b>	3:00 p.m. EDT	Tuesday, May 25, 2021
<b>Anticipated date the Commission will post answers to bidder questions on <a href="http://www.michigan.gov/SIGMAVSS">www.michigan.gov/SIGMAVSS</a> and <a href="#">Independent Citizens Redistricting Commission</a> website.</b>	N/A	Friday, May 28, 2021
<b>Proposal deadline*</b>	3:00 p.m. EST	Thursday, June 10, 2021
<b>Anticipated contract begin date</b>	N/A	Friday, July 30, 2021

**\*A bidder’s proposal received at 3:00:01 p.m. Eastern is late and subject to disqualification.**

**Michigan Independent Citizens Redistricting Commission  
Litigation Counsel  
Request for Proposal No. 920, \_\_\_\_\_  
Summary Sheet – Key Deliverables**

In 2018, Michigan voters amended the state constitution to put the power to draw state and congressional district lines in the hands of citizens, not legislators or special interests. The inaugural and historic Michigan Independent Citizens Redistricting Commission is seeking experienced litigation counsel to provide legal and advisory services (i.e., legal advice and representation).

**1.1 Key Deliverable One:**

Key expertise or desirable expertise to fulfill the Statement of Work located within Section A of this RFP:

(a) **Litigation Expertise.** The attorney, firm or other entity must demonstrate litigation experience and expertise to represent the Commission.

1. Briefly describe your 10 most recent cases argued before the Michigan Supreme Court or the highest court of a State, including, in particular, cases involving constitutional or public policy issues. For each case, please include:
  - i. The name of the case, case number, and names of the parties represented.
  - ii. The principal legal issues presented in each matter handled by the attorney, law firm or entity.
  - iii. The outcome of the case and whether an appeal was pursued.
2. Likewise, briefly describe, at minimum, your 10 most recent cases where a judgment was reached in a federal court. For each case, please include:
  - i. The name of the case, case number, and names of the parties represented.
  - ii. The principal legal issues presented in each matter handled by the attorney, law firm or entity.
  - iii. The outcome of the case and whether an appeal was pursued.
3. Please describe experience, if any, before the U.S. Supreme Court. For each case, please include:
  - i. The name of the case, case number, and names of the parties represented.
  - ii. The principal legal issues presented in each matter handled by the attorney, law firm or entity.
  - iii. The outcome of the case.
4. Describe representative legal work performed on behalf of public agencies and state boards or commissions in the past 10 years, providing dates and references as appropriate.
5. Describe the attorney or firm's experience with electronic discovery.

(b) **Redistricting Experience.** It is desirable that the attorney, firm or other entity demonstrate experience and expertise in legal and advisory services specific to redistricting. However, extensive expertise is not required, as federal and state litigation experience are of paramount importance.

1. Briefly describe any redistricting representations. For each case, please include:
  - i. The name of the case, case number, and names of the parties represented.
  - ii. The principal legal issues presented in each matter handled by the attorney, law firm or entity.
  - iii. The outcome of the case and whether an appeal was pursued.

2. Briefly describe any legal and advisory services provided specific to redistricting.

(c) **Michigan Election Law Expertise.** It is desirable that the attorney, firm or other entity demonstrate expertise in Michigan Election Law.

1. Briefly describe any election law representations. For each case, please include:
  - i. The name of the case, case number, and names of the parties represented
  - ii. The principal legal issues presented in each matter handled by the attorney, law firm or entity.
  - iii. The outcome of the case and whether an appeal was pursued.
2. Briefly describe any legal and advisory services provided specific to Michigan Election Law.

(d) **Cumulative Experience.** Provide a summary of why, based on the aforementioned previous experience listed in (a) through (c), the Contractor is uniquely qualified to perform the services sought by this RFP and assume the role of Litigation Counsel for the Commission.

### 1.2 Key Deliverable Two

Key operational requirements and inquiries to fulfill the Statement of Work located within Section A of this RFP:

(a) **Motivations.** Provide a summary of why the attorney, firm or other entity seeks to serve the Commission.

(b) **Key Personnel.** In the case of a law firm or other entity, identify the lead attorney or other attorneys, if any, who will be assigned to the work and the anticipated percentage of time for each.

(c) **Firm/Entity General Description.** If the RFP is submitted by a law firm or other entity, provide a general description of the firm or entity.

