

May 12, 2009

Elaine M. Howle, California State Auditor
c/o Sharon Reilly, Chief Counsel to the State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

RE: Citizens Redistricting Commission Application and Screening Process

Dear Ms. Howle:

A number of individuals and organizations were convened by *California Forward* and met in Sacramento on April 16th to discuss issues relating to the implementation of Proposition 11, the Voters First Act. Although the group that gathered was quite diverse in background and experience we share a common goal: the successful implementation of Proposition 11.

To that end, we have compiled a list of consensus suggestions that we hope will be helpful to you in the shaping and development of regulations that will guide the Citizens Redistricting Commission application and screening process. While there are some issues that remain unanswered, there were also a number of areas where we achieved consensus on recommendations and suggestions.

1. **The application and screening process should be as transparent as possible.** This is an overarching goal that we hope the Bureau of State Audits will keep in mind as it develops the application and screening process. While we recognize that the process must also be manageable for the Bureau, we urge you to make every effort to fashion a process that is transparent.
2. **Let applicants know at the very beginning that the process will be public.** Applicants need to anticipate that their applications will be carefully scrutinized.
3. **We recommend the applications be made available for viewing by the general public.** Making the applications public will encourage applicants to provide truthful responses. Sensitive personal, identifying information such as date of birth, home phone number, home address or email address should perhaps be fully or partially redacted, particularly if the applications are published online.
4. **Provide a way for the public to “weigh in” on applicants.** Third parties who review the applications may want to state their support for an applicant or may notice a factual error and want to bring it to the attention of the Applicant Review Panel, or provide some other kind of input.
5. **There should be no unnecessary or unfair geographical or financial barriers for applicants.** The application process should be free of charge, and in-person interviews should be held in various regions around the state. There should be no notarization of the application required.

6. **The application form should be available both online and in hard copy. Applicants should be able to submit their applications online or in hard copy as well.**
7. **Allow applicants to provide their race or ethnicity on the application form.** In response to your questions, we support including a field on the application form for applicants to provide their race or ethnicity. Including this on the form will ensure that the requirements of Proposition 11 are met (specifically, Section 8252(a)(1): "...the State Auditor shall initiate an application process, open to all registered California voters in a manner that promotes a diverse and qualified applicant pool)."
8. **The outreach campaign needs to reach a broad audience in order to encourage applicants from diverse ethnic, educational and economic backgrounds.** We recommend the Bureau of State Audits work closely with existing organizations and community groups that have extensive experience with community outreach.
9. **Lengthen the application submission timeframe.** The current implementation timeline allows only a one month window of time to apply, which we believe is inadequate. In addition, the proposed January deadline comes soon after the holiday season which will make advance outreach efforts even more challenging. We suggest providing at least a sixty-day application window, and also urge you to make the tentative application available online as soon as possible, in either November or December 2009.
10. **Provide adequate time and opportunity for the public to determine whether a sufficient number of diverse applications are being submitted.** If applications are published online and the application submission window is lengthened, people will be able to see whether the overall applicant pool is diverse or not; the Bureau of State Audits should adjust outreach efforts as needed.
11. **Provide a simple checklist of "yes/no" questions to establish applicant eligibility.** Applicants should not be asked to provide documentation to prove they are registered to vote and have none of the conflicts listed in Prop. 11. At the same time, applicants should be directed to resources (such as the Secretary of State's Cal-Access campaign finance web site and county elections officials' contact information) they can use to verify their own responses.
12. **The application itself should have a check box where the applicant agrees to a statement such as "I attest that this is true to the best of my knowledge".** Basically, our consensus is that we don't want the form to scare applicants away or treat them like suspects, but do want applicants to be as truthful as possible.
13. **It is recommended that BSA staff double-check the accuracy of applicants' responses in the final rounds of the selection process, particularly applicants' family connections.** While it would likely be an unnecessary burden for BSA staff to double-check the accuracy of all applicants' responses, some review for accuracy in the final rounds of the selection process is needed to ensure that candidates who make it into the final pool do not have any conflicts of interest and fully meet the qualifying criteria for serving on the Commission as outlined in Proposition 11.

14. **Applicants who are “conflicted out” during the screening process should have the right to know why and have the chance to resolve any factual error that may have been made.**
Applicants who are disqualified for conflict of interest reasons should be given a reasonable opportunity to discover why they were disqualified and in a timely way so that they can have the application reconsidered if they feel they were disqualified in error.
15. **The final winnowing process should include interviews and possibly letters of recommendation.** These interviews could be recorded and made accessible to the public via the BSA web site.
16. **Criteria need criteria.** While we don’t have a definitive answer to this challenge, we agree that the criteria used to evaluate applicants according to the three key qualifying areas (relevant analytical skills, ability to be impartial and appreciation for California’s diverse demographics and geography) needs an evaluation mechanism.
17. **Evaluate applicants’ aptitude.** We considered whether all qualified applicants must rate high in all three areas (analytical skills, impartiality and appreciation for diversity). The consensus was that applicants who rate low in all three areas should be considered unqualified.
18. **“Plays well with others” is an important quality in commissioners.** We agree that applicants should be evaluated for their facilitation skills and ability to work effectively in a committee setting. These are extremely important qualities for members of any group engaged in a challenging task to have.
19. **Use redundancy to rate applications.** If a point-based evaluation system is considered or adopted, one way to address the challenge of evaluating applicants based on subjective answers or essays is to employ a redundant process, so that more than one auditor scores each of the final applicants in the subjective areas.
20. **Applicants should be advised that their job is not to represent their political parties.**
While applicants will of course be asked to provide their party affiliation, it is advisable that a message is included in the instructions stating that the purpose of doing so is to achieve political diversity, and that, if selected, applicants are not expected to serve on the commission as representatives of their parties.
21. **The non-major party pool should include a mix of minor party and decline-to-state voters.** The language of the initiative suggests that so-called independents (voters not registered with any political party, also known as “decline to state” voters) will have a role in the new redistricting process, yet through the random selection process it is possible for no decline-to-state voters to actually make it on to the commission. Ensuring that the non-major party pool includes a mix of minor party and decline-to-state voters will alleviate this potential problem. The BSA’s outreach campaign should also target minor party and decline-to-state voters alike.

22. **We want diversity taken into account when creating the final applicant pools.** In determining how diversity is taken into account and achieved, the BSA should take into consideration other public programs that strive to achieve diversity, such as the Capital Fellows program and university admission programs.
23. **Establish a fair method for achieving geographical diversity.** In response to your questions, we agree that relying on political districts drawn in 2001 is not recommended as these districts are widely viewed as gerrymandered. While the Board of Equalization districts may appear suitable for this purpose because there are only four of them, they too are gerrymandered and using them will not guarantee a geographically diverse applicant pool. The Bureau of State Audits will need to establish a definition for “geographic diversity” and criteria for how it will be achieved in the final applicant pool; we are happy to assist in this process.
24. **Use a random selection process that is verifiably random.** The process that is used for selecting the Applicant Review Panel and selecting members of the commission must be one that can be independently verified as random.

We recognize that implementing Proposition 11 is a challenge and thank you for your thoughtful and diligent work in this process. We are continuing to evaluate and discuss the development of regulations and anticipate submitting additional comments.

Sincerely,

Janis R. Hirohama
President
League of Women Voters of California

Kathay Feng
Executive Director
California Common Cause

Alice A. Huffman
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Arturo Vargas
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(for identification purposes only)

cc: Michael B. Salerno