

The State Bar of California

REQUEST FOR PROPOSAL



This document is a Request for Proposal (“RFP”) for Online Payment Services.

Please submit 6 copies of your proposal no later than 5 p.m. on November 13, 2006 to:

The State Bar of California
180 Howard Street
San Francisco, CA 94105-1639

Attn: Amy Tsui
Information Technology
415-538-2411
Amy.Tsui@calbar.ca.gov

I. INTRODUCTION

The State Bar of California (“ the State Bar”), created in 1927 by the Legislature and adopted into the California Constitution in 1960, is a public corporation within the judicial branch of state government. In accordance with statute and the State Bar's procurement policies, contracts of \$50,000 or more are subject to formal competitive bidding. As a governmental agency, the State Bar regularly is granted favorable governmental pricing and contract terms.

The State Bar is seeking proposals for a vendor to provide services to facilitate online payment of attorney membership fees, attorney registration fees, services provided via the State Bar’s website, and applications hosted by third party software companies using other online payment systems for a period of 3 years, with an option to renew for an additional 1 year.

Contact with State Bar personnel in connection with this RFP may not be made other than as specified in this RFP. Unauthorized contact of any State Bar personnel may be cause for rejection of a bid.

II. GENERAL INFORMATION

The submission requirements for this RFP are set forth below. A proposal shall constitute an irrevocable offer for 60 business days following the deadline for its

submission. Reference to a certain number of days in this RFP shall mean business days unless otherwise specified.

A. Submission Requirements

To be considered responsive, a proposal must contain the following, referenced by number and in the order below:

1. A brief description of the history and organization of the bidder's firm, and of any proposed subcontractor. Vendors must submit Attachment B: Business History Questionnaire electronically to Amy.Tsui@calbar.ca.gov or submit disk with proposal.
2. Copies of business licenses, professional certifications or other credentials, together with evidence that bidder, if a corporation, is in good standing and qualified to conduct business in California.
3. The most recent year's annual reports, or comparable document, including detailed current profit and loss, assets and liabilities, and other relevant financial data.
4. A description of similar projects completed by the bidder within the past three (3) years.
5. Qualifications, background and experience of the project director and other staff proposed to work on the project.
6. References with contact information from organizations that have used bidder's services for similar projects/installations within the last 12-18 months.
7. A general description of the techniques, approaches and methods to be used in completing the project. See Online Payment Services Specification (page 8) for details.
8. A detailed cost proposal, including any travel costs and other expenses. Vendors must submit Attachment A: Detailed Cost Proposal electronically to Amy.Tsui@calbar.ca.gov or submit disk with proposal. As the State Bar may award a contract based on the initial offer, a bidder should make its initial offer on the most favorable terms available. The State Bar reserves the right, however, to have discussions with those bidders falling within a competitive range, and to request revised pricing offers from them and to make an award or conduct negotiations thereafter.

9. A written acknowledgement of the acceptance of the Contracting Requirements set forth in section IV of this RFP. Specific terms may be reserved for future negotiation, but must be clearly identified and reasons given for the reservation.

Proposals which fail to address each of the submission requirements above may be deemed non-responsive and will not be further considered.

B. Rejection of Proposals

The State Bar reserves the right in its sole discretion to reject any or all proposals in whole or in part, without incurring any cost or liability whatsoever. All proposals will be reviewed for completeness of the submission requirements. If a proposal fails to meet a material requirement of the RFP, or if it is incomplete or contains irregularities, the proposal may be rejected. A deviation is material to the extent that a proposal is not in substantial accord with RFP requirements.

Immaterial deviations may cause a bid to be rejected. The State Bar may or may not waive an immaterial deviation or defect in a proposal. The State Bar's waiver of an immaterial deviation or defect shall in no way modify the RFP or excuse a bidder from full compliance with the RFP requirements.

Any proposal may be rejected where it is determined to be not really competitive, or where the cost is not reasonable.

Proposals that contain false or misleading statements may be rejected if in the State Bar's opinion the information was intended to mislead the State Bar regarding a requirement of the RFP.