### 1.3 Key Deliverable Three

Key operational requirements and inquiries to fulfill the Statement of Work located within Section A of this RFP:

(a) **Conflicts.** The attorney or law firm must comply with the rules as set forth in the Michigan Rules of Professional Conduct or professional rules in the state of licensure as well as any applicable law, regulation or policy at all times. Please identify the following:

1. Any matter in which the attorney or firm is presently adverse to the Commission or the State of Michigan.
2. Any work previously provided by the attorney or law firm on behalf of any potential adverse party or witness, to the extent known.

3. Whether any lawyer(s) identified as Key Personnel has ever been subject to any disciplinary proceeding or been sanctioned by a court

(b) **Disclosures.** Disclose the following;

1. Previous legal services (paid or unpaid) by the attorney, firm, or other entity as it relates to redistricting, reapportionment, districting and elections activities provided from January 2000 to present day:
  - i. Persons holding elective office.
  - ii. Partisan or non-partisan entities or organizations.

Please describe the implications of the current or prior representations listed on this RFP. In particular, address whether it could present the appearance of a conflict in connection with the representation of the Commission in connection with the defense of its maps.

2. Any lobbying work the firm, other entity or attorneys listed as Key Personnel has performed in Michigan during from January 2000 to present day.
3. Any monetary political contributions or donations made on behalf of the attorney, firm or other entity, including contributions made by a firm political action committee, from January 2000 to present day.
4. Any monetary political contributions personally made by the attorneys listed as Key Personnel from January 2000 to present day.
5. With respect to Key Personnel who are expected to work in connection with this representation, please disclose any financial, business, professional, lobbying or other relationship not previously identified that presents a potential conflict with the services to be performed under this Contract.

(c) **Approach.** In keeping with the Commission's constitutional obligation to perform its duties in an impartial manner that reinforces public confidence in the integrity of the redistricting process, it is desired that Litigation Counsel operate in the same manner. Provide a description of the approach and methodology that will be used by the attorney, firm or other entity to performing the responsibilities of Litigation Counsel while remaining impartial, unbiased and non-partisan as set forth in Article IV, Section 6, Subsections 4 and 5 of the Michigan Constitution.

If retained by the Commission, Contractor and all Key Personnel will be expected, for the duration of the representation, to continue such disclosures regularly.

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.

## **BACKGROUND**

In accordance with the Michigan Constitution of 1963, Article IV, Section 6, an Independent Citizens Redistricting Commission (the “Commission”) shall adopt a redistricting plan in Michigan, not later than November 1 in the year immediately following the federal decennial census, for each of the following types of Michigan districts: state senate districts, state house of representative districts, and congressional districts. This proposal and adoption of district lines (called “redistricting”) shall comply with the Voting Rights Act and other federal laws as well as conform with all criteria set forth in Article IV, Section 6 of the Michigan Constitution, and in particular Article IV, Section 6, Subsection 13 of the Michigan Constitution. The Commission is currently involved in a legal action to extend the November 1 deadline to adopt final maps.

The Commission is seeking Requests for Proposals (“RFP”) from attorneys, including law firms or other entities, to serve as litigation counsel and provide legal and advisory services (i.e., legal advice and representation), including but not limited to the defense its three final adopted voting district maps (Congressional, and State Senate, and State House) if challenged. The Michigan Supreme Court has original jurisdiction over any claims that are brought in state court; however, cases may also be brought in federal court.

The selected bidder will be expected to work and coordinate with other legal experts, attorneys, law firms and other entities as needed. At the Commission’s discretion, throughout the duration of its work the Commission may decide to hire more than one attorney or law firm based on the Commission’s perceived needs. If the Commission chooses representation from more than one attorney or law firm, the order of subordination with regards to any coordinated effort shall be made solely by General Counsel to the Commission.

All materials submitted in response to this RFP will become the property of the Commission and will not be returned. The materials submitted in response to this RFP are not confidential, will be made available to members of the public attending the meetings referenced above, and will be placed on the Commission’s website. The response must be whole and complete in the submitted document and not depend on hyperlinks for required content.

Unless otherwise authorized herein, proposers who are considering submitting a proposal in response to this RFP, or who submit a proposal in response to this RFP, are prohibited from communicating with the Commission, its staff or State of Michigan staff about this RFP from the date this RFP is issued until a contract is awarded. The point of contact for all communication is the Solicitation Manager.

## **STATEMENT OF WORK**

The required legal and advisory services (i.e., legal advice and representation) will include, but may not be limited to, litigation and legal support to the Commission as well as Commission staff, attorneys and consultants regarding the redistricting process and compliance with Article IV, Section 6, subsection 13 of the Michigan Constitution of 1963.

