

The State Bar of California

REQUEST FOR PROPOSAL



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

The State Bar is seeking proposals for audio recording Continuing Legal Education (“CLE”) seminars, duplicating and marketing them to attorneys both in and out of state on behalf of the State Bar of California. Contract term desired is for a period of 2 years, with an option to renew for an additional 1 year term.

Please submit 6 copies of your proposal no later than 5 p.m. on June 5, 2009 to:

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

Attn: Tricia Horan
Section Education and Meeting Services
415-538-2223
tricia.horan@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. The State Bar is a unified, or integrated bar, and membership is mandatory for all attorneys who are licensed to practice law in the state. In addition to its mandated licensing and disciplinary and certification functions, the State Bar offers a number of other programs designed to assist, educate and protect its members and the public. The State Bar has offices located in Los Angeles, Sacramento and San Francisco. More information about the State Bar can be found at http://calbar.ca.gov/state/calbar/calbar_home_generic.jsp?cid=10102

II. STATEMENT OF WORK

A. Continuing Legal Education Background

California attorneys on active status must complete at least 25 hours of legal education activities over a 36 month period. Half of those 25 hours (12.5) may be claimed for self

study activities during any compliance period. Self-study credit refers to self-verified participation in an education activity. Education activity includes viewing “approved videotapes of approved activities or viewing or participating in other approved audiovisual activities, including interactive audio instruction and activities electronically transmitted from another location, such as online education.”

With an active membership of over 200,000, fulfillment of this requirement has been staggered, with the compliance period for attorneys whose last names begin with the letters A-G beginning February 1, 2007 and ending January 31, 2010. Attorneys whose last names begin with the letter H-M must complete their CLE requirement during the compliance period February 1, 2009 to January 31, 2012. Attorneys whose last names begin with the letter N-Z must complete their CLE requirement during the compliance period February 1, 2008 to January 31, 2011.

The State Bar has had a mandatory continuing legal education program since 1991. Participating providers include the State Bar’s own Sections which consist of 16 specialized legal practice areas.

B. License

1. Vendor will receive an exclusive license to produce, distribute and sell copies of original audio recordings made by Vendor under the agreement or specifically designated by the State Bar for distribution and sale by Vendor. All rights to the master recordings, supplemental written material accompanying the recordings, and the contents of the recordings will be the sole property of the State Bar. Vendor will have no rights of any kind to the audio-stream of any CLE seminars which rights will remain solely with the State Bar. Vendor will agree that copies of audio recordings produced by Vendor may be distributed by the State Bar to any other State Bar vendor or service provider for whatever purpose, except for the purpose of distributing and selling audio recordings produced by Vendor under the agreement. Vendor will be required to cooperate with and assist the State Bar in ensuring all rights remain solely with the State Bar.
2. In exchange for this license, Vendor will pay to the State Bar a royalty consisting of not less than 20% on the gross profit of all audio recordings sold by Vendor, less actual cash returns and credit returns for defective audio recordings.
3. Royalty payments for all sales will be made in quarterly installments. Vendor will submit itemized statements listing all audio recordings sold under this Agreement on a quarterly basis.

C. Service Requirements

1. Specifications

- a. Vendor will produce audio recordings of approximately 100 CLE seminars at various locations throughout California as designated by the State Bar. A list of 2009 CLE programs is included for reference in Attachment A. Additional classes are added, cancelled, rescheduled as needed throughout the year. Selection of CLE seminars for audio recording and sale shall be at the State Bar's sole discretion.
- b. Master recordings will be rough edited on-site to ensure continuity. Vendor will add a pre-recorded, professionally narrated introduction, turn over message and promotional copy as requested by the State Bar.
- c. Audio recordings will be of best quality construction. Each digital audio file, cassette tape and CD will be checked for audio quality and will be unconditionally guaranteed by Vendor against defects.
- d. Each audio recording will be labeled with meeting dates and session title. Two complimentary sets of recordings of all programs will be provided (CD format) to the State Bar at no cost. Additional office or speaker copies will be provided to the State Bar at 50% of the retail price then in effect.
- e. The State Bar will provide Vendor with a disclaimer to be placed on each audio recording. Said disclaimer will also be placed on Vendor's website.
- f. Following the termination of the Agreement, the State Bar will provide Vendor reasonable access to the master tapes solely for the purpose of correcting any defects in audiotapes produced by Vendor prior to the date of termination.