C. Evaluation Process and Highest Scored Bidder

An evaluation team will review in detail all proposals that are received to determine the Highest Scored Bidder ("HSB").

The State Bar reserves the right to determine the suitability of proposals on the basis of a proposal's meeting administrative requirements, technical requirements, the review team's assessment of the quality and performance of the equipment and services proposed, and cost.

During the evaluation process, the State Bar may require a bidder's representative to answer questions with regard to the proposal and/or require certain bidders to make a formal presentation to the evaluation team and/or the State Bar Senior Executive Team. The State Bar may also have discussions with those bidders falling within a competitive range, and request revised pricing offers from such bidders and make an award and/or conduct negotiations thereafter.

The following criteria will be used in reviewing and comparing the proposals and in determining the HSB. The weight to be assigned to each criterion appears following each item.

1. Responsiveness of the proposal to the submission requirements set forth in the RFP (10%).
2. Agreement with the State Bar's contracting requirements (10%).
3. The technical ability, capacity, and flexibility of the bidder to perform the contract in a timely manner and on budget, as verified by, e.g., the quality of any demonstration, client references, demonstrated success in projects with similar requirements and any other contracts with the State Bar (35%).
4. The financial viability of the bidder as evidenced by standard financial reports (10%).
5. The total cost of the proposal solution. Costs will be evaluated only if a proposal is determined to be otherwise qualified. Costs should be itemized by type to allow the State Bar to implement the solution over the term of the contract (35%).

If a large number of proposals are received, the State Bar reserves the right to review the proposals using a tiered evaluation system. All proposals will be evaluated based on the Submission Requirements and Cost, with the top candidates advancing as a finalist and receiving a full evaluation as outlined above.

D. Award and Execution of Contract

Subject to the State Bar's right to reject any or all proposals, the HSB will be awarded the contract. Notice will be posted at the State Bar's offices at 180 Howard Street, San Francisco, CA and written notice sent to bidders on or about December 4, 2006 of the Bar's intention to award the contract to the HSB. It is anticipated that final selection of the HSB will be made by December 11, 2006. The evaluation team will select a winning proposal subject to approvals granted by the Board of Governors. Upon selection, the State Bar and the selected Vendor will enter into good faith negotiations on a contract containing, without limitation, the Statement of Work and Contracting Requirements sections below.

No contract or agreement, express or implied, shall exist or be binding on the State Bar before the execution of a written contract by both parties. If agreement on the terms of such a contract cannot be reached after a period deemed reasonable by the

State Bar in its sole discretion, the State Bar may enter into negotiations and sign a contract with any other bidder who submitted timely, responsive and responsible proposals to this RFP.

If, after the State Bar and the HSB agree to terms and execute a contract, that contract is terminated for any reason, the State Bar may, in its sole discretion, either enter into negotiations with the next highest scored bidder, or issue a new RFP and begin the proposal process anew.

Questions regarding the State Bar's award of any business on the basis of proposals submitted in response to the RFP, or on any other matter in connection with the selection process, should be addressed in writing to Andrew Conover, Procurement Supervisor, at andrew.conover@calbar.ca.gov.

Where written notice is required in this RFP, the notice must be sent by U.S. mail and either facsimile or e-mail.

E. Errors in the RFP

If a bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in the RFP, the bidder should immediately provide the State Bar with written notice of the problem and request that the RFP be clarified or modified. Without disclosing the source of the request, the State Bar may modify the document prior to the date fixed for submission of proposals by issuing an addendum to all potential bidders to whom the RFP was sent.

If prior to the date fixed for submissions, a bidder knows of or should have known of an error in the RFP but fails to notify the State Bar of the error, the bidder shall bid at its own risk, and if, awarded the contract, shall not be entitled to additional compensation or time by reason of the error or its later correction.

F. Questions Regarding the RFP

Questions regarding the RFP may be addressed in writing to Amy Tsui at Amy.Tsui@calbar.ca.gov. All questions must be submitted no later than 5 days prior to the date for submission of proposals. Questions and answers regarding the RFP may be shared with all bidders known to be interested in submitting a proposal.

