

The State Bar of California

# REQUEST FOR PROPOSAL



This document is a Request for Proposal (“RFP”) for Membership Bar Card Packets.

The State Bar is seeking proposals for the typesetting and printing of our membership cards and carriers and envelopes; imaging, mailing and other processing and reporting services for our attorney members. Contract term desired is for a for a period of three (3) years, with two (2) additional one year options to renew.

Please submit 6 copies of your proposal no later than 4 p.m. on November 6, 2013 to:

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

Attn: Dina DiLoreto  
Member Records and Compliance  
415-538-2121  
Dina.DiLoreto@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 primary purpose of the State Bar is to serve 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 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, 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’s programs are financed by fees paid by attorneys and applicants to practice law. The

State Bar has over 242,000 members, making it the largest unified state bar in the country. The State Bar has offices located in Los Angeles and San Francisco. For more than 80 years, The State Bar of California has shaped the development of the law, regulated the professional conduct of the state's lawyers and provided greater access to the justice system for all citizens. More information about the organization can be found at <http://www.calbar.ca.gov/AboutUs.aspx>.

## **II. STATEMENT OF WORK**

Each aspect of the Statement of Work shall be applied on an annual basis.

Vendor shall produce, personalize, collate and mail the Bar Card Packages more fully described below (hereinafter "Bar Card Packages") to all members specified in the electronic files provided by the State Bar (hereinafter the "Services"). The personalization and mailings shall be done on a weekly basis using the specific names provided by the State Bar.

Detailed specifications for production, personalization, collation and mailing, and the obligations of the vendor for each stage of the Services are as follows:

### **A. Colors**

Bar Card: The two colors for the tints and screens used in producing the Bar Card shall be PMS color 294 (blue) and in black.

### **B. Proofs**

The proofs for the Bar Card Package shall be in color and shall be based upon the sample artwork supplied by the State Bar and approved on a yearly basis. All proofs shall be completed to the satisfaction of the State Bar and the Vendor shall promptly change and/or revise such proofs, as needed, until the State Bar is completely satisfied with the proofs. Accordingly, the Vendor shall provide the initial proofs to the State Bar for review sufficiently in advance of the completion dates as to follow for any changes or revision to the proofs.

The Personalized Data Positioning Layout for the Bar Card Package shall be made using a copy of the Bar Card Package proofs.

### **C. Production of Bar Card Package Components**

The Bar Card Package shall consist of four components: the Bar Card, the Carrier; the Insert and the outgoing envelope. After production, the Bar Card and the Carrier shall be personalized for each individual State Bar member, as set forth below in Section D. Vendor shall typeset the copy to be pre-printed onto each component of the Bar Card Packages. Vendor shall produce enough of each Bar Card Package component as set forth above to accommodate 245,000 Bar Cards in year one, 250,000 Bar Cards in year two

and 255,000 Bar Cards in year. After production, Vendor shall place all of the Bar Cards into a secured vault for safekeeping until needed for personalization. The non-personalized Carriers and the outgoing envelopes shall also be stored by the Vendor for later use.

1. Specifications: Bar Card (see *Attachment C: 2013 Bar Card Sample*)
  - a. Dimensions/Medium: The Bar Card shall be made of 20 mil white vinyl stock and shall be cut so that each card is 3-3/8" (w) x 2-1/8" (h) with rounded corners.
  - b. Ink Colors: The colors for the graphic design and pre-printed lettering shall be designated in PMS numbers.
  - c. Signature strip. The Bar Card shall be produced with a white signature strip on the bottom of the back side of Card, which shall enable Bar Card users to easily and permanently affix their signatures to the Bar Cards.
  - d. Magnetic Strip: The Bar Card shall be produced with a magnetic strip on the top of the backside of the card. The magnetic strip is to be encoded with the member's name, bar number and status.
  
