

REQUEST FOR PROPOSAL



THE STATE BAR OF CALIFORNIA

This document is a Request for Proposal (“RFP”) for Audio Conferencing Services.

Please submit 4 copies of your proposal in a sealed envelope no later than 5 p.m. on October 10, 2005 to:

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

Attn: Liz Avila
Office of Reception Services

I. INTRODUCTION

The State Bar of California (“the State Bar”) is a constitutional agency established as a public corporation within the judicial branch of state government. It was established for purposes of performing governmental functions and assisting the California Supreme Court in attorney admissions and disciplinary matters. In accordance with California law 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 typically receives favorable governmental pricing and contract terms.

The State Bar is seeking proposals for audio conferencing services for the State Bar of California's offices in San Francisco, Sacramento and Los Angeles, currently averaging 125 calls per month. The contract will be for two years, October 21, 2005 through October 20, 2007, with a one-year option to extend based upon quality performance and provided that the cost for services does not exceed 10% of the original contract fee structure.

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

A. Submission Requirements

The submission requirements for the RFP are detailed below. The submission of a proposal shall constitute an irrevocable offer for **30** 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.

To be considered responsive, a proposal must contain all of the following:

1. Qualification statement of bidder; and
2. History of company, complete contact information, including address, telephone number, and fax number (required) and proof of financial solvency or stability (e.g. balance sheets and income/expense statements for the previous one or two years); and
3. Evidence that the bidder, if a corporation, is in good standing and qualified to conduct business in California, and copies of business licenses, professional certifications or other credentials; and
4. References (at least five, including contact name and phone number) from organizations which have used bidder's services on a contract basis for audio conferencing services similar to those required by the State Bar herein; and
5. Bid covering all costs and compensation. Bid should be provided on attached bid sheet (Attachment A).

Proposals may be deemed non-responsive and will not be further considered for failing to submit a response or documentation that addresses each of the submission requirements described above.

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 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 original specifications set forth in the RFP, including agreement with the State Bar's contracting requirements (20%).
2. 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 (30%).
3. The financial viability of the bidder as evidenced by standard financial reports and by related factors such as its business plan, market position, and strategic partnerships (10%).
4. 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 (40%).

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. Written notice of the Bar's intention to award the contract to the HSB will be sent to the address identified in the proposal on or about October 13, 2005. It is anticipated that final selection of the HSB will be made by October 20, 2005. The evaluation team will select a winning proposal subject to approvals granted by the Board of Governors. Upon selection, the State Bar and the HSB 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 Liz Avila at liz.avila@calbar.ca.gov or Sharon Pearl at sheri.pearl@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 known interested bidders.

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 will bid at its own risk, and if, awarded the contract, will 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 Liz Avila at liz.avila@calbar.ca.gov (415-538-2329) or Sharon Pearl at sheri.pearl@calbar.ca.gov (415-538-2340). All questions must be submitted not later than 15 days prior to the date

for submission of proposals. Questions and answers regarding the RFP may be shared with all bidders.

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. Any such request must be received by the State Bar 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 mailing, e-mailing or faxing an addendum to the any known interested bidder. If any bidder determines that an addendum unnecessarily restricts its ability to bid, it must notify the State Bar in writing no later than three (3) days following the receipt of the addendum.

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, (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 Hetzler, 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

Provide audio conferencing service with the following capabilities:

1. 24 -hour customer service assistance.
2. Toll free dial in, operator dialed and caller paid dial in services.
3. No set up charges or fees.
4. Security controls when call goes into "Closed Sessions". Closed Sessions are highly confidential discussions that are not open to the public. During Closed Sessions only

conference call participants that have been specifically identified will be allowed to continue on the conference call. When a discussion goes into Closed Session the moderator of the conference call will inform the conference call bidder of such a situation and all callers not identified by the scheduler, will be disconnected by the conference call bidder .

5. Ability to schedule conference calls and obtain confirmation number at any given time.
6. Ability to add additional callers once the call is in progress.
7. Provide technical training as required.
8. Invoice monthly and charges to be billed back to department.
9. Bidder must accept Visa purchasing card.

IV. CONTRACTING REQUIREMENTS

Upon selection of a successful bidder, 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. If appropriate, the State Bar's first choice is to incorporate the master purchasing terms and conditions applicable to the State of California into the State Bar's agreement with the successful bidder (hereinafter "Vendor").