If a question relates to a proprietary aspect of its proposal and the question would expose proprietary information if disclosed to competitors, the bidder may submit the question in writing, conspicuously marking it as "CONFIDENTIAL." With the question, the bidder must submit a statement explaining why the question is sensitive. If the State Bar concurs that the disclosure of the question or answer would expose proprietary information, the question will be answered, and both the question and answer will be kept in confidence. If the State Bar does not concur regarding the

proprietary nature of the question, the question will not be answered in this manner and the bidder will be notified.

A bidder who believes that one or more of the RFP's requirements is onerous or unfair, or unnecessarily precludes less costly or alternative solutions, may submit a written request that the RFP be changed. The request must set forth the recommended change and reason for proposing the change. The State Bar must receive any such request no later than 5 days before the deadline for submitting proposals.

G. Addenda

The State Bar may modify the RFP prior to the date fixed for submission by posting, mailing, emailing or faxing an addendum to the bidders known to be interested in submitting a proposal. If any bidder determines that an addendum unnecessarily restricts its ability to bid, it must notify the State Bar in writing no later than 5 days before the deadline for submitting proposals.

H. Withdrawal and Resubmission/Modification of Proposals

A proposal may be withdrawn at any time prior to the deadline for submitting proposals by notifying the State Bar in writing of its withdrawal. The notice must be signed by the bidder. The bidder may thereafter submit a new or modified proposal, provided that it is received at the State Bar no later than the deadline.

Modification offered in any other manner, oral or written, will not be considered. Proposals cannot be changed after the evaluation process begins.

I. Protest Procedure

A bidder may protest the award if it meets all the following conditions:

1. The bidder has submitted a proposal that it believes is or should have been the HSB, under the criteria set forth above;
2. The bidder believes that its proposal meets the State Bar's administrative and technical requirements, proposes services of proven quality and performance, and offers a competitive cost to the State Bar; and
3. The bidder believes that the State Bar has incorrectly selected another bidder.

A bidder qualified to protest should contact Andrew Conover, Procurement Supervisor, (415) 538-2207, to attempt an informal resolution. If this contact is unable to resolve the protest to the bidder's satisfaction, the bidder must file a written protest

within 5 days of the notice of intention to award the contract. The written protest must state the facts surrounding the issue and the reasons the bidder believes the award to be invalid. The protest must be sent by certified or registered mail or delivered personally to:

The State Bar of California
180 Howard Street
San Francisco, CA 94105-1639

Attention: Peggy Van Horn, Chief Financial Officer

Protests will be reviewed and decided by the State Bar's Award Protest Team within 30 days after the State Bar issues written acknowledgment of the protest. In the event that a protest is filed, the contract award will be postponed pending resolution of the protest.

J. News Releases

News releases pertaining to the award of a contract may not be made without the prior written approval of the State Bar.

K. Disposition of Materials

All materials submitted in response to an RFP will become the property of the State Bar of California and will be returned only at the State Bar's option and at the expense of the bidder. One copy of each proposal will be retained for official files and become a public record. Specific limited pages of a proposal, not including proposed cost and compensation, may be marked as proprietary and confidential. The bidder's consent will be requested before release of such pages to non-State Bar personnel. By submitting a proposal, a bidder agrees to these terms and waives any right to pursue a cause of action for damages incurred as a result of the release of any information contained in a proposal.

III. STATEMENT OF WORK

A. Background

The State Bar provides information and services to its members, registrants and the general public through its website at <http://www.calbar.ca.gov>. The objective of this RFP is to seek proposals for an online payment service to permit its members and registrants to pay fees (such as annual membership fees or annual registration fees) and to allow its members, registrants and the public to purchase products and services made available through its website. The State Bar currently provides its members and registrants the option to make online payments on its website.

The project's first phase will be to continue to offer State Bar members and registrants the option to make online payments of their annual membership fees or annual registration fees. The State Bar processes in excess of 200,000 such payment transactions per year. As such, it seeks the expertise of a vendor to provide the technology to develop and support the online payment processing in a reliable and secure manner.

