

The State Bar of California

# REQUEST FOR PROPOSAL



This document is a Request for Proposal (“RFP”) to provide **Janitorial Maintenance and Services** (or “**Services**”), as defined and more fully described in Section II below.

The State Bar of California (“**State Bar**”) seeks proposals for Janitorial Maintenance and Services for its owned and occupied office building at 845 S. Figueroa Street, Los Angeles, CA 90017 (“**Building**”). The State Bar will award a contract for an initial term of three (3) years (“**Initial Term**”), with an option to renew for two (2) additional one (1)-year terms (“**Renewal Periods**”). The Initial Term, with the Renewal Period(s), if elected, means the **Term**. The State Bar expects to award a contract based on this RFP on or before November 1, 2019, for a contract term to begin by January 1, 2020.

An interested vendor must be a party in good standing to a maintenance contractors agreement with SEIU United Service Workers West, SEIU, CtW, CLC (“**Collective Bargaining Agreement**”), and currently service a minimum of three (3) active accounts in a multi-story/function office building in the Los Angeles area. **All non-union-based janitorial proposals, or proposals not meeting these minimum qualifications, will be deemed non-qualified.**

The State Bar has organized a tour of the Building and a conference to answer any questions on September 23, 2019 at 12 p.m. Please RSVP by September 19, 2019 to Sunly Yap at [sunly.yap@calbar.ca.gov](mailto:sunly.yap@calbar.ca.gov) to confirm your attendance.

Please submit five (5) hard copies and one electronic copy of your proposal no later than 4:00 PM on October 4, 2019 (“**Submission Deadline**”)to:

The State Bar of California  
845 S. Figueroa Street  
Los Angeles, CA 90017

Attn: Sunly Yap  
General Services  
213-765-1121  
[sunly.yap@calbar.ca.gov](mailto:sunly.yap@calbar.ca.gov)

## I. INTRODUCTION

The State Bar, created in 1927 by the Legislature and adopted as a judicial branch agency by amendment to the California Constitution in 1960, is a public corporation within the judicial branch of state government. The purpose of the State Bar is to ensure that the people of

California are served by the legal profession in a manner consistent with the highest standards of professional competence, care, and ethical conduct; to carry out such additional programs as may be required by law or by rule of court; and to contribute generally to the science of jurisprudence and the administration of justice. The State Bar serves as an administrative adjunct to the California Supreme Court in all matters pertaining to the admission, discipline, and regulation of California lawyers. The California Constitution, the State Bar Act and California Rules of Court vest in the State Bar the duty to regulate the legal profession, formulate and elevate educational and professional standards, raise the quality of legal services, advance the science of jurisprudence, and aid in the improvement of the administration of justice.

The State Bar's mission is to protect the public and includes the primary functions of licensing, regulation and discipline of attorneys; the advancement of the ethical and competent practice of law; and support of efforts for greater access to, and inclusion in, the legal system. The State Bar is the largest state bar in the country and licenses approximately 250,000 attorneys. The agency is a public corporation within the judicial branch of state government and serves as an administrative arm of the California Supreme Court. More information about the State Bar can be found online: [www.calbar.ca.gov/About-Us](http://www.calbar.ca.gov/About-Us). The State Bar's offices are located in San Francisco and Los Angeles.

## II. STATEMENT OF WORK

The State Bar is seeking Janitorial Maintenance and Services for the Building, excluding the ground floor retail tenant and designated State Bar storage rooms ("**Service Area**"). Approximately three hundred (300) State Bar employees work in the Building. The State Bar occupies four (4) office floors, a small area on the ground floor, two (2) loading dock areas on the ground floor, and a basement parking garage. The majority portion of the first floor of the Building is occupied by a retail tenant. On average, the Building receives approximately fifty (50) visitors per day, and also hosts large meetings and events several times a month. Vendor will provide Janitorial Maintenance and Services for the Service Area.

**FOR THE PURPOSE OF THIS RFP ALL MEASUREMENTS AND CALCULATIONS ARE BASED ON RENTABLE SQUARE FEET ("RSF"). CURRENT OCCUPIED AREA REQUIRING JANITORIAL SERVICES IS 110,000 RSF.**

### A. Overview

Vendor shall furnish all necessary labor, supervision, equipment, supplies and administrative support necessary to:

1. Provide Night Crew services five (5) days per week, Monday through Friday, from 5:00 p.m. through 1:30 a.m. ("Regular Service Hours"), as detailed in Attachment C: Task Frequency Schedule.
2. Upon request, provide Day Porter services, as detailed in Attachment C, for events held in the Building at times other than during Regular Service Hours.

3. Upon request, provide Specialty Services, as detailed in Attachment C, at the State Bar's option.

**B. Supervision and Contract Administration**

1. A checklist will be completed each day by the Vendor (crew supervisor), ensuring that all required tasks are completed. All completed checklists shall be turned in to the State Bar at the end of each week.
2. Vendor will assign an area manager, or a designee, to visit and spot-check the work performed at the Building at least once every two (2) weeks. The person assigned to spot-check the premises will invite the State Bar's designee to accompany him/her during the visit. A brief meeting may follow the visit to discuss any performance issues identified by the Vendor or the State Bar.
3. A monthly review of Vendor's performance will be conducted between the State Bar and Vendor. Notice of any deficiencies in performance will be delivered to the Vendor in writing.
4. Vendor will provide a twenty-four by seven (24/7) telephone number through which the State Bar can contact the assigned or "on call" account executives in emergency situations.
5. Vendor's failure to provide supervision adequate to ensure compliance with the policies, procedures, and work specifications, as detailed herein, will be considered deficient performance.
6. The Vendor will correct any deficiencies in the performance of any task stated in Attachment C, within twenty-four (24) hours of notice (or knowledge) of such deficiency. Should the Vendor fail to correct these deficiencies within the time stated, the State Bar may take one or more of the following actions:
  - a. Correct the deficiencies by using the State Bar personnel, and bill Vendor for the costs incurred for such corrections (including, but not limited to staff time, benefits, administrative time, etc.), or deduct the costs from Vendor's monthly bill.
  - b. Correct the deficiencies by employing an outside vendor and bill Vendor for the costs incurred for such correction, or deduct the costs from Vendor's monthly bill.
  - c. Terminate the contract.
7. Vendor shall distribute to all Personnel, as that term is defined in Section IV.J.1.c, below, assigned to the State Bar's account a copy of Attachment C. The

Vendor shall provide the State Bar with a signed acknowledgement from all Personnel assigned to the State Bar's account, confirming that they have received these documents and understand the scope of Services.