2. Carrier (see *Attachment D: 2013 Carrier Sample*)
  - a. Dimensions/Medium: The Carrier shall be printed on a white, 8-1/2" x 11", #90 index form.
  - b. Ink Colors: Ink colors for the graphic design and pre-printed lettering on the front and back of the Carrier shall be designated in PMS numbers.
  - c. A portion of the carrier will be perforated with the same dimensions as the bar card for an additional card imaged on the carrier (*CALBAR Connect Card*). The perforation should be as such that the card can easily be removed.
  - d. Ultra-Form: Vendor shall use "Ultra-Forms" or any other suitable method for the Carrier. The card will be affixed to the Carrier with glue in such a way that the placement of the Bar Card in the Carrier does not interfere with or damage printed or imaged copy, or disrupt the ability for the Carrier to be properly folded, as designed for mailing.
  
3. Insert (*Attachment E: 2013 Insert Sample*)

- a. Dimensions/Medium: The insert shall be printed on double sided-glossy stock. 8-1/2 x 3-2/3, form.
  - b. Ink Colors: The State Bar shall determine Ink colors for the insert. (multi-color)
  - c. Design: The State Bar shall determine the content and format of the insert.
4. Outgoing Envelope (*Attachment F: 2013 Outgoing Envelope Sample*)
- a. Dimensions/Medium: The outgoing envelope shall be 9-1/4" x 3-7/8" in size and shall be made of opaque white paper with an address window on the front of the envelope through which the member name and mailing address imaged on the Carrier may be easily read.
  - b. Ink Color: The ink color used for printing the State Bar's return address and other lettering on the face of the envelope shall be black (see the attached sample). There shall be no printing on the back of the envelope.

**D. Personalization of Bar Card Package**

After production of the Bar Card Packages, Vendor shall thermally print onto the Bar Cards and image on the Carriers, using black ink, specified membership information. The envelopes will not be personalized.

- 1. Membership Data Files: On a weekly basis beginning in December 2013, the State Bar shall electronically transmit a file that contains membership data. Vendor shall use the file data to personalize Bar Card Package for each State Bar member listed therein.
  - a. The membership data provided by the State Bar for each State Bar member shall consist of the following information: member name, member number, member status (active or inactive), member MCLE Group number (1-3), member address, alpha numeric security code (printed on the backside of card).
  - b. The State Bar will provide the fields of data specified above using the agreed upon format.
- 2. Thermal Printing

- a. Vendor shall use the membership data supplied by the State Bar to thermally print one (1) personalized Bar Card for each member listed on the tape. Only the following fields of data shall be thermally printed on each Bar Card: member name, State Bar member number, member MCLE Group (1-3), membership status (active or inactive) and alpha numeric security code (printed on the backside of card).
  - b. The thermally printed membership data shall be placed on the Bar Cards (sample attached).
  - c. The outgoing envelope and Carrier shall not be thermally printed.
3. Imaging
- a. Vendor shall use the membership data supplied by the State Bar to image one (1) personalized Carrier for each member listed in the data file. Only the following fields of data shall be imaged onto each Carrier: member name, State Bar member number and member address.
  - b. The imaged membership data shall be placed on the Carriers as shown in the Imaged Data Positioning Layout using 240 dpi imaging.
  - c. The outgoing envelope and Bar Card shall not have imaging.

**E. Personalized Test Run**

After production, but prior to personalization of the first group of Bar Card Packages, Vendor shall generate a personalization test run of 50 Bar Card Packages,

1. For the test run, Vendor shall use Blank Bar Card Packages and authentic membership data provided by the State Bar to test the quality and accuracy of the thermal printing and imaging of membership data. At this time, Vendor shall also collate the test run packages as described below in Section F for the State Bar's inspection.
2. The Managing Director for Member Records and Compliance of the State Bar or her designee (hereinafter "Director") will check the results of the test run. The Director shall inspect and verify that the data is correctly placed and encoded, that the Packages are properly collated, and that the entire test run is of a quality acceptable to the State Bar.
3. If the results of the test run described above do not meet with the complete satisfaction of the Director, Vendor shall re-run the test run, as described

above, as many times as the State Bar deems are necessary, until the test run meets with the complete satisfaction of the Director.