The State Bar contemplates that, in addition to the terms described above in this RFP, final agreement between the State Bar and the successful bidder 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. Term

The initial term of the agreement will be for two years. At the option of the parties, the agreement may be extended for one additional year.

B. Warranties and Representations

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.

C. 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.

D. 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 the 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.

In the event both the State Bar and the vendor are named as defendants in the same civil action, and the State Bar determines that a conflict of interest exists between the parties, the 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.

E. 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).

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 will be primary and that any insurance carried by the State Bar will 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 will 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.

F. Termination

1. **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, the 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.
2. **At-Will.** The agreement may be terminated by the State Bar, in its sole and complete discretion, upon thirty (30) days written notice to the 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. The 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.

3. **Default by Vendor** . The 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 the 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, 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.** The 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.

G. Confidentiality and Publicity

The vendor will retain all confidential information provided by the State Bar 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.

H. Nondiscrimination

The vendor agrees to comply with all applicable federal, state, and local laws and regulations, including but not limited to provisions of the Fair Employment and Housing Act (Government Code section 12900 et seq.) and applicable regulations promulgated there under (California Administrative Code, Title 2, section 7285.0 et seq.). The vendor will include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this agreement.

I. 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. The parties acknowledge that the State Bar's obligations under this agreement primarily

concern the financial ability to carry through the terms of payment. Therefore, the State Bar may assign or transfer part or all of its interest in this agreement, provided that such assignment shall not become effective, and the State Bar will not be released from its obligations under this agreement, until such time as the State Bar or the State Bar's assignee makes payment to the Vendor of all fees and payments then due and payable to the vendor.

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, subject to the approval of the State Bar. Any request by the vendor to subcontract the provision of services under this agreement must be submitted in writing, and 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.

J. 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.** This 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 this agreement into any judgment.
4. **Arbitration** Any question, claim or dispute arising out of or in connection with this agreement in excess of Five Thousand Dollars (\$5,000.00) 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 preempted 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. The cost of the arbitration shall be borne equally by the parties, each party to pay its own fees and costs.

Disputes of Five Thousand Dollars (\$5,000) or less shall be handled in Small Claims Court in the City and County of San Francisco.

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 this agreement.

Attachment A

Audio Conferencing Services

Name of Company: _____

Contact Person: _____

Address: _____

Telephone: _____

Audio Conferencing Services

- 1) Please check the type of services available through your company and the rates associated with each.

Toll-Free Dial In Service	Rate per Minute	
Peak Hours:	8A.M.-7P.M. Monday-Friday	_____
_____ Off Peak Hours:	7P.M.-8A.M. Monday-Friday	_____
_____ Set Up Fee (if applicable)		_____

Operator-Dialed		
Peak Hours	8A.M.-7P.M. Monday-Friday	_____
_____ Off Peak Hours	7P.M.-8A.M. Monday Friday	_____
_____ Set Up Fee (if applicable)		_____

Caller-Paid Dial-In Service		
Peak Hours	8A.M.-7P.M. Monday-Friday	_____
Off-Peak Hours	7P.M.-8A.M. Monday-Friday	_____
Set Up Fee (if applicable)		_____

Are there any additional costs other than the above rates?

9Yes 9No

If yes, please describe _____

Are there any restrictions? _____

- 2) Provide a description of the process required to schedule and cancel an audio conference call.

- 3) Describe your policy and operational procedures in regards to security?

- 4) When a caller is dropped from a conference call for a closed session, how do you ensure that the line is now secure?

- 5) What is the maximum number of ports available for:
Reservationless calls?
Operator Assisted calls?
Event Calls?_

- 6) What features are available for:

Reservationless calls?

Operator assisted calls?

- 15) Detail the reports available to end users.
- 16) What is your presence and history within the marketplace?
- 17) Describe account management team handling our account, including roles and responsibilities.
- 18) Provide 5 references which may be contacted regarding your services, preferably the legal industry.
 - 1.
 - 2.
 - 3.
 - 4.
 - 5.
- 19) Additional Comments or Information:

Return bid submission to:

**Liz Avila
Supervisor, Office and Reception Services
The State Bar of California
180 Howard Street
San Francisco, CA 94105**