8. Holiday, overtime pay, vacations, sick time, bereavement, medical benefit shall be paid and billed as defined by the Collective Bargaining Agreement.

**C. Uniforms, Supplies & Equipment**

1. Vendor shall furnish and maintain uniform, professional attire for all Personnel assigned to the State Bar's account. Such attire shall be subject to approval by the State Bar.
2. The State Bar will provide hand soap for dispensers, paper products such as roll paper towels, c-fold paper towels, toilet paper, trash can liners, and trash bags.
3. When supplies provided by the State Bar run low, it will be the responsibility of the Vendor to alert the State Bar in a timely manner so additional supplies are ordered. The State Bar requires at least ten (10) Business Days of advance notice to ensure any such supplies do not run out. **"Business Day"** means any day except any Saturday, any Sunday, any day which is a federal legal holiday in the United States or any day on which banking institutions in the State of California are authorized or required by law or other governmental action to close.
4. Except as noted in Section II.C.2 above, the Vendor will furnish all supplies and materials necessary for the adequate performance of the janitorial services. Supplies and materials include, but are not limited to, brooms, brushes, dust cloths, microfiber mops, sponges, squeegees, liquid and powder detergents, disinfectants, glass cleaners, metal and wood furniture polish, floor polish, waxes, paint/stain stripper, and any other compounds necessary to properly clean and maintain the premises. The cleaning products used by Vendor must be certified as environmentally "green" products.
5. Vendor will provide to the State Bar Material Safety Data Sheets (MSDS) for all chemicals, materials, or supplies used or stored in the Building.
6. Vendor shall not use any products that the State Bar deems unsuitable for the purpose, or offensive or harmful to any part of the Building, its contents, equipment, employees, tenants, or visitors.
7. Vendor shall provide and maintain all cleaning equipment needed for the performance of the requested services, including, but not limited to, buffing machines, vacuum cleaners with HEPA filters, carpet extractors, etc. Any equipment found defective will be removed from the premises by the Vendor in a timely manner.

8. Vendor shall be responsible for keeping all equipment and tools in good repair condition.
9. Vendor shall be responsible for any damage caused by its Personnel to the Building or furnishings. The State Bar shall repair said damage and charge Vendor for the costs.
10. Non-expendable items purchased by Vendor with its own funds and not reimbursed for by the State Bar must be identified as Vendor's property by marking them as such in an identifiable manner on the item if such items are stored in the Building.

**D. Task Frequency Schedule and Use of Replacement Staff**

1. Attachment C is defined to be a minimum expectation of cleaning frequency. Failure to complete the tasks at the frequency listed will be deemed a deficiency in performance which may lead to termination of the contract.
2. It is the intention of the State Bar to provide a level of cleanliness suitable for a "Class A Building." If the Vendor is unable to provide an appropriate level of service, the contract will be terminated.
3. The vendor will perform the required tasks using the full crew of personnel listed in the Itemized Cost Proposal, and as defined by Section II.E.1 below. If a janitor is absent, either unexpectedly or with advance notice, vendor shall attempt to provide a temporary replacement.
4. If a replacement janitor is not provided, the remaining crew must still accomplish all of the "Daily" tasks in all areas of the building. It is understood that some of those tasks may need to be performed in a less thorough manner because fewer people are performing the same tasks in the same allotted time.
5. If a replacement janitor is not provided, the State Bar will not be charged for the missed time. Under no circumstances will the State Bar be charged for hours that were not worked.

**E. Staffing Considerations**

1. Vendor shall provide a janitorial team at the site according to the staffing plan below to complete the requested services. The plan reflects the State Bar's current, regular staffing level and schedule. Staffing levels and/or schedules may be changed at any time, temporarily or permanently, at the discretion of the State Bar.

<b>Position</b>	<b>Hours Week</b>	<b>Usual Schedule*</b>
Working Supervisor	40	M-F 5 p.m. – 1:30 a.m.
Janitor 1	40	M-F 5 p.m. – 1:30 a.m.
Janitor 2	40	M-F 5 p.m. – 1:30 a.m.

2. Vendor will provide its Personnel with all training necessary for the successful performance of the requested services. Training will include safety procedures; the proper use of all equipment and materials; and the proper procedures for the sorting and disposal of recyclable materials, compostable materials, and waste materials. Vendor will describe its training procedures as part of its proposal.
3. Vendor must notify the State Bar of new Personnel assigned to the State Bar's account at least one week before the new Personnel's start date.
4. Vendor's Personnel must obtain security clearance before being assigned to the State Bar's account. Security clearance is obtained via an FBI and California DOJ criminal history background check. Vendor's Personnel must follow the State Bar's instructions to obtain the required security clearance. The State Bar will incur the fee for the FBI and DOJ background checks.
5. Vendor must immediately notify the State Bar if any of the Personnel assigned to the State Bar's account is terminated.
6. The State Bar reserves the right to participate in the interview process and to approve or reject the assignment of Vendor's staff to its account. The State Bar further reserves the right to remove any staff member from its account, at any time and for any reason.
7. If contract is awarded to new vendor, the State Bar may wish to retain the services of individual cleaner and working supervisor who are employed by the State Bar's current vendor, in order to benefit from the person's experience and familiarity with State Bar operations. As part of its proposal, Vendor shall describe its willingness/ability, if awarded the contract as a new vendor, to hire persons currently employed by another vendor.