**F. Sample Bar Card Packages**

After the personalization test run has been approved by the State Bar, Vendor shall personalize 50 sample Bar Card Packages (and shall collate the Packages, as described below in Section G) for the State Bar's distribution within the State Bar sample packages shall include all imaged data but shall use fictitious membership information (e. g., Member name' "A Sample Member", State Bar number "000001", etc.).

**G. Collating and Mailing of Bar Card Packages**

1. Collating Bar Card Packages: Vendor shall collate the personalized Bar Card Packages, as described below, such that all components of the Bar Card Packages shall consistently have a neat, smooth and professional appearance.
  - a. Carrier: The Carrier shall be folded twice, horizontally, so that it is divided into three sections so that the member name and address imaged on the Carrier appears in the envelope window.
  - b. Bar Card: The left edge of the Bar Card shall be attached so that the front of the Bar Card shall be facing up.
  - c. Outgoing Envelope: The folded Carrier, with the Bar Card inserted therein as directed above, shall be inserted into the outgoing so that the address can easily be read through the envelope window and shall meet all U.S. Postal Service (USPS) requirements.
  - d. Insert: The insert shall be placed in the envelope so that it falls behind the Carrier and front facing.
2. Mailing: Vendor shall transport the Bar Card Packages, in a dedicated U.S. Postal Service Truck, to the U S. Post Office closest to the Vendor site, for mailing to the State Bar members whose names and addresses appear in the windows of the outgoing envelope. Vendor must assure use of complete address as provided by the State Bar.
  - a. Addresses/Use of Mail Hygiene Software :The member address used by the Vendor for mailing shall be each members address of record as it is supplied by the State Bar via electronic file, without any changes, except that Vendor may use mail hygiene software to make changes only in punctuation or to add a 'u+ 4" zip code extension.

b. Postage and Pre-sorting Rates

- (1) Vendor shall sort the finished Bar Card Packages to obtain the best available first-class postal rate. For US addresses, the sorting process shall use pre-barcode sort, pre-sort and residual piece rates. Postal rates shall be adjusted to meet current USPS rates.
- (2) Any member's addresses that are rejected by the mail hygiene software for reasons other than punctuation or adding a "u +4" zip code extension shall be dropped out of the mail queue and sent separately to the member's address of record using the current USPS first class postage rate.
- (3) On a monthly basis, Vendor shall calculate the total dollar amount of postage required for both U S and foreign mailings Vendor shall prepare an invoice which itemizes and details all postage charges, by number of items and rates charged and shall send this invoice, by mail, facsimile or email, to the Director.

**H. Backup Facilities**

The Vendor shall maintain sufficient backup facilities so that the project can be completed by deadline in the event that the Vendor's original facility cannot complete the project as planned.

**I. Bar Card Runs**

80% of the Bar Cards will be delivered between December and March and will continue at a lower volume throughout the year. Vendor will be expected to fulfill 25,000 bar card packet mailings per week during the busiest weeks.

**J. Service Level Agreement ("SLA")**

The Vendor shall maintain a level of service that meets the State Bar's Service Level Objectives

1. Production, personalization and collating of the Bar Card Packages including:
  - a. Design of Bar Card, Carrier, insert and outgoing envelope as specified in the Scope of Work (Section C).

- b. Delivery and approval of proofs as specified in the Scope of Work (Section B).
  - c. Accurate personalization of Bar Card Packages as specified in the Scope of Work (Section D).
  - d. Successful personalized test run as specified in the Scope of Work (Section E).
2. Timely delivery of Bar Card Packages to the members within 6 calendar days of receipt of membership data files from the Client.
  3. Vendor to provide weekly performance metrics, which includes a report of the production of Bar Card Packages and delivery to the members.
  4. Penalties for non-delivery or under delivery of services.
  5. The State Bar may reserve the right to re-evaluate the SLA in year two and year three of the contract.
  6. The vendor shall provide a Point of Contact to be available to State Bar staff to provide research and assistance in resolving issues with weekly print runs, resolving any reports of production or mailing problems.