2. Sales

- a. Vendor will be responsible for all aspects of marketing and distributing the audio recordings through all available marketing channels, including, but not limited to, audio cassette tapes, compact disks, and downloadable formats.
- b. Vendor will be responsible for staffing and operating the sales and duplicating area at meetings and seminars in an area near the meeting or seminar rooms. The State Bar will provide this space, including two tables, chairs, trash receptacles and electricity at no cost to Vendor.
- c. Vendor will be responsible for designing and printing an order and receipt form for use in the audio program.
- d. Vendor shall write an order for every sale made. The orders will be totaled each evening following the close of business and all data shall be

made available to designated State Bar personnel.

- e. Vendor will duplicate audio recordings as required for delivery of on-site orders, and will provide sufficient equipment and personnel to meet the anticipated need.
- f. Vendor is encouraged to sell the audio recordings through other distribution channels, including Vendor's own website. However, Vendor will not have permission to allow online users to listen to the audiotapes through the Internet.

3. Pricing Guidelines

- a. Vendor will market and distribute these audio recordings at the lowest competitive cost to lawyers and others in the legal community.
- b. Vendor and the State Bar shall establish written pricing guidelines which may, from time to time, be modified by a writing signed by both parties to the contract.
- c. Vendor will provide the names, titles, and proposed duties of additional personnel, if any, who will be required on a subcontract basis. The technical areas, character, and extent of subcontract activity will be indicated and the anticipated sources will be specified and qualified.

4. Equipment Supplies

- a. Vendor must supply all equipment, tools, offices, personnel, instrumentalities, transportation or support services and insurance required to perform services. The State Bar has no obligation whatsoever to provide any equipment, tools, offices, personnel, instrumentalities, transportation or support services required to perform services.
- b. Vendor must have sufficient back-up equipment so that all services can be completed by deadline. The use of back-up equipment must not result in additional expense to the State Bar.

III. 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.

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.

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.
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. Qualifications, background and experience of the project director and other staff proposed to work on the project. Special mention should be made of direct technical supervisors and key technical personnel, and the approximate percentage of the total time each will be available for this program. Resumes of all key personnel are required. Each must indicate recent experience, specific or technical accomplishments.
5. Provide a detailed outline of your experience in the creation and distribution of seminar recordings, including references with contact information from organizations that have used bidder's services for similar work within the last 12-18 months.
6. Describe your current recording library:
 - a. How many titles do you inventory?
 - b. Do you currently distribute continuing legal education recordings?
 - c. How many of your library's current titles are derived from conference seminar recordings?
 - d. How many conference seminar recordings are from the legal profession?
 - e. How many of your audio programs include accompanying written materials?
7. Describe your conference activities and on-site procedures.

- a. Do you have experience in managing on-site conference recording, editing, duplicating, packaging and distribution?
 - b. Does your company personally manage the on-site conference functions or does it outsource these services to other companies?
 - c. In an average year, how many conferences do you record?
 - d. How many legal education conferences have you recorded?
 - e. How many of those conferences have required concurrent seminars to be recorded?
 - f. What is the maximum number of seminars you have recorded concurrently?
 - g. How do you manage on-site conference recording with multiple concurrent seminars: recording, editing, duplicating, packaging, and distribution?
8. Describe your post-conference production and distribution procedures.
 - a. Does your company manage editing or does it outsource this work to other companies?
 - b. Does your company manage recording duplication or does it outsource this work to other companies?
 - c. Does your company manage the reproduction of accompanying printed materials or does it outsource this work to other companies?
 - d. How soon after a program is ordered do you ship it to the customer?
 - e. Please cite specific examples.
 9. Describe your customer satisfaction policy and how you handle customer service complaints.
 10. Provide a sample of your work, including packaging and written materials, in both audio cassette and CD formats.
 11. A detailed cost proposal of the finished recordings to be sold to our attorneys (cassette tapes, CD, digital audio file) itemized by program running time (e.g. 1-hour sessions = \$X, 2-hour = \$Y, etc.).
 12. A detailed royalty proposal to be calculated on the gross profit of all audio recordings sold by, less actual cash returns and credit returns for defective audio

recordings. The State Bar will not consider any royalty proposal less than 20% of gross profit. 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.