**F. Security Considerations & Procedures**

1. Vendor will report to the State Bar, immediately upon discovery or occurrence (but in no event later than one (1) hour after knowledge thereof), any vandalism, damage to the Building, burglary alarm malfunction, or accidental alarm trip. The State Bar will provide Vendor with a list of emergency contact numbers.
2. Vendor's Personnel will ensure that Building exit doors (front doors, emergency back doors, stairwell doors, loading dock, and parking basement gates) are

properly closed upon leaving the Building at the end of the shift. Alarm calls for exterior doors left open because of the Vendor's Personnel's negligence or willful misconduct will result in engineering costs (four (4) overtime hour minimum charge) to secure the premises, and charges by the Fire Department, Police Department and the alarm security company. These costs will be charged back to Vendor.

3. Vendor's Personnel shall not prop doors open or admit anyone into the Building.
4. All Vendor's Personnel shall wear a State Bar-issued access card visible at all times while in the Building.
5. Vendor's Personnel shall not share their State Bar access cards with anyone. If any of Vendor's Personnel loses his/her access card, Vendor will notify the State Bar immediately (but in no event later than twenty-four (24) hours after the knowledge thereof).
6. Vendor's Personnel will comply with sign-in/sign-out procedures as dictated by the State Bar.

**G. Other Considerations & Procedures**

1. Vendor shall inform its Personnel that the use of office equipment (kitchen appliances, office copiers, computers, phones, etc.) located at 845 S. Figueroa is not permitted, except for emergency phone calls.
2. Vendor's Personnel will break down any cardboard boxes generated by supplies, materials, or equipment used by the Vendor, as well as State Bar-supplied consumables. The janitors will place these cardboard boxes in the dumpster area for recycling.
3. As per Labor Code Section 6404.5, Vendor's Personnel will not smoke in the Building or within twenty (20) feet of the Building's entrance.
4. Vendor's Personnel will ensure that office doors and conference room doors are left as they were found (open or closed), unless otherwise instructed by the State Bar.

**III. GENERAL INFORMATION**

The submission requirements for this RFP are set forth below. A proposal shall constitute an irrevocable offer for sixty (60) Business Days following the Submission Deadline. 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 direct or indirect contact with 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, prefaced by a table of contents, referenced by table number and page number, and in the order below.

1. An executive summary of no more than five (5) pages, providing an overview of the bidder's organizational structure, history, services, market position, unique qualifications, strategic alliances, etc. Please include an explanation of how the on-site janitorial team and area manager or other Vendor designee described in section II.C.2 above will communicate/coordinate in order to provide an integrated solution to the State Bar.
2. Qualifications, background, experience and resumes of the account executive and other staff proposed to work on the State Bar's account. Bidders should submit the full resume of the area manager or other designee identified in Section II.B.2 above and the Working Supervisor proposed to be on-site, including previous work experience, current certifications and pertinent training, accreditation or continuing education hours.
3. A general description of the techniques, approaches, and methods to be used in performing the Services.
4. A description of the chronology for completing the work, including a timeline and deadlines for each task. Timelines should be designed in weeks, in series starting from Week 1; any and all concurrent services should be clearly noted as such.
5. A description of the bidder's policies and processes regarding time card reporting, billing, account meetings, and communication with the State Bar. Additionally, a bidder shall provide a list of any business software used, if any, for building information management, project management, and risk management, and the ability of the State Bar management to access such software, receive reports, track progress, or and communicate with bidder
6. A detailed cost proposal, including any travel costs and other expenses. Bidders must submit **Attachment A: Itemized Cost Proposal** electronically in native .xls format per instructions below. If necessary, bidders' travel expenses will be reimbursed in accordance with the public [Travel and Business-Related Expense Policy](#). It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in [Section 17030](#) of the Business and Professions Code. 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.

7. At least three (3) references for clients for whom the bidder has performed services similar to those being requested in this RFP. The references should be for buildings of similar size and construction. Each reference listing should include the name of a contact person, title, physical and e-mail addresses, and telephone numbers. The State Bar may, but is not obligated to, contact these references, or ask bidder to provide additional such references.
8. The most recent year's annual reports, or comparable document, including detailed current profit and loss, assets and liabilities, and other relevant financial data. Bidders must submit **Attachment B: Vendor History Questionnaire** electronically in native .xls format per instructions below.
9. Describe Vendor's willingness/ability, if awarded the contract as a new vendor, to hire and or all janitors currently employed by another vendor to perform the Services.
10. Describe Vendor's willingness/ability, if awarded the contract as a new vendor, to hire any or all janitors currently employed by another vendor to perform the Services.
11. A list and a description of any legal actions, lawsuits, arbitrations, or formal protests related to janitorial services in which a bidder has been involved in the last twenty-four (24) months that would have an impact on the bidder's ability to provide the requested Services.
12. Confirmation that the bidder has all necessary business licenses, professional certifications, or other credentials to perform the Janitorial Maintenance and Services, and that the bidder, if a legal entity, is in good standing and qualified to conduct business in California.
13. A written acknowledgement of the acceptance of the Contracting Requirements set forth in Section IV of this RFP, or an explanation of specific concerns or requested changes. Specific terms may be reserved for future negotiation, but must be clearly identified and reasons given for the reservation.

#### **B. Submission Requirements Format Summary**

Proposals must be delivered to Sunly Yap, General Services, by the Submission Deadline noted on Page 1 of this RFP.

The proposal package must include:

1. Six (6) physical hard copies of the proposal and attachments.

2. One (1) flash drive containing the proposal in PDF (file-to-PDF only, do not print and scan) and attachments in Excel format.
  - Proposal (.pdf)
  - Attachment A: Itemized Cost Proposal (.xls)
  - Attachment B: Vendor History Questionnaire (.xls)

If specific submission components (including the sample reports and contracts requested) are particularly large and self-contained they may be included in a separate appendix rather than in the body of the proposal. Submittals should not direct the evaluation team to general brochures, marketing materials, or websites to obtain information related to the specific submission requirements; submittals that utilize references to external materials as an answer will be considered non-responsive.