Any Contractor selected by the Commission will be required to enter into a Legal Services Agreement for the work described in this RFP. It is anticipated that work will begin as soon as practicable following the selection process and continue through approximately March 31, 2022

(though possibly as late as July 31, 2022, pending current developments). The Commission may also choose to select more than one lawyer or law firm to perform the legal services described herein. Services provided, including the defense of the redistricting plans approved by the Commission, shall be provided at the direction of the Commission and in consultation with its General Counsel pursuant to the terms and conditions of this contract.

Qualifications for the attorney, law firm or other entity are as follows:

1. Have demonstrated expertise and experience in litigation pertaining to constitutional or federal statutory issues, including multi-party and document-intensive cases;
2. Have knowledge of Michigan law applicable to federal and state legislative redistricting including Article IV, Section 6 of the Michigan Constitution;
3. Have knowledge of the federal law applicable to the redistricting process, including the Voting Rights Act of 1965 as amended, the 14th Amendment of the U.S. Constitution, and the associated regulations and case law;
4. Have knowledge and experience in working with Michigan election laws, including statutory deadlines, and the relationship between district boundaries and the conduct of elections;
5. Have knowledge and experience with regard to Michigan law governing open meetings, public records, conflicts-of interest, and other laws generally applicable to the conduct of state agencies, boards and commissions;
6. Have knowledge and experience in the application of relevant federal and state case law in the above areas.

Responsibilities for the attorney, law firm or other entity are as follows:

1. Perform all normal and customary duties required of Litigation Counsel in connection with legal issues related to the full range of Commission activities which may include some or all of the following:
  - a. Providing review, analysis and application of relevant law;
  - b. Representing the Commission as a plaintiff or defendant in litigation, administrative claims, or other legal claims;
  - c. Compiling evidence and drafting demand letters, claim notices, and/or complaints;
  - d. Drafting and arguing responsive pleadings, pretrial motions and writ proceedings;
  - e. Responding to subpoenas, court orders, and requests for information from third parties;
  - f. Conducting discovery, both offensive and defensive;
  - g. Interviewing and deposing witnesses;
  - h. Engaging in trial preparation, including the retention of trial consultants and experts;
  - i. Conducting trial as well as post-trial motions;
  - j. Handling appeals, interlocutory and post-trial;
  - k. Representing the Commission in litigation, negotiation and settlement proceedings; and
  - l. Other legal services as needed.

2. Work with and advise the Commission, its staff, attorneys and consultants with respect to legal issues in connection with its activities and advise the Commission, its staff, attorneys and consultants as to the procedures, legality of documents, policy concerns and legal implications concerning those activities.
3. Advise the Commission, its staff, attorneys and consultants of litigation risks associated with its activities and approaches to limit such risks.
4. Attend and participate in various meetings, conferences and other proceedings, including but not limited to Commission public meetings and hearings when requested by Commission members or its staff or the Program Manager.
5. Perform services under this contract as efficiently and expeditiously as possible.

**Under Key Personnel** - 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 State Bar of Michigan or their state licensing entity through the full contract term and any extensions. If the primary contractor is not licensed to practice in the State of Michigan, 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. Contractor must possess the skill, experience, ability, background, certification and knowledge to provide the services described in this Contract on the terms and conditions describes herein.

**Add to one of the Reserved Sections:** The Commission seeks to enhance diversity in its contracts. Describe your firm's commitment to diversity and your efforts to promote diversity. This may include your firm's policies and procedures; initiatives and strategies to recruit, hire, train, and promote a diverse workforce; awards; in-house diversity programs; training. Describe your firm's outreach efforts to provide opportunities available to all interested and qualified individuals, including a broader cross-section of the community. List current community activities such as membership and participation in diverse organizations, associations, scholarship programs, mentoring, internships, and community projects.

**Under Fees.** The Commission anticipates the services contemplated by this RFP will be provided on an hourly basis. For each professional who will be assigned to these matters, please set forth his or her hourly rate. The Commission will also consider alternative fee arrangements, and the cost of retaining the firm will be among the factors considered in awarding this contract. The initial amount authorized pursuant to this agreement shall not exceed \$500,000, and shall be in place until March 31, 2022 (though possibly as late as July 31, 2022, pending current developments); however, the contract can be amended to extend time and add funds as necessary in order to continue the contract through the completion of all litigation.

**Under Travel and Per Diem Expenses.** All travel and per diem rates shall be limited to rates published by the State of Michigan Standardized Travel Regulations in effect for rates pertaining to Method of Travel, Meals and Incidentals, Lodging Reimbursement and Personal Vehicle Mileage Reimbursement.