13. 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. Note that responses to questions must be specifically answered within the context of the submitted proposal. The State Bar's evaluation team will not refer to a designated web site, brochure, or other location for the requested information. Responses that utilize references to external materials as an answer will be considered non-responsive.

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 will 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 Score Bidder

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

Following the initial review and screening of the written Proposals, using the selection criteria described below, several bidders may be invited to participate in the final

selection process, which may include participation in an oral interview and/or submission of any additional information as requested by the State Bar.

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.

This Request for Proposal does not commit the State Bar to awarding a Contract. Bidders shall bear all costs incurred in the preparation of the Proposal and participating in the Proposal evaluation process. The State Bar reserves the right to reject any and all Proposals, to accept the Proposal it considers most favorable to its interest in its sole discretion, and to waive minor irregularities. The State Bar further reserves the right to seek new Proposals when such procedure is considered by it to be in the best interest of the State Bar.

1. 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.
 - a. Responsiveness of the proposal to the submission requirements set forth in the RFP (10%).
 - b. Agreement with the State Bar's contracting requirements (10%).
 - c. The technical ability, capacity, financial viability 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%).
 - d. Quality of the production samples provided (10%).
 - e. The total cost and revenue component of the proposal solution. If the proposal contains itemized rates, per piece pricing, or commission-based pricing, the State Bar reserves the right to calculate total contracted cost and revenue component by calculating rates using either previous known usage activity or future projected volume (35%).

2. If a large number of proposals are received, the State Bar reserves the right to review the proposals using a tiered evaluation system. All qualified proposals will be evaluated based on the Submission Requirements and Cost, with the top candidates advancing as finalists 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 upon successful completion of any negotiation regarding contractual terms. 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 June 17, 2009 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 June 24, 2009. The evaluation team will select a winning proposal subject to approval 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, Finance Manager, 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 Tricia Horan at tricia.horan@calbar.ca.gov. All questions must be submitted no later than 7 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, Finance Manager, (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 the State Bar's 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 entire proposal cannot be deemed confidential. The bidder's consent will be requested before release of such confidential 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.

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. Warranties and Representations

Vendor warrants and represents 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 standards of the industry. Vendor represents and warrants that none of its work performed under this Agreement will infringe on the rights of third parties. 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. If any of Vendor's work is found to be infringing, Vendor will correct the work to be non-infringing at no charge to the State Bar.

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

Vendor will indemnify and defend the State Bar (including its Board of Governors, officers, director, agents, employees and volunteers, as the same may be constituted from time to time) from all claims, demands, damages, debt, liability, obligations, cost, expense, lien, action or cause of action (including but not limited to actual damages, fines and attorneys' fees, whether or not litigation is actually commenced) arising out of: (i) the material breach by Vendor of any warranty, representation, term or condition made or

agreed to by Vendor; (ii) all products and services prepared by or for Vendor hereunder and provided to State Bar; (iii) any claim or action for personal injury, death or otherwise involving alleged defects in Vendor's business or any of its products or services provided to State Bar; (iv) any breach by Vendor of any statutory or regulatory obligation; (v) the actual or alleged infringement by Vendor of any patent, copyright, trademark or other proprietary right of any person or entity; and/or (vi) any act or omission of Vendor, its employees, agents or subcontractors.

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).

The Vendor will deliver to the State Bar offices at 180 Howard Street, San Francisco, CA 94105 Attn: Andrew Conover, Finance Manager, 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. Additionally, if the Vendor assigns any portion of the duties under this agreement, 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.

F. Termination

1. **At Will.** The agreement may 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. Disputed compensation or expenses will not be paid.
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, Contractor 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 undisputed services already performed pursuant to this agreement.
3. **Default by Vendor.** This agreement may be terminated by the State Bar upon fifteen (15) 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.

G. Confidentiality and Publicity

The Vendor will retain all 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. 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.

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.
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.