Proposals should be prepared simply and economically, providing a straightforward and concise description of the bidder's ability to meet the requirements of this RFP. Emphasis should be placed on completeness and clarity of content, and on conformity to the State Bar's instructions. Proposals should not include generic promotional materials and graphics that increase page count and PDF file size without addressing substantive content. Brochures and marketing materials may be included as a supplement if desired, in hard copy or in a separate PDF file.

### **C. 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.

Notwithstanding the foregoing, 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, inaccurate or unreliable, or where the cost is unreasonable.

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.

The State Bar may judge a bidder to be materially compliant, even if that bidder is non-compliant to a particular requirement of the RFP.

#### **D. Evaluation Process and Highest Score Bidder**

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

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

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 (5%).
2. Agreement with the State Bar’s Contracting Requirements (5%).
3. The technical ability, capacity, and flexibility of the bidder to perform the contract in a timely manner, on budget and to the State Bar’s standards of professionalism and customer service, as verified by: the content and quality of the proposal; the content and quality of any demonstration or presentation; client references; demonstrated success in projects with similar requirements; reputation in the marketplace; and any other contracts or experience with the State Bar (45%).
4. The total cost of the proposal. If the proposal contains itemized rates, per piece pricing, or commission-based pricing, the State Bar reserves the right to calculate the total contracted cost by calculating rates using either previous known usage activity or future projected volume. 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 proposal over the term of the contract (45%).

During the evaluation process, the State Bar may require a bidder to answer questions or submit additional information with regard to the proposal; and/or may require a bidder to participate in an oral interview with or make a formal presentation to the evaluation team and/or the State Bar Leadership Team. A key element of any oral interview or presentation will be the participation of the specific team members that the bidder intends to work on the State Bar’s account.

The State Bar reserves the right to review the proposals using a tiered evaluation system, with the top candidates advancing as finalists and receiving a full evaluation as outlined above, which may include requests for revised pricing from such bidders.

This RFP 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.

**E. 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. In the case of a virtual tie (defined as evaluation scores within two points of one another) the Chief Administrative Officer may determine who will be awarded the contract. Notice will be sent to the bidders on or about October 25, 2019 of the State Bar's intention to award the contract to the HSB. It is anticipated that final selection of the HSB will be made by November 1, 2019. The evaluation team will select a winning proposal subject to approval by the Board of Trustees. Upon selection, the State Bar and the selected bidder will enter into good faith negotiations on a contract containing, without limitation, the Statement of Work section above and Contracting Requirements section 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 an 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 and responsive proposals to this RFP.

If, after the State Bar and the HSB agree to the terms and execute a contract and 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 Sunly Yap, Senior Program Analyst at [Sunly.Yap@calbar.ca.gov](mailto:Sunly.Yap@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.

**F. 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 Submission Deadline by issuing an addendum to all potential bidders to whom the RFP was sent.

If prior to the Submission Deadline, 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.

**G. Questions Regarding the RFP**

Questions regarding the RFP may be addressed in writing to Sunly Yap at [Sunly.Yap@calbar.ca.gov](mailto:Sunly.Yap@calbar.ca.gov). All questions must be submitted no later than five (5) Business 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, subject to the California Public Records Act. 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 five (5) Business Days before the Submission Deadline.

**H. Addenda**

The State Bar may modify the RFP prior to the Submission Deadline 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 five (5) Business Days prior to the Submission Deadline.

**I. Withdrawal and Resubmission/Modification of Proposals**

A proposal may be withdrawn at any time prior to the Submission Deadline 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 Submission Deadline. Modification offered in any other manner, oral or written, will not be considered. Proposals cannot be changed after the evaluation process begins.

**J. Protest Procedure**

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

1. The State Bar failed to follow the procedures specified in either subdivision (c) of Public Contract Code section 10344.
2. The State Bar failed to apply correctly the standards for reviewing the format requirements or evaluating the proposals as specified in this RFP.
3. The State Bar failed to follow the methods for evaluating and scoring the proposals specified in this RFP.
4. The State Bar is proposing to award the contract to a bidder other than the bidder given the highest score by the evaluation team.

A bidder qualified to protest should contact Keith Jenkins, Principal Program Analyst, at (415) 538-2229, 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 prior to the award. Within five (5) Business Days after filing the protest, the protesting bidder shall file a full and complete written statement specifying the grounds for the protest. 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: Chief Administrative Officer

Protests will be reviewed and decided by the State Bar's Award Protest Team within thirty (30) calendar 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.

**K. News Releases**

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

**L. Disposition of Materials**

All materials submitted in response to an RFP will become the property of the State Bar 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 pursuant to the California Public Records Act. 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 (“**Agreement**”) containing such additional covenants and other provisions as may be mutually acceptable.

The State Bar contemplates that, in addition to the terms and conditions described above in this RFP, final agreement between the State Bar and the selected Vendor will include, without limitation, the below terms and conditions (“**Contracting Requirements**”). Submission of a proposal shall constitute agreement to contract on these Contracting Requirements, 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**

1. Vendor and its Personnel assigned to the project have the expertise, experience, ability, and licenses, if necessary, to perform the Services in a diligent, timely and professional manner consistent with generally accepted industry standards.
2. In those instances where required, Vendor represents and warrants that Vendor holds a license, permit or special license to perform the Services pursuant to the final 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 Vendor is performing the services pursuant to the final Agreement.
3. The services will be performed in a workmanlike manner consistent with generally-accepted industry standards of practice and appropriate for the purposes contemplated by the final Agreement.
4. (i) Vendor owns all right, title, and interest in, or otherwise has full right and authority to permit the use of any Pre-Existing IP, as that term is defined in Section IV.E.3, below; (ii) to the best of Vendor's knowledge, the Pre-Existing IP does not infringe the rights of any third party, and use of the Pre-Existing IP as well as any of Vendor's intellectual property rights in connection with the applicable statement of work does not and will not violate the rights of any third parties; (iii) Vendor will comply with the terms and conditions of any licensing agreements which govern the use of third party materials; and (iv) Vendor will comply with all laws and regulations as they relate to the services and deliverables.

