

**REQUEST FOR PROPOSALS
FOR
LEGAL SERVICES
FOR
STATE AND CONGRESSIONAL REDISTRICTING
FOR THE
NEW MEXICO LEGISLATURE**

LEGISLATIVE COUNCIL SERVICE
411 STATE CAPITOL
SANTA FE, NEW MEXICO 87501
(505) 986-4600

ISSUE DATE:
AUGUST 21, 2020

NOTICE

The New Mexico Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, illegal gratuities and kickbacks.

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1. INTRODUCTION

The Legislative Council Service (LCS) invites individuals (Offerors) to submit proposals in accordance with the outlines and specifications contained in this request for proposals (RFP). This RFP contains specific requests for information. In responding to this RFP, Offerors are encouraged to provide any additional information they believe is relevant.

The purpose of this procurement is to select a contractor to provide legal consulting services to assist the New Mexico State Legislature in planning for and accomplishing its congressional and state redistricting responsibilities following the 2020 decennial census.

2. SEQUENCE OF EVENTS

<u>Event</u>	<u>Date</u>
A. Release of RFP	August 21, 2020
B. Submission of Proposals	September 18, 2020
C. Evaluation of Proposals and Selection	September 22, 2020

The selection date is subject to extension at the discretion of the LCS. The effective date of the Contract is tentative; it is dependent on the selection date, the length of time required for Contract negotiation and the length of time for processing the Contract.

The events identified in the schedule above are briefly described below.

A. Release of RFP. This RFP will be advertised in two (2) newspapers of general circulation pursuant to Sections 13-1-104 and 13-1-113 NMSA 1978, and prospective Offerors may direct questions about the RFP to Raúl E. Burciaga, Director, or Jon Boller, Senior Staff Attorney, at the LCS, 411 State Capitol, Santa Fe, New Mexico 87501; telephone (505) 986-4600.

B. Submission of Proposals. An original and three (3) copies of the proposal and supporting documentation shall be submitted to the LCS. Offerors shall also submit their proposals in electronic format. Proposals must be in the format specified in Item 5 of this RFP and must be signed by the Offeror.

The deadline for receipt of proposals by the LCS is September 18, 2020, no later than 4:00 p.m. Proposals will be time-stamped upon receipt.

All proposals shall be submitted in sealed envelopes marked "Proposal for Legal Consulting Services for State and Congressional Redistricting".

All proposals must be addressed to:

Raúl E. Burciaga, Director
Legislative Council Service
411 State Capitol
Santa Fe, New Mexico 87501

A proposal may be modified by an Offeror prior to the deadline for submission of proposals by delivery of a written modification to the above address. The sealed envelope shall be marked "Modification to Proposal for Legal Consulting Services for State and Congressional Redistricting".

A proposal may be withdrawn prior to the deadline for submission of proposals by delivering written notice or by telephone notification to the person listed above.

Any proposal or modification received after the deadline for submission of proposals will be considered late. Unless a late proposal is the only one received, no late proposal or late modification will be considered unless it would have been timely but for the action or inaction of the LCS. Time limits will not otherwise be waived.

Proposals will not be opened publicly and will not be open to public inspection until after award of the Contract.

C. Evaluation of Proposals. Proposals will be evaluated by the LCS using the criteria listed in Item 7 of this RFP. During the evaluation process, the LCS may seek clarification from Offerors, but shall NOT negotiate with Offerors.

D. Selection of Offeror. The final selection of an Offeror shall be made by the New Mexico Legislative Council. That selection will be publicly announced on or after September 22, 2020. The Offeror selected to perform the work and those Offerors not selected will be notified in writing by the LCS. Selection does NOT constitute an obligation to contract with the successful Offeror.

3. AMENDMENTS TO RFP

If there are any amendments to this RFP, they shall be in writing and shall be emailed to all individuals who have notified the LCS of their intent to respond to the RFP. Amendments shall be distributed with sufficient time to allow Offerors to consider the amendments in preparing their proposals. If necessary, the deadline for submission of proposals will be extended by the amendment.

The written acknowledgment form sent with the amendment shall be completed by the Offeror and submitted with the proposal as evidence of receipt of the amendment.