The second phase will incorporate credit card transactions hosted by third party companies and manual credit card transactions. The volume of these credit card transactions in 2005 was approximately 38,000. Future applications that require online payment capability will also be made through this process.

The State Bar anticipates entering into a 3-year agreement with the HSB, with an option to renew for an additional year at the end of the original term. Bidders' cost submissions should include cost projections for the total term of the contract.

B. Online Payment Services Specification

Each proposal must include a detailed description of each area of the Online Payment Services Specification as itemized below. The description must indicate if each specification can be met, as well as provide a detailed technical and functional explanation of how each specification will be met. All cost, current and projected, associated with each area of the specification must be specified in Attachment A, Detailed Cost Proposal.

1. End Users' Experiences
 - a. Account setup
 - b. Choice of credit card payment option
 - c. Choice of ACH payment option
 - d. View and modify account information
 - e. Review payment history
2. State Bar Support
 - a. Daily Remittance file - schema and delivery
 - b. Online access to view payment history
 - c. Level of technical support
3. Collaboration
 - a. Transmission of end users' personal information (e.g., Member number, name, etc.)
 - b. Login procedure
 - c. Account setup and User Interface
 - d. Storage of end users' financial information
 - e. Verbiage and help text
 - f. Service agreement and policy text

4. Costs (see attachment A)
 - a. Setup Fees
 - b. Monthly Fees
 - c. Number of transactions covered by Setup Fees and/or Monthly Fees
 - d. ACH Transaction Fees
 - e. Credit Card Transaction Fees
 - f. Daily Remittance File Charges
 - g. Fees for technical support

Each proposal must also specify an Acceptance Testing plan that specifies the criteria for and consequences of completing or failing Acceptance Testing. Successful completion of Acceptance Testing will be tied to any schedule of payments agreed to by the parties.

Following the RFP process and selection of the HSB, the Bar expects implementation to proceed so that the online payment system will be in place, with Acceptance Testing complete, by February 28, 2007.

IV. CONTRACTING REQUIREMENTS

Upon selection of a vendor, the terms set forth in this RFP are to be embodied in a definitive agreement containing such additional covenants and other provisions as may be mutually acceptable.

The State Bar contemplates that, in addition to the terms described above in this RFP, final agreement between the State Bar and the selected vendor will include, without limitation, the following terms. Submission of a proposal shall constitute agreement to contract on these terms, except for any term specifically reserved in the proposal for future negotiation.

A. Time of Essence

Time is of the essence with respect to Vendor's performance of the services and equipment to be provided in the final agreement.

B. Term

The Agreement will remain in effect for three years, with an option to renew for an additional year, unless terminated in accordance with its terms.

C. Warranties and Representations

To the extent that third party manufacturers have made any warranties or other commitments regarding products or services that the Vendor has included in its

proposal to the State Bar of California, the Vendor will assign to the State Bar of California all of such manufacturer's warranties and commitments.

Vendor will provide a one-year warranty for all customized applications.

Vendor will warrant and represent that it possesses such expertise, experience and resources to perform the scope of services required in a diligent, timely and professional manner consistent with the highest standards of the industry. Vendor will supply at all times an adequate number of well-qualified personnel to perform the work. Vendor will provide a contact person available and authorized to remedy any non-conformity with this warranty.

Vendor will warrant that its solution shall conform to and be reasonably free of error and/or defects in material and workmanship, and fit for the purpose for which it is to be used. Vendor will, at its sole cost and expense, promptly perform any and all corrections of error that occur as a result of its own, its contractors' or subcontractors' negligence, make any corrections and modifications to the solution necessary or desirable to cure any non-conformity with the specifications, and repair said system or components so as to remedy any defects in material and/or workmanship.

Vendor will represent and warrant that the solution will not infringe any copyright or other proprietary right (including trade secrets) of any third party, and that Vendor has full authority to grant all rights to the State Bar hereunder.