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.** 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.
4. **Audit.** Vendor agrees that the State Bar or its designee shall have the right to review and copy any records and supporting documentation pertaining to the performance of this Agreement. Vendor agrees to maintain such 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 A

Section	Program Title	Date	Times	Program Location	City, State and Zip	MCLE Credit
Solo Summit	Solo Summit	January 15-16, 2009	Various	Claremont Resort & Spa	Berkeley	Up to 13 Hours
SEI	Section Education Institute	January 16-18, 2009	Various	Claremont Resort & Spa	Berkeley	Up to 13 Hours
Real Property	Real Property Law Boot Camp 2009	February 6-8, 2009	Various	Ojai Valley Inn & Spa	Ojai	12 Hours of MCLE
Taxation	Annual Estate & Gift Tax Program	February 6-8, 2009	8am to 4:15pm	BofA APGianinni Auditorium	San Francisco	6.75 w/ 1hour ethics
Trusts	The Law & Elder Abuse: Identification & Prevention	March 4, 2009	9:00 am to Noon	State Bar Offices	San Francisco	3
Labor	The Perils of PAGA: Representation Under the Private Atty Gen Act	March 13, 2009	1 pm to 4 pm	Los Angeles	State Bar Offices	2 hours
Workers' Compensation	Spring Conference	March 14, 2009	9:00 am - 4:30 pm	Concord Hilton	Concord	7 Hours of MCLE
Environmental	Student Negotiations Competition	March 20, 2009	9:00 am - 5:00 pm	Golden Gate University	San Francisco	0
International	Immigration & Export Control Considerations in Employment Foreign Nationals	March 20, 2009	3:00 - 5:00pm	Cooley Godward Kronish LLP	Palo Alto	2
Labor	15th Annual Labor & Employment Public Sector Conference	April 3, 2009	8:45 a.m.-4:30 p.m.	Sacramento	Radisson	5.75
Litigation	Coaching for the New Practitioner	April 7, 2009	6:00to 8:00pm	State Bar Offices S.F.	S.F.	2.0Hours
Trusts	The Care and Feeding of GRATs, QPRTs, and Sales to Defective Grantor Trusts	April 17, 2009	9:00 am to 4:45 pm	Hotel Nikko	San Francisco	6
Real Property	Fair Housing and Public Accommodations Symposium	April 17, 2009	9:00 am - 4:30 pm	Golden Gate University	San Francisco	5.5 Hours
Labor	Trade Secrets, Non-Competition, Interference and Duty of Loyalty	April 17, 2009	1 pm to 2:30 pm	Piccadilly Inn	Fresno	1.5 Hours
Environmental	Central Coast Symposium Trends in Environmental Law	April 24-25, 2009	Various	Fess Parker's Doubletree	Santa Barbara	9.5 Hours
Workers' Compensation	Spring Conference	April 25, 2009	9:00 am - 4:30 pm	Sherman Oaks Marriott	Sherman Oaks	7 Hours of MCLE
Litigation	Coaching for the New Practitioner	April 27, 2009	6:00 - 8:00 pm	Wilshire Grand Hotel	Los Angeles	2.0 hours
Litigation	Fist Annual Conference on Federal & State Appeals	May 1, 2009	8:00to 4:00pm	Ronald Reagan Auditorium	Los Angeles	6.5 Hours
Workers' Compensation	Almaraz/Guzman - Point/Counter-Point	May 5, 2009	12:00 pm - 1:00 pm	San Francisco	San Francisco	1 Hour
Environmental	North Coast Symposium	May 8-9, 2009	TBD	City of Eureka	Eureka	TBD
Trusts	The Law & Elder Abuse: Identification & Prevention	May 8, 2009	9:00 am to Noon	LAX Marriott Hotel	Los Angeles	3.0 Hours
Real Property	Retreat	May 15-17, 2009	Various	Squaw Creek	Squaw Creek	12.25 Hours
Criminal	Forensic Science Training	May 16, 2009	8:00am to 5:00pm	455 Golden Gate Ave	San Francisco	6.5 hours
Labor	Sexual Harassment: Prevention, Litigation and Settlement	May 18, 2009	1 pm to 4 pm	San Francisco	State Bar Offices	3 hours
Labor	Sexual Harassment: Prevention, Litigation and Settlement	June 2, 2009	1 pm to 4 pm	Los Angeles	State Bar Offices	3 hours
Workers' Compensation	Spring Conference	June 6, 2009	9:00 am - 4:30 pm	Cliffs Resort, Shell Beach	Shell Beach	7 Hours of MCLE
Environmental	14th Annual Spring Roundtables on Contaminated Sites and Land Use Law & Policy	June 12-14, 2009	Various	TBD	San Diego	8 hours
Taxation	Income & Other Tax Program	June 19, 2009	8:30am to 5:00pm	Whittier Law School	Costa Mesa	7.75 w/1hour ethics
Taxation	Income & Other Tax Program	June 19, 2009	8:30am to 5:00pm	Golden Gate University	San Francisco	7.75 w/1hour ethics
Business	Current Developments in Franchise and Distribution Law	June 25, 2009	1 pm to 5 pm	Los Angeles	State Bar Offices	4 hours
Intellectual Property	IP in Entertainment and the Media	June 25, 2009	8:00to 5:00pm	The Beverly Hills Hotel	Beverly Hills	7.5 Hours/Approximated
Trusts	Estate Planning Through Administration The Exam and You	June 26, 2009	9:00 am to 4:45 pm	Hotel Soffitel	Redwood City	6.5 with Legal Spec
Environmental	Your-Voice Sierra Program	July 10, 2009	TBD	TBD	S.Lake Tahoe/Auburn	TBD
Workers' Compensation	Certification Boot Camp	July 11 - 12, 2009	9:00 am - 4:30 pm	LA Universal City Hilton	Universal City	7 Hours of MCLE
Workers' Compensation	Certification Boot Camp	July 25 - 26, 2009	9:00 am - 4:30 pm	Concord Hilton	Concord	7 Hours of MCLE