4. CANCELLATION OF RFP; REJECTION OF PROPOSALS

The LCS reserves the right to cancel this RFP at any time and for any reason.

Any and all proposals may be rejected in whole or in part when it is in the interest of the LCS to do so. The LCS shall not be responsible for the payment of any costs incurred by the Offeror in the preparation or submission of a proposal.

The issuance of this RFP, the receipt of proposals or the selection of an individual in no manner obligates the LCS to the eventual purchase of services. This process is solely at the discretion of the LCS and may be terminated without penalty or obligation at any time prior to the signing of a written contract.

5. PROPOSAL FORMAT

Offerors shall include the following information in their proposals:

A. Letter of Transmittal. Include the following information:

- (1) the name, address, email address and telephone number of the Offeror;
- (2) the name and telephone number of the primary contact for the Offeror;
- (3) the signature of the Offeror;
- (4) the date of the proposal;
- (5) a statement that the Offeror, if awarded the Contract, will comply with the Contract terms and conditions set forth in this RFP; and
- (6) a statement that the Offeror's proposal is valid for sixty (60) days after the deadline for submission of proposals.

B. Description of Services. Describe how the services will be provided or what tasks will be performed in response to the scope of work contained in Item 6 of this RFP. The scope of work indicates "what" the Offeror is supposed to do; the description of services should show "how" the Offeror intends to perform the services.

In submitting a proposal, Offerors should provide evidence of the Offeror's qualifications to perform the scope of work outlined in Item 6. Evidence should include:

- (1) evidence of familiarity with past redistricting efforts in New Mexico and specific legal experience in the area of redistricting;

(2) evidence of the Offeror's ability to perform the services, as required and upon request, in a professional, thorough and expeditious manner;

(3) identification of the individuals who will be assigned to work on the Contract and the nature of the services they will perform and provision of resumes and credentials or other background information for each of the individuals, including projects of similar nature on which the individual or firm has worked; this portion of the proposal should demonstrate the extent to which the Offeror is qualified to perform the scope of work outlined in this RFP; and

(4) references.

C. Remuneration. After selection by the LCS, compensation for services will be negotiated between the successful Offeror and the LCS. The LCS will consider alternative proposals regarding compensation. The proposals should include the hourly rate to be charged for each category of personnel involved in providing the required services. The Contractor shall be compensated monthly for work performed in the preceding month. The Contractor shall be reimbursed for incurred and separately stated applicable gross receipts taxes and reasonable expenses incurred in providing these services.

D. Related Experience and Qualifications. Offerors should identify those individuals who will be involved in the various project tasks and should include the relevant education, training and prior experience of each listed individual. Additionally, the resumes of all key personnel should be included. This portion of the proposal should demonstrate the extent to which the Offeror is qualified to perform both the scope of work outlined in this RFP and the specific services contained in the description of services portion of the Offeror's proposal.

Offerors should include a list of references from individuals who are familiar with the work of the Offeror and are aware of the Offeror's performance on similar tasks or projects.

The Offeror's ability to meet the evaluation factors contained in Item 7 of this RFP shall be stated in this section of the proposal.

E. Campaign Contribution Disclosure. An offeror shall disclose any campaign contributions pursuant to Section 13-1-191.1 NMSA 1978 as identified in the Disclosure of Campaign Contributions Form in Appendix A of this RFP.

F. Resident Business and Resident Veteran Business Preference. To receive a resident business or resident veteran business preference pursuant to Sections 13-1-21 and 13-1-22 NMSA 1978, Offerors must include a copy of their preference certificate with the proposal. Certificates for preferences can be obtained through the Taxation and Revenue Department (www.tax.newmexico.gov/Businesses/in-state-veteran-preference-certification.aspx).

6. SCOPE OF WORK

The Contractor shall provide legal assistance to the New Mexico Legislative Council, LCS staff and the appropriate legislative committee in the following areas:

- (1) assist LCS staff in clarifying for the committee the factors considered necessary by the courts to comply with the legal requirements of the federal Voting Rights Act of 1965;
- (2) assist LCS staff in preparation for the public hearing process;
- (3) provide expert legal advice to the committee and assist LCS staff and the technical contractor in reviewing proposed redistricting plans to ensure their legal and constitutional sufficiency;
- (4) assist the committee and LCS staff in making a legal determination of the policies and data necessary to redistrict in a legally and constitutionally sufficient manner; and
- (5) assist the New Mexico Legislative Council and the New Mexico State Legislature in any legal action that should arise out of the redistricting process.