The State Bar is responsible for the:

- a. Timely review and approval of proofs
- b. Review of the personalized test run
- c. Review of sample Bar Card Packages
- d. Weekly transmittal of membership data files

**K. Time line For Production of State Bar Membership Card Packets+**

Dates indicated are deadlines for *typical* years; work may be completed before these dates. *For 2014 packets, it is understood that dates will shift due to the RFP award process.*

- November 1: Approved artwork at Vendor for cards and carriers
- November 15: Test electronic file transmitted to Vendor
- November 27: Programming completed and Vendor sends test card showing print name, status and bar number
- December 10: First live electronic file transmitted to Vendor

December 17: Bar Card Packets – first mailing complete

### **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 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 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. Bidders must submit Attachment B: Vendor History Questionnaire electronically in native .xls format per instructions below.
4. A description of at least three (3) similar projects completed by the bidder within the past three (3) years. Include personal references with contact information for each.
5. Qualifications, background and experience of the project director and other staff proposed to work on the project.
6. A general description of the techniques, approaches and methods to be used in completing the project.
7. A sample card (color imprint) and a sample paper carrier with perforations for testing.
8. A description of the chronology for completing the work, including a time line and deadlines for each task.

9. 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, contractors' 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.
10. 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.

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

Proposals should be prepared simply and economically, providing a straightforward and concise description of the Vendor's ability to meet the requirements of this RFP. Emphasis should be on completeness and clarity of content.

1. Deliver 6 physical hardcopies to the attention of Dina DiLoreto, no later than 4 p.m. November 6, 2013.
2. Each set should include all attachments requested, including copies of the electronic attachments itemized below.
3. Deliver electronically in with above (one set--CD-ROM, DVD, or USB flash drive) in native unlocked format as noted below:
  - a. ***Attachment A: Itemized Cost Proposal*** (.xls)
  - b. ***Attachment B: Vendor History Questionnaire*** (.xls)

Proposals that fail to address each of the submission requirements above may be deemed non-responsive and will not be further considered. The State Bar, solely upon its own discretion, will judge vendors on their overall compliance, and may judge a vendor to be materially compliant, even if that vendor is non-compliant to a particular requirement of the RFP.

If specific submission requirements 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.

Submittals should provide straightforward and concise information that fulfill the requirements of the RFP. Emphasis should be placed on brevity, conformity to the State Bar's instructions, and completeness and clarity of content. Proposals should not include generic promotional materials and graphics that increase page count and PDF file size without addressing substantive content. Hard copy brochures and marketing materials may be included as a supplement if desired.

### **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.

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.

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

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

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, 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 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 (5%).
  - b. Agreement with the State Bar's contracting requirements (10%).
  - c. The technical ability, financial viability, capacity, and flexibility of the bidder to perform the contract in a timely manner and on budget, as verified by, e.g., the quality of any demonstration, client references, demonstrated success in projects with similar requirements and any other contracts with the State Bar (50%).
  - d. The total cost 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 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 solution over the term of the contract (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.

**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. 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 November 22, 2013 of the Bar's intention to award the contract to the HSB. It is anticipated that final selection of the HSB will be made by December 3, 2013. The evaluation team will select a winning proposal subject to approval by the Board of Trustees. 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@calbar.ca.gov](mailto: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.

**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 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.

**G. Questions Regarding the RFP**

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

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

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

**H. 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.

**I. 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.

**J. 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.

**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 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 Trustees, 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: General Services, 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.
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 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, (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. **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 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 will be entitled to its attorneys' fees and costs incurred in any post-judgment proceedings to collect or enforce the judgment. This provision is separate and will survive the merger of this provision into any judgment on this agreement.
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.