Vendor will represent and warrant that no claim, whether embodied in an action past or present, of infringement of any patent, copyright, trademark, or other intellectual property right, has been made or is pending against vendor or any entity from which Vendor has obtained such rights relative to the proposal presented to the State Bar hereunder.

D. Equipment, Tools, Supplies

The Vendor will supply all equipment, tools, supplies, offices, personnel, instrumentalities, transportation, support services and insurance required. The Vendor is not required to purchase, rent or hire any equipment, tools, supplies, offices, transportation, personnel, insurance or instrumentalities from the State Bar. The State Bar has no obligation whatsoever to provide any equipment, tools, supplies, offices, personnel, instrumentalities, transportation, support services or insurance required to perform services under this agreement.

E. Indemnity Obligations of Vendor

To the fullest extent permitted by law, the Vendor will agree to protect, indemnify, defend and hold the State Bar and the State Bar's Board of Governors, officers, employees, agents and representatives and each of their successors and assigns (the

"Indemnities") entirely harmless from and against any and all claims, actions, demands, proceedings, liabilities, damages, judgments, fines, penalties, settlements, costs and charges, including, without limitation, attorneys' fees and expenses, arising directly or indirectly from or in connection with (a) any breach of the Agreement, (b) any actual or alleged negligent act, negligent error or omission, intentional misconduct of, or violation of any law by Vendor, the Vendor's employees, subcontractors, agents, representatives or assigns (collectively, the "Vendor's Agents") in the performance or non-performance of the professional services required to be performed by the Vendor under the Agreement; or (c) the State Bar's enforcement of its rights under this indemnity provision. The Vendor will agree that its obligations under this indemnity will survive the expiration and termination of this agreement.

The Vendor will defend, indemnify and hold harmless State Bar (its Board of Governors, officers, agents, and employees, as the same may be constituted now and from time to time hereafter) from and against any and all liability, losses or damages or any expenses or costs whatsoever to the State Bar, including reasonable attorneys' fees and costs, as a result of any claims, demands, damages, costs or judgments against the State Bar based on allegations that, as a consequence of the services rendered hereunder, any program or software designed, developed, amended, merged or restructured, or any part thereof, alone or in combination with other programs or software, infringes on any patent or copyright or misappropriates a trade secret. If any such program or software or any part thereof, is held to constitute an infringement or misappropriation, and use of the program or software is enjoined, the Vendor will, at its own expense, either: (1) procure for the State Bar the right to continue to use the program or software or part thereof; (2) replace the program or software with a non-infringing replacement, provided that such replacement does not compromise performance and otherwise meets the State Bar's specifications; or (3) modify the program or software to make it non-infringing, provided that such modification does not compromise performance and otherwise meets the State Bar's specifications.

In the event both the State Bar and Vendor are named as defendants in the same civil action, and the State Bar determines that a conflict of interest exists between the parties, Vendor will agree to provide, at its own cost, independent counsel for the State Bar. The State Bar may, at its option, designate its Office of General Counsel as equal participating counsel in any litigation wherein the Vendor defends the State Bar. Upon selection of a vendor, the terms set forth in this RFP are to be embodied in a definitive agreement containing such additional covenants and other provisions as may be mutually acceptable.

The State Bar contemplates that, in addition to the terms described above in this RFP, final agreement between the State Bar and the selected vendor will include, without limitation, the following terms. Submission of a proposal shall constitute agreement to contract on these terms, except for any term specifically reserved in the proposal for future negotiation.

F. Insurance Obligations of Vendor

The Vendor will provide and keep in full force and effect during the term of this agreement, at the Vendor's own cost and expense, the following insurance policies for the joint benefit of the Vendor and the State Bar, with an insurer reasonably acceptable to the State Bar:

1. Commercial general liability insurance with a general aggregate limit (other than products/completed operations) of at least Two Million Dollars (\$2,000,000.00); at least One Million Dollars (\$1,000,000.00) personal and advertising injury limit; at least One Million Dollars (\$1,000,000.00) premises and operations limit; at least One Million Dollars (\$1,000,000.00) each occurrence limit;
2. Workers' compensation coverage as required by law, together with employer liability coverage with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence.
3. Comprehensive automobile liability insurance covering owned, leased, hired and non-owned vehicles with at least One Million Dollars (\$1,000,000.00) combined single limit.
4. Professional liability insurance with a general aggregate limit of Two Million Dollars (\$2,000,000) and an occurrence limit of two Million Dollars (\$2,000,000).
5. Fidelity Bond Coverage in the amount of Three Million Dollars (\$3,000,000), with riders that cover Forgery and Alteration and Computer Systems Fraud.