5. Vendor represents that it has been duly organized, is validly existing and in good standing under the laws of its respective jurisdiction of organization, and is duly qualified to do business in and is in good standing in the State of California.
6. Vendor represents that no litigation is pending or, to the knowledge of Vendor, threatened against or affecting Vendor or any affiliate of Vendor in connection with the Services contemplated by this Agreement, that will have a material adverse effect on Vendor's ability to perform Services.
7. If any Services or deliverable fails to conform to the standard specified above, Vendor, at its sole expense, will promptly correct the deficiency in the Services or the deliverables. This remedy is cumulative of any and all other remedies to which the State Bar may be entitled pursuant to the final Agreement and applicable law.
8. Accessibility Standards. Vendor will meet certain disability accessibility standards as specified in "**The State Bar of California Accessibility Standards in Procurement**", as attached to the final Agreement.
9. Inducement. The representations and warranties in the final Agreement are essential inducements on which the State Bar relies in awarding and performing under the final Agreement.
10. Survival of Warranties. Vendor's representations and warranties under the final Agreement will survive the termination or expiration of the Agreement and will remain in full force and effect throughout the useful life of the Agreement.

**C. Independent Contractors**

1. The relationship of the parties established under the final Agreement is that of independent contractors. The final Agreement will not be construed to establish a partnership, joint venture, agency, employer-employee, or other similar relationship between the parties. Neither the State Bar nor Vendor is liable for any of the obligations or liabilities the other incurs.
2. Vendor Acknowledgements. Vendor further acknowledges and agrees:
  - a. The State Bar may not withhold any amount for any tax or other withholdings from any sums due Vendor under the final Agreement;
  - b. Unless otherwise provided in the final Agreement, Vendor must furnish all labor, tools, equipment and materials necessary for the performance of the Services;
  - c. Vendor has no rights under workers' compensation laws or to the coverage under the State Bar's workers' compensation plan as a result of any services performed; and



- d. Vendor assumes full and sole responsibility for the payment of all compensation and expenses for its employees, including workers' compensation coverage as required, all federal, state and local income taxes, unemployment and disability insurance, Social Security and other applicable withholdings.
- e. Vendor assumes full and sole responsibility for the payment of all compensation and expenses for its Subvendors (as that term is defined in Section IV.J.b, below).

**D. Indemnity Obligations of Vendor**

1. Indemnification by Vendor. Vendor will indemnify, defend and hold harmless the State Bar, including its Board of Trustees, directors, officers, agents, and employees (as the same may be constituted from time to time and hereinafter referred to as "State Bar Indemnified Party (or Parties)") from and against any and all claims, demands, damages, judgments, debts, liabilities, losses, obligations, costs, expenses, liens, actions or causes of action (including but not limited to reasonable attorneys' fees, costs and expenses), whether or not litigation is actually commenced, arising out of: (a) the material breach by Vendor of any warranty, representation, term or condition made or agreed to by Vendor; (b) all products and services prepared by or for Vendor hereunder and provided to the State Bar; (c) 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; (d) any breach by Vendor of any statutory or regulatory obligation; (e) the actual or alleged infringement by Vendor of any Intellectual Property Rights of any person or entity; and/or (f) any act or omission of Vendor, its employees, agents or Subvendors.
2. Indemnification Procedures.
  - a. If any third party claim is commenced against any State Bar Indemnified Party entitled to indemnification under this section, notice thereof will be given to Vendor as promptly as practicable. Vendor will immediately take control of the defense and investigation of such claim and to employ and engage attorneys reasonably acceptable to the State Bar to handle and defend the same, at Vendor's sole cost and expense. The State Bar Indemnified Party will cooperate, at the sole cost of Vendor, in all reasonable respects with Vendor and its attorneys in the investigation, trial and defense of such claim and any appeal arising therefrom; provided, however, that the State Bar Indemnified Party may, at its own cost and expense, participate, through its attorneys (including, but not limited to, its Office of General Counsel) or otherwise, in such investigation, trial and defense of such claim and any appeal arising therefrom. Vendor will not enter into a settlement of any claim that involves a remedy other than the payment of money by

Vendor without the prior written consent of the State Bar. If Vendor does not assume full control over the defense of a claim that Vendor is obligated to defend as provided in this section, Vendor may participate in such defense, at its sole cost and expense, and the State Bar will have the right to defend the claim in such manner as it may deem appropriate, at the sole cost and expense of Vendor.

- b. If any legal work reasonably necessary to the State Bar's defense as described herein is performed by in-house counsel for the State Bar, the State Bar will determine the value of such work at a reasonable hourly rate for comparable outside counsel and be promptly paid by Vendor; provided, however, the parties hereby confirm that such fees will be recoverable with respect to legal work performed by the State Bar's in-house counsel only to the extent that such work is not duplicative of legal work performed by outside counsel paid for by Vendor and representing the State Bar in such matter.
- c. Survival. Vendor's obligations under this indemnity provision will survive the expiration and termination of the final Agreement.
- d. Enforcement of this Provision. Vendor will be liable to the State Bar for all costs (including but not limited to reasonable attorneys' fees, costs and expenses) that may be incurred by the State Bar for the purposes of enforcing this section.