7. EVALUATION

The responsible Offeror whose proposal is most advantageous to the LCS shall be selected to perform the services. The inclusion of cost as a factor does not require the LCS to select the lowest cost proposal. The following evaluation factors shall be considered in order of importance:

- (1) experience and qualifications of principal personnel who are to be assigned to this project; specifically, what experience the firm has had in providing legal services on legislative and congressional redistricting or other districting for other governmental entities (30%);
- (2) ability to perform services and to respond to requests in a timely manner (25%);
- (3) relevant professional legal experience (20%);
- (4) client references (15%); and
- (5) cost proposal (10%).

An additional 5% of the total weight of the factors used in evaluating the proposal will be awarded to an Offeror that provides a copy of the Offeror's resident business preference certificate. An additional 10% of the total weight of the factors used in evaluating the proposal will be awarded to an Offeror that provides a copy of the Offeror's resident veteran business preference certificate. An Offeror may receive either a resident business preference or a resident veteran business preference, but not both.

8. CONTRACT TERMS AND CONDITIONS

The Contract between the LCS and the successful Offeror shall contain substantially the following terms and conditions. In the letter of transmittal, the Offeror shall include a statement agreeing to these terms and conditions and explaining any terms or conditions with which the Offeror does not agree.

A. Scope of Work. This portion of the Contract will be drafted following selection of an individual to perform the services. It will incorporate the scope of work in Item 6 of this RFP and the description of services from the Offeror's proposal.

B. Compensation. The total compensation shall not exceed the limit specified in the Contract. The total amount shall include applicable New Mexico gross receipts taxes for services, which shall be paid by the Contractor. The hourly rate shall be specified in the Contract. If additional services are necessary due to litigation, the LCS and Contractor by mutual consent may amend the Contract to cover additional costs associated with such litigation.

C. Term. The Contract shall be effective and its terms shall extend from a date to be determined by the Director of the LCS through June 30, 2022. The Contract may be renewed for two (2) additional years if necessary.

D. Termination. The Contract may be terminated by either of the parties upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. A party may not nullify obligations or liabilities already incurred for performance or for failure to perform prior to the date of termination.

E. Status of Contractor. The Contractor is an independent contractor performing professional services for the LCS and is not an employee of the State of New Mexico. The Contractor shall not accrue leave, retirement, insurance, bonding, use of state vehicles or any other benefits afforded to employees of the State of New Mexico by virtue of the Contract.

F. Assignment. The Contractor shall not assign or transfer any interest in the Contract or assign any claims for money due or to become due under the Contract without the prior written approval of the LCS.

G. Subcontracting. The Contractor shall not subcontract any portion of the services to be performed under the Contract without the prior written approval of the LCS.

H. Records and Audit. The Contractor shall maintain detailed time records that indicate the date, time and nature of services rendered. These records shall be subject to inspection by the LCS and the State Auditor. The LCS shall have the right to audit billings both before and after payment. Payment under the Contract shall not foreclose the right of the LCS to recover excessive or illegal payments.

I. Release. The Contractor shall, upon final payment of the amount due under the Contract, release the LCS, its officers and employees and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under the Contract. The Contractor agrees not to purport to bind the State of New Mexico to any obligation not assumed in the Contract by the State of New Mexico, unless the Contractor has express written authority from the LCS to do so, and then only within the strict limits of that authority.

J. Confidentiality. Any information provided to or developed by the Contractor in the performance of the Contract shall be kept confidential and shall not be made available to any individual or organization without the prior written approval of the LCS.

K. Product of Service; Copyright. All materials developed or acquired by the Contractor under the Contract shall become the property of the State of New Mexico and shall be delivered to the LCS not later than the termination date of the Contract. Nothing produced, in whole or in part, by the Contractor under the Contract shall be the subject of an application for copyright by or on behalf of the Contractor.