The Vendor will deliver to the State Bar offices at 180 Howard Street, San Francisco, CA 94105 Attn: Andrew Conover, Procurement Supervisor, true and correct copies of its insurance policies required above, and certificates of such insurance within seven (7) days of the execution of this agreement. Each such policy will name the State Bar as an additional insured and will state that the Vendor's policy shall be primary and that any insurance carried by the State Bar shall be noncontributing with respect thereto. Each such policy will provide for thirty (30) days prior written notice to the State Bar in the event of cancellation or reduction in coverage or amount. If the Vendor fails to secure and maintain insurance policies complying with the provisions of this agreement, the State Bar may purchase the appropriate insurance policies and the Vendor will pay upon demand the cost of it to the State Bar or the State Bar may terminate this agreement. In addition to the insurance required to be obtained and maintained by the Vendor, if the Vendor assigns any portion of the duties under this agreement in accordance with the terms, hereof, each subcontractor or assignee will purchase and maintain the same insurance coverage required hereunder.

The Vendor will immediately notify the State Bar if the Vendor's commercial general liability insurance contains restrictive endorsements other than those restrictive endorsements normally included in the State of California. If the Vendor's commercial general liability insurance contains such restrictive endorsements, the Vendor shall have five (5) business days to remove said restrictions. If the Vendor is unable to do so, the State Bar may terminate this agreement, and will be required to give the Vendor no more than two (2) days' notice of such termination, anything in this agreement to the contrary notwithstanding.

G. Compensation

Compensation will be conditioned upon completion of services to the satisfaction of the State Bar and will be made on a schedule that provides for a down payment upon execution of the Agreement, a progress payment, and a final payment upon successful completion of acceptance testing.

H. Termination

1. **At Will.** The agreement will be terminated by the State Bar, in its sole and complete discretion, upon thirty (30) days written notice to Vendor. In the event of termination pursuant to this section, the vendor's sole compensation will be for that portion of services performed or goods delivered up to the date of termination, together with reimbursable expenses, if any then due. Vendor will not be paid for any services, goods or reimbursable expenses associated with any work or service not specifically authorized by the State Bar.
2. **Authorization of Funds.** If the term of this agreement extends into fiscal year(s) subsequent to that in which it is signed, it is understood that the continuation of this contract is subject to the authorization of sufficient funding for such purpose by the California State Legislature. If sufficient funds are not so authorized, the parties mutually agree that the contract may be terminated or amended as appropriate in response to the reduction in funding. If the agreement is terminated, Vendor agrees to take back any affected equipment, products, software, or hardware furnished under this contract, and relieve the State Bar of any further obligation, except for the State Bar's obligation to pay for services already performed pursuant to this agreement.
3. **Default by Vendor.** This agreement may be terminated by the State Bar upon thirty (30) days written notice to the Vendor in the event the Vendor is in default under any of its provisions. In the event this agreement is terminated due to the default by the Vendor, the Vendor will not be entitled to receive any compensation for services performed

or for any reimbursable expenses incurred, and the State Bar will have the right to have the services completed by other parties and the Vendor will reimburse the State Bar for the actual costs to complete the services in excess of the balance of the fee and reimbursable expenses, if any, provided for in this agreement. Any such act by the State Bar will not be deemed a waiver of any other right or remedy of the State Bar, including, without limitation, the State Bar's right to consequential damages caused directly or indirectly by the Vendor's default.