Attachment A

Solo Summit	Solo Summit	January 15-16, 2009	Various	Claremont Resort & Spa	Berkeley	Up to 13 Hours
SEI	Section Education Institute	January 16-18, 2009	Various	Claremont Resort & Spa	Berkeley	Up to 13 Hours
Annual Meeting	BLACK OUT DATES	August 24 to October 5, 2009				
Annual Meeting	Annual Meeting	September 10-13, 2009		Manchester Grand Hyatt	San Diego	Up to 19 hours
Litigation	Coaching for the New Practitioner	September 12, 2009	tbd	Hyatt Grand Manchester	San Diego	2.0 hours
Labor	Trade Secrets, Non-Competition, Interference and Duty of Loyalty	October 9, 2009	9:00 am to 10:30 am	Los Angeles	State Bar Offices	90 minutes
Intellectual Property	IP and the Internet	October 5, 2009	8:00to 5:00pm	Los Angeles Area Venue TBD		7.5 Hours/Approximated
Intellectual Property	IP and the Internet	October 7, 2009	8:00to 5:00pm	San Francisco Area Venue TBD		7.5 Hours/Approximated
Trusts	The Law & Elder Abuse: Identification & Prevention	October 9, 2009	9:00 am to Noon	Luce Forward et al	San Diego	3
Criminal	Trial Skills Program	October 10, 2009	8:00am to 5:00pm	Whittier Law School	Costa Mesa	6.5hours
Environmental	Environmental Law Conference at Yosemite	October 15-18, 2009	7:30am-12:30 pm	Tenaya Lodge at Yosemite	Fish Camp	Up to 12.5 hours
Workers' Compensation	Fall Conference	October 24, 2009	9:00 am - 4:30 pm	San Diego Omni	San Diego	7 Hours of MCLE
Labor	Labor Annual Meeting	October 23-25, 2009	TBD	Claremont Resort & Spa	Berkeley	TBD
International	The 4th Annual California International Arbitration Conference	October 28, 2009	TBD	TBD	Santa Clara	TBD
International	The 4th Annual California International Arbitration Conference	October 30, 2009	TBD	TBD	Los Angeles	TBD
Litigation and Real Property	Week in Legal Hong Kong	November 1-6, 2009	TBD	TBD	Hong Kong	TBD
Intellectual Property	The 34th Annual Intellectual Property Section Institute	November 5-7, 2009	8:00to 5:00pm	The St. Regis Hotel	Dana Point	TBD
Taxation	Annual Meeting of the California Tax Bar and California Tax Policy Conference	November 12-14, 2009	Various	Sheraton San Diego Hotel & Marina	San Diego	TBD
Trusts	33rd Annual Fall Program	November 13, 2009	9:30 am to 5:00 pm	TBD	San Francisco	6
Intellectual Property	IP in Troubled Times	May 2009 Date TBD	8:00to 5:00pm	Northern California Venue TBD		7.5 Hours/Approximated
The Antitrust and Unfair Competition Law Sectoin	The 20th Annual Golden State Institute and Unfair Competition Law Program	October MULTI-DAY Dates TBD	TBD	San Francisco Venue TBD	San Francisco	TBD