L. Conflict of Interest. The Contractor shall warrant that the Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict with the performance of services required under the Contract.

M. Amendment. The Contract shall not be altered, changed or amended except by an instrument in writing executed by the parties.

N. Merger. The Contract shall incorporate all of the agreements, covenants and understandings between the parties thereto concerning the subject matter thereof. No prior agreement or understanding, verbal or otherwise, of the parties shall be valid or enforceable unless embodied in the Contract.

O. Applicable Law. The Contract shall be governed by the laws of the State of New Mexico.

P. Waiver. The Contract shall contain a provision that states that no waiver of any breach of the Contract or any of its terms or conditions shall be a waiver of any other or subsequent breach; a waiver shall not be valid unless it is in writing and signed by the party granting the waiver.

Q. Appropriation. The terms of the Contract are contingent upon sufficient appropriations and authorization being made to the LCS by the New Mexico State Legislature or other funding agency. If sufficient appropriations and authorization are not made by the New Mexico State Legislature or other funding agency, the Contract shall, notwithstanding the provisions of any other section of the Contract, terminate immediately upon the Contractor's receipt of written notice of termination from the LCS. The LCS's decision as to whether sufficient appropriations and authorization are made by the New Mexico State Legislature shall be accepted by the Contractor and shall be final.

R. Notice. The Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, illegal gratuities and kickbacks.

S. Equal Opportunity Compliance. The Contractor shall agree to comply with all federal and state laws pertaining to equal employment opportunity. In accordance with all such laws, the Contractor shall agree to assure that no person in the United States shall, on the grounds of race, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with or participation in, be denied the benefits of or be otherwise subjected to discrimination under any program or activity performed under the Contract. If the Contractor is found to be not in compliance with these requirements during the life of the Contract, the Contractor shall agree to take appropriate steps to correct these deficiencies.

APPENDIX A

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to Section 13-1-191.1 NMSA 1978, any prospective contractor seeking to enter into a contract with any state agency or local public body must file this form with that state agency or local public body. The prospective contractor must disclose whether the prospective contractor, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the contractor submits a proposal or, in the case of a sole-source or small-purchase contract, the two years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds two hundred fifty dollars (\$250) over the two-year period.

THIS FORM MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THE PROSPECTIVE CONTRACTOR, A FAMILY MEMBER OR A REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.

The following definitions apply:

"Applicable public official" means a person elected to an office or a person appointed to complete a term of an elected office who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole-source or small-purchase contract that may be awarded without submission of a sealed competitive proposal.

"Campaign contribution" means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official's behalf for the purpose of electing the official to either statewide or local office. "Campaign contribution" includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

"Contract" means any agreement for the procurement of items of tangible personal property, services, professional services or construction.

"Family member" means spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law.

"Pendency of the procurement process" means the time period commencing with the

public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals.

"Person" means any corporation, partnership, individual, joint venture, association or any other private legal entity.

"Prospective contractor" means a person who is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person qualifies for a sole-source or a small-purchase contract.

"Representative of a prospective contractor" means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

DISCLOSURE OF CONTRIBUTIONS:

Contribution(s) Made By:

Relation to Prospective Contractor:

Name of Applicable Public Official:

Date Contribution(s) Made:

Amount(s) of Contribution(s):

Nature of Contribution(s):

Purpose of Contribution(s):

Signature

Date

Title (Position)

— OR —

NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS (\$250) WERE MADE to an applicable public official by me, a family member or representative during the two-year period prior to the submission of this proposal.

Signature

Date

Title (Position)

For the purposes of this RFP, "applicable public officials" are the members of the New Mexico Legislative Council, who are as follows:

Senator Pete Campos
Representative Brian Egolf
Representative Daymon Ely
Representative Candy Spence Ezzell
Representative Doreen Y. Gallegos
Senator Stuart Ingle
Representative Patricia A. Lundstrom
Representative Rod Montoya

Senator Mary Kay Papen
Senator William H. Payne
Senator Clemente "Memé" Sanchez
Senator John Arthur Smith
Representative Sheryl Williams Stapleton
Representative James G. Townsend
Senator James P. White
Senator Peter Wirth