#### **E. Rights in Work Product**

1. Intellectual Property Rights Defined. For purposes of the final Agreement, the term "Intellectual Property Rights" means know-how, inventions, patents, patent rights, and registrations and applications, renewals, continuations and extensions thereof, works of authorship and art, copyrightable materials and copyrights (including, but not limited to, titles, computer code, designs, themes, concepts, artwork, graphics and visual elements, and methods of operation, and any related documentation), copyright registrations and applications, renewals and extensions therefore, mask works, industrial rights, trademarks, service marks, trade names, logos, trademark registrations and applications, renewals and extensions therefore, derivative works, trade secrets, rights in trade dress and packaging, publicity, personality and privacy rights, rights of attribution, paternity, integrity and other similarly afforded "moral" rights, and all other forms of intellectual property and proprietary rights recognized by the U.S. laws, and other applicable foreign and international laws, treaties and conventions.
2. Work Product. Vendor recognizes and agrees that all right, title and interest, including all Intellectual Property Rights, which may be prepared, procured or produced in whole or in part in, or resulting from, the Services rendered by Vendor or Subvendors pursuant to the final Agreement, including, without

limitation, any and all Deliverables, (collectively referred to as "Work Product") will be owned by the State Bar. To ensure that the Work Product becomes the sole property of the State Bar, in consideration of the mutual promises contained in the final Agreement, Vendor agrees to transfer, in perpetuity, to the State Bar, all of the right, title and interest in the Work Product, in the United States of America and throughout the world, and agrees to assign any and all renewals and extensions of each such copyright that may be secured under the laws now or hereafter pertaining; and Vendor will execute at the State Bar's expense, all documents reasonably required to perfect the foregoing rights in the State Bar. In the event Vendor fails to execute any documents, Vendor appoints the State Bar as its attorney-in-fact to execute such documents on Vendor's behalf. Vendor hereby waives and/or transfers any and all moral rights, including without limitation any right to identification of authorship or limitation on subsequent modification that Vendor (or its employees, agents, or consultants) has or may have in the Work Product or any part thereof.

3. No Transfer of Title in and to Vendor's Pre-Existing IP. Notwithstanding the foregoing, the State Bar acknowledges that independent of the final Agreement, Vendor has created, acquired or otherwise has rights in and may, in connection with the performance of the final Agreement, employ certain intellectual property, including, without limitation, various concepts, ideas, methods, methodologies, procedures, processes, know-how, techniques (collectively, "Pre-Existing IP"). The State Bar and Vendor intend that title in and to such Pre-Existing IP remain vested in Vendor, provided however, that to the extent that Deliverable incorporates any Pre-Existing IP, Vendor hereby grants to the State Bar a world-wide, non-exclusive, fully paid-up, royalty-free, perpetual, irrevocable right and license to use such Pre-Existing IP as incorporated into such Deliverable to enable the State Bar to have full use of such Deliverable as contemplated by the final Agreement, including, without limitation, the right to run, execute, copy, modify, create derivative works, display, distribute and sublicense such rights.
4. Third Party Materials. As used in the final Agreement, "Third Party Materials" means proprietary third party materials which are incorporated into the Deliverables. All Third Party Materials are the exclusive property of their respective owners. Vendor must inform the State Bar of all Third Party Materials that may be required to perform the Services or otherwise integrated into the Deliverables. Under such circumstances, Vendor will inform the State Bar of any need to license and unless otherwise provided for by the State Bar, Vendor will obtain the license(s) necessary to permit the State Bar's use of the Third Party Materials consistent with the usage rights granted herein. In the event Vendor fails to properly secure or otherwise arrange for any necessary licenses or instructs the use of Third Party Materials, Vendor hereby indemnifies, saves and holds harmless the State Bar from any and all damages, liabilities, costs, losses or expenses (including reasonable attorney's fees and costs) arising out of any claim, demand, or action by a third party arising out of Vendor's failure to obtain copyright, trademark, publicity, privacy, defamation

or other releases or permissions with respect to materials included in the Deliverables.

**F. Insurance Obligations of Vendor**

1. Without in any way limiting Vendor's liability pursuant to the "Indemnification" Section of the final Agreement, Vendor must maintain in full force and effect during the term of the Agreement at Vendor's own expense, insurance in the amounts and coverages indicated below and pursuant to the following provisions.

Vendor will provide and keep in full force and effect during the term of the final Agreement, at its own cost and expense, the following insurance policies for the joint benefit of Vendor and the State Bar:

- (i) **Commercial General Liability Insurance** with a general aggregate limit (other than products/completed operations) of no less than Five Million Dollars (\$5,000,000.00) and including products/completed operations coverage with a limit of no less than One Million Dollars (\$1,000,000.00); at least One Million Dollars (\$1,000,000.00) premises and operations limit; at least One Million Dollars (\$1,000,000.00) personal and advertising injury limit; at least One Million Dollars (\$1,000,000.00) each occurrence limit. Such commercial general liability insurance shall name the State Bar, its Board of Trustees, directors, officers, and employees as additional insured. Such commercial general liability insurance coverage will be with an insurance carrier with an A. M. Best rating of not less than A:X.
- (ii) **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. Such workers' compensation insurance coverage will be with an insurance carrier with an A. M. Best rating of not less than A:X.
- (iii) **Comprehensive Automobile Liability Insurance** covering owned, leased, hired and non-owned vehicles, with a combined liability per occurrence limit of at least One Million Dollars (\$1,000,000.00). Such comprehensive automobile liability insurance shall name the State Bar, its Board of Trustees, directors, officers, and employees as additional insured. Such comprehensive automobile liability insurance coverage will be with an insurance carrier with an A. M. Best rating of not less than A:X.

- (iv) **Professional Liability Insurance** with a general aggregate limit of Two Million Dollars (\$2,000,000.00) and a per occurrence limit of at least Two Million Dollars (\$2,000,000.00). Such professional liability insurance coverage will be with an insurance carrier with an A. M. Best rating of not less than A- VII.
  - (v) **Umbrella Liability Insurance** with general aggregate limit of Five Million Dollars (\$5,000,000.00) and a per occurrence limit of at least Five Million Dollars (\$5,000,000.00). Such umbrella liability insurance shall name the State Bar, its Board of Trustees, directors, officers, and employees as additional insured. Such umbrella liability insurance coverage will be with an insurance carrier with an A. M. Best rating of not less than A:X.
- 2. In addition, all insurance policies will: (i) be primary and non-contributing with respect to any other insurance available to the Additional Insureds, with respect to any claims arising out of the final Agreement; (ii) apply separately to each insured against whom a claim is made or suit is brought; (iii) include a waiver of subrogation provision or endorsement in favor of the State Bar; and (iv) be with insurance carrier(s) that are authorized to do business in the State of California, and are satisfactory to the State Bar.
- 3. Vendor will deliver to the State Bar offices, **Attn: Risk Management, 180 Howard Street, San Francisco, CA 94105**, certificates of insurance evidencing compliance with the requirements of this section (including completed certificates and policy endorsements) no later than thirty (30) days after the execution of the final Agreement. In no event will Vendor commence operations under the final Agreement before furnishing to the State Bar such certificates of insurance.
- 4. All policies must provide thirty (30) days' advance written notice to the State Bar of reduction or nonrenewal of coverages, material change of coverages, or cancellation of coverages for any reason. All such notice will be sent to the Risk Management Department of the State Bar as listed in Section IV.F.3 above. In addition, notwithstanding any notices sent to the State Bar by the insurer, Vendor will immediately notify the State Bar when it becomes aware of any cancellation or material change in the amounts of or type of coverage of the insurance policies required.
- 5. Should any of the required insurance be provided under a claims-made form, Vendor will maintain such coverage continuously throughout the term of the final Agreement and, without lapse, for a period of three (3) years beyond the expiration of the final Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Agreement, such claims will be covered by such claims-made policies.

6. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit will be double the occurrence or claims limits specified above.
7. Should any required insurance lapse during the term of the final Agreement, requests for payments originating after such lapse will not be processed until the State Bar receives satisfactory evidence of reinstated coverage as required by the final Agreement, effective as of the lapse date. If insurance is not reinstated, the State Bar may, at its sole option, terminate the final Agreement effective on the date of such lapse of insurance. Termination will be in addition to any other rights or remedies that the State Bar may have under the final Agreement.
8. Failure to maintain insurance will constitute a material breach of the final Agreement. If Vendor fails to secure and maintain insurance policies complying with the provisions of the final Agreement, the State Bar may purchase the required insurance coverage and Vendor will reimburse the State Bar for all associated costs, which will be in addition to any other rights or remedies available to the State Bar under the final Agreement. Alternatively, the State Bar may terminate the final Agreement. Termination will be in addition to any other rights or remedies that the State Bar may have under the final Agreement.
9. If Vendor assigns, subcontracts, or delegates any portion of the duties under the final Agreement, Vendor will ensure that each assignee, subvendor, or delegee purchases and maintains the same insurance coverage required pursuant to the final Agreement, provided however, that nothing herein will be construed as permitting Vendor to assign, subcontract or delegate any portion of the duties under the Agreement without the State Bar's prior written consent.

**G. Termination**

1. Termination. The State Bar may terminate the final Agreement, in its sole discretion, without cause and for any reason upon fourteen (14) days' written notice to Vendor, such termination effective upon the State Bar's delivery of such termination notice. Vendor's sole compensation shall be for that portion of the Services performed to the date of termination, together with reimbursable expenses, if any, then due pursuant to the Agreement; provided, however, that the State Bar shall not be obligated to pay Vendor for any services or expenses not authorized by the State Bar pursuant to the final Agreement.
2. Automatic Termination. The final Agreement will terminate automatically in the event of: (i) the bankruptcy or insolvency of either party; (ii) the death or total incapacity of Vendor; or, (iii) failure to comply with federal, state or local laws, regulations or requirements.

3. Termination in Event of Material Breach. Without limiting any of the rights specified in this section, either party may terminate the final Agreement (the “Terminating Party”) if the other party is in breach of a material obligation arising under the final Agreement and fails to cure that breach within fifteen (15) Business Days following the Terminating Party’s written notice of its intention to exercise its rights under this section.
  
4. Appropriation of Funds. If the term of the final Agreement extends beyond the fiscal year in effect when the final Agreement was entered into by the Parties, Vendor acknowledges that continuation of the final Agreement may be subject to annual funding through the state legislative process. In such event, if funds to effect the continuation of the Term are not appropriated, Vendor shall commence and perform, with diligence, all actions necessary on the part of Vendor to effect the termination of the final Agreement on the date specified by the Authorized Representative and to minimize the liability of Vendor and the State Bar to third parties as a result of termination, including, without limitation, accepting the return from the State Bar of any affected equipment, products, software or hardware furnished under the final Agreement, and ceasing performance of the Services as directed by the Authorized Representative without any further obligation on the part of the State Bar.

#### **H. Confidentiality and Publicity**

1. Confidentiality Obligations. “Confidential Information“ means all information identified in written or oral format by the State Bar as confidential, a trade secret or proprietary information, or that reasonably should be understood to be confidential given the nature of the information or the circumstances of its disclosure to or access by Vendor or its employees, consultants, contractors, subcontractors and agents (collectively, “Vendor’s Representatives”), including without limitation, licensee (former and current) records, applicant records, or non-public information pertaining to State Bar’s processes, plans, policies, procedures, financial, personnel, Board of Trustees, leadership, management, employees, contractors, volunteers, legal and regulatory affairs, relationships with third parties or the activities, business or operations of the State Bar. Confidential Information also includes any notes, analyses, compilations, studies or other material, Work Product, deliverables or documents prepared by Vendor or Vendor’s Representatives which contain, reflect, or are based, in whole or in part, on the Confidential Information. Confidential Information also includes any confidential or proprietary information of any third party who may disclose such information to State Bar in the course of State Bar’s affairs. Confidential Information shall also include the fact that Vendor is engaged to perform Services for State Bar. Confidential Information does not include information which: (a) Vendor can demonstrate was rightfully in possession of or known to Vendor without any obligation of confidentiality prior to receiving it from the State Bar; (b) is, or subsequently becomes, legally and publicly available without breach of the final Agreement; (c) is rightfully obtained by

Vendor from a source other than the State Bar without any obligation of confidentiality; or (d) is disclosed by Vendor under a valid order created by a court or government agency, provided that Vendor provides prior written notice to the State Bar of such obligation and the opportunity to oppose such disclosure. Vendor will not disclose Confidential Information to any third party other than persons in the direct employ of Vendor or Subvendors who have a need to have access to and knowledge of the Confidential Information solely for the purpose of carrying out Vendor's Services under the final Agreement. Vendor must take appropriate measures by instruction and agreement prior to disclosure to such employees to assure against unauthorized use or disclosure. If any person or entity requests by subpoena or court order any information or materials relating to this Agreement which is within the possession, custody or control of Vendor or Vendor's Representative, Vendor shall promptly inform State Bar of such request and cooperate with State Bar to the extent State Bar objects or moves to quash such request or subpoena. Upon written demand of the State Bar, Vendor will cease using the Confidential Information and return the Confidential Information and all copies, notes or extracts thereof to the State Bar within ten (10) days of receipt of notice. The parties agree that this Section applies retroactively to all disclosures made by the State Bar prior to the execution of the final Agreement, and that the terms and conditions herein supersede any prior non-disclosure and confidentiality agreement previously entered into by the parties.