4. **Automatic Termination.** This agreement will automatically terminate on the occurrence of any of the following events: (a) bankruptcy or insolvency of either party; (b) sale of the business of either party; (c) failure to comply with federal, state or local laws, regulations or requirements, or (d) expiration of the agreement.

I. Confidentiality and Publicity

The Vendor will retain all confidential information provided by the State Bar or by users of the online payment system in the strictest confidence and will neither use it nor disclose it to anyone other than employees requiring the information to perform services under this agreement without the prior written consent of the State Bar. The State Bar retains the right to enjoin any unauthorized disclosure in an appropriate court of law. The Vendor will not issue any public announcements concerning the State Bar without the prior written consent of the State Bar.

J. Compliance with Laws

The Vendor agrees to comply with all applicable federal, state, and local laws and regulations, including but not limited to the provisions of the Fair Employment and Housing Act (Govt. Code, § 12900 et seq.) and any applicable regulations promulgated there under (Cal. Code of Regs., tit. 2, § 72850.0 et seq.). Vendor agrees to include the non-discrimination and compliance provisions of this clause in any and all subcontracts to perform work under the agreement.

K. Assignment/Subcontracting

1. **Assignment.** The Vendor will not assign or transfer its interest, in whole or in part, under this agreement, without the written consent of the State Bar, which consent may be granted or withheld in the sole and absolute discretion of the State Bar.
2. **Subcontracting.** The Vendor may subcontract with other qualified firms or individuals as required to complete all, or a portion of, the delivery of equipment and services, with the prior written approval of the State Bar.

The Vendor will clearly describe the reason for using any subcontractors, the specific role each subcontractor will play in the project, and the relationship between the Vendor and its subcontractor to be maintained during the term of this agreement. No subcontract will be approved unless the Vendor provides a written guarantee that the Vendor's firm will be contractually obligated to assume all project responsibilities and the insurance requirements set forth above.

L. Conflict of Interest

Vendor will immediately notify the State Bar, in writing, of any potential or actual conflicts of interest that arise or exist between or among the State Bar and any other persons and/or entities for whom Vendor provides services.

The State Bar, as a public corporation, is subject to statutorily mandated conflict of interest codes. (See Business and Professions Code section 6036; Government Code section 87300). Vendor will familiarize itself with the State Bar's conflict of interest codes and avoid any and all situations that could result in violation of the provisions of said codes

M. Alternate Resources

The chosen Vendor must have sufficient alternative available resources so that the services established in the Agreement can be completed on time and so that the online payment service can continue uninterrupted during the term of the Agreement. In the event that use of alternate resources results in additional expense to the State Bar, the Vendor must reimburse the State Bar for all such expense.

N. General Provisions

1. **Force Majeure.** Neither party will be deemed in default of this agreement or any provision hereunder to the extent that any delay or failure in the performance of the obligations of such party (other than the payment of money) results from any significant and material causes beyond its reasonable control and without fault or negligence by such party. Examples of such causes include, but are not limited to, (1) acts of God or public enemy, (2) acts of the government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) embargoes, (9) earthquakes, and (10) unusually severe weather.
2. **Governing Law.** The agreement will be governed by the laws of the State of California without giving effect to its principles of conflict of laws.

3. **Attorneys' Fees.** In the event either party institutes any action or proceeding against the other party relating to this agreement, the unsuccessful party in such action or proceeding will reimburse the successful party for its disbursements incurred in connection therewith and for its reasonable attorneys' fees as fixed by the court. In addition to the foregoing award of attorneys' fees to the successful party, the successful party in any lawsuit shall be entitled to collect or enforce the judgment. This provision is separate and several and shall survive the merger of the agreement into any judgment.

3. **Arbitration.** Any question, claim or dispute arising out of or in connection with this agreement in excess of Seven Thousand Five Hundred Dollars (\$7,500.00) shall be referred to binding arbitration, except with respect to disputes regarding breaches of confidentiality. Such arbitration shall take place before a single arbitrator in the City and County of San Francisco, and shall be conducted in accordance with Part III, Title 9 of the California Code of Civil Procedure. The arbitrator shall apply legal principles in accordance with California law, without regard to its conflict of laws principles, unless the alleged claim or dispute is otherwise pre-empted by federal law. By agreeing to this arbitration clause, neither party waives applicable defenses or immunities available to it under California law. Any arbitration demand made under this clause must be made no later than one year from the expiration or termination of this agreement. Each party will be solely responsible for payment of its own pro rata share of any expenses and fees incurred during the course of arbitration. In no event will the arbitrator have the power or authority to award consequential damages, indirect or special damages, lost profits, loss of goodwill, punitive, or speculative damages. Disputes of Seven Thousand Five Hundred Dollars (\$7,500.00) or less shall be handled in Small Claims Court in the City and County of San Francisco.

4. **Audit.** Vendor agrees that the State Bar or its designee shall have the right to review and copy any financial records and supporting documentation pertaining to the performance of this Agreement. Vendor agrees to maintain such financial records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Vendor agrees to allow the State Bar or its designee access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Vendor agrees to include a similar right of the State Bar or its designee to audit records and interview staff in any subcontract related to performance of this Agreement.

5. **License.** In those instances where required, the Vendor represents and warrants that the Vendor holds a license, permit or special license to perform the services pursuant to this agreement, as required by law, or employs or works under the general supervision of the holder of such license, permit or special license and shall keep and maintain all such licenses, permits or special licenses in good standing and in full force and effect at all times while the Vendor is performing the services pursuant to the agreement.

Attachment B: Business History Questionnaire

Business Details	Complete fields below
Legal Name of Business or Full Name of Individual	
Name of Ultimate Holding Entity <i>if applicable</i>	<input type="checkbox"/> n/a
Registered Business or Trading Name <i>if applicable</i>	<input type="checkbox"/> n/a
Registered Business Address--Street	
Registered Business Address--City, ST Zip	
Address documents scanned--City, ST Zip	
Business URL	
Business Type	<input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Other
Taxpayer Identification Number <i>TIN or SSN</i>	
Publicly traded?	<input type="checkbox"/> yes <input type="checkbox"/> no
Trading Symbol	
Number of Employees Full-Time	
Number of Employees Part-Time	
Number of Employees Contract/Consulting	
Years in Business	
Former Business Name <i>if applicable</i>	<input type="checkbox"/> n/a
Point of Contact (email address)	
Financial Details	Summarize financials below
2005	
Total Assets	
Total Liabilities	
Profit/Loss	
2004	
Total Assets	
Total Liabilities	
Profit/Loss	
2003	
Total Assets	
Total Liabilities	
Profit/Loss	
Current D&B Rating	<input type="checkbox"/> none
Most recent annual report/audited financial statement included?	<input type="checkbox"/> yes <input type="checkbox"/> no
If not, please explain:	
Relevant Names	Include all critical roles in proposal
Full Name, title	
Address <i>City, ST only</i>	
Number of Years in Organization	
Full Name, title	
Address <i>City, ST only</i>	
Number of Years in Organization	
Full Name, title	
Address <i>City, ST only</i>	
Number of Years in Organization	
Full Name, title	
Address <i>City, ST only</i>	
Number of Years in Organization	
Supplementary Information	Attach detailed explanation for any item(s) marked yes.
Has any office bearer or relevant name listed above been involved with a business failure?	<input type="checkbox"/> yes <input type="checkbox"/> no
Has any office bearer or relevant name listed above declared bankruptcy?	<input type="checkbox"/> yes <input type="checkbox"/> no
Has any office bearer or relevant name listed above been involved in a government investigation?	<input type="checkbox"/> yes <input type="checkbox"/> no
Is there any current, pending, or finalized litigation against your organization during the past 5 years?	<input type="checkbox"/> yes <input type="checkbox"/> no
Any debt collections by debt collection agency on behalf of creditors of your organization, office bearers or relevant name listed above?	<input type="checkbox"/> yes <input type="checkbox"/> no
Are there any other contingent liabilities, not reported in the financial statements, that are likely to impact the financial position of your organization?	<input type="checkbox"/> yes <input type="checkbox"/> no