2. Injunctive Relief. Vendor hereby acknowledges and agrees that in the event of any breach of the final Agreement by Vendor, including, without limitation, the actual or threatened disclosure or unauthorized use of Confidential Information in violation of the final Agreement, the State Bar will suffer an irreparable injury, such that a remedy at law will not afford it adequate protection against, or appropriate compensation for, such injury. Accordingly, Vendor hereby agrees that the State Bar will be entitled, upon proper showing of probable risk of such injury, to seek specific performance of Vendor's obligations under the final Agreement and injunctive or other equitable relief as a remedy for any such breach or anticipated breach without the necessity of posting a bond. Any such relief will be in addition to and not in lieu of any appropriate relief in the way of monetary damages as may be granted by a court of competent jurisdiction.
3. No Publicity. Without the State Bar's prior written consent, Vendor may not issue any public announcements concerning the State Bar, including, without limitation, referencing the State Bar on Vendor's website or other publicity or promotional materials.

#### **I. Compliance with Laws**

Vendor must comply with all applicable laws, ordinances and regulations adopted or established by federal, state or local governmental bodies or agencies, including but not limited to the provisions of the Fair Employment and Housing Act (Government Code section 12900 et seq.) and any applicable regulations promulgated thereunder



(California Code of Regulations, Title 2, section 7285.0 et seq.), Americans with Disabilities Act /ADA Amendments Act of 2008, and section 508 of the Rehabilitation Act. Vendor must include the non-discrimination and compliance provisions of this clause in all subcontracts to perform work under the final Agreement.

**J. Staffing**

1. No Assignment, Subcontracting, Delegation or Transfer.
  - a. Vendor shall not assign, subcontract, delegate or otherwise transfer any of the rights, duties or obligations of the final Agreement to any third party without the prior written consent of the State Bar and compliance with the requirements set forth below.
  - b. Conditions Precedent for Vendor to Subcontract the Services. Vendor may retain independent subvendors to furnish Services and access Confidential Information (as defined in Section IV, subsection H.1.) only in accordance with this section (hereinafter referred to as "Subvendors"). All Subvendors must be approved in advance in writing by the State Bar, such approval to be granted in the State Bar's sole discretion. In advance of providing any Services or receiving any Confidential Information, all Subvendors will execute a written agreement reasonably satisfactory to the State Bar: (i) sufficient to secure compliance by such Subvendors with the obligations of confidentiality concerning Confidential Information as set forth in Section IV, subsection H; (ii) in accordance with Section IV, subsection E.2. (Rights in Work Product), acknowledging Subvendor's obligation to transfer and/or assign any rights, title, and interest to all materials and Work Product in connection with performance hereunder; and (iii) effecting assignments of all Intellectual Property Rights concerning the Work Product, including the Deliverables to the State Bar as specified in Section IV, subsection E. The State Bar, upon request, may review such agreements at any time before or after execution by such Subvendors to ensure compliance with the final Agreement.
  - c. Assignment of Personnel. Vendor must have control of its employees and Subvendors (if any) (individually and collectively, "Personnel") it assigns to the work of the Project; provided, however, that if the State Bar becomes dissatisfied with the performance of any of Vendor's Personnel providing Services, the State Bar may notify Vendor of the details of the unsatisfactory performance and the parties will cooperate to remedy the problem as soon as reasonably possible. If the State Bar makes such a request, Vendor will use its best efforts to reassign any Personnel who are the subject of the State Bar's dissatisfaction and instead attempt to provide Services through replacement Personnel. Services performed under the terms of the final Agreement will be performed at the State Bar's offices or Vendor's offices.

- d. Vendor's Project Liaison. Vendor must designate an employee of sufficient management rank to act as its representative in dealing with the State Bar ("Vendor's Project Liaison"). Vendor's Project Liaison must represent Vendor and have responsibility for ensuring that Vendor performs its obligations under the final Agreement and for communicating with the State Bar regarding Project status and issues. Vendor must use reasonable efforts to minimize changing the person who is serving as Vendor's Project Liaison during the Term.

**K. General Provisions**

1. Force Majeure. Neither party will be deemed in default of the final 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, (a) acts of God or public enemy, (b) acts of the government in either its sovereign or contractual capacity, (c) fires, (d) floods, (e) epidemics, (f) quarantine restrictions, (g) strikes, (h) embargoes, (i) earthquakes, and (j) unusually severe weather.
2. Jurisdiction. The final Agreement is deemed to have been made and entered into by the parties at San Francisco, California and will be construed according to the laws of the State of California. Any litigation arising out of or in connection with the final Agreement will be filed in the appropriate court in San Francisco, California.
3. Audit. The State Bar reserves the right to have an independent audit conducted of Vendor's compliance with the terms of the final Agreement if the State Bar reasonably believes such audit is necessary to ensure confidentiality and or financial or program accountability or integrity. Accordingly, Vendor agrees that the State Bar or its designated representative will have the right to review and to copy any records and supporting documentation pertaining to the performance of the final Agreement. Vendor agrees to maintain such records for possible audit for a minimum of two (2) years after final payment, unless a longer period is stipulated. Vendor agrees to allow interviews of any Personnel who might reasonably have information related to such records. Further, Vendor agrees to include a similar right of the State Bar to audit in any subcontract related to the performance of the final Agreement.