

The State Bar of California

REQUEST FOR PROPOSAL



This document is a Request for Proposal (“RFP”) for the development of an Enterprise Content Management Program.

The State Bar is seeking proposals for developing an Enterprise Content Management policy beginning with the governance portion required to formalize and adopt a master document retention policy for the agency.

Please submit 4 copies of your proposal no later than 4 p.m. on April 8, 2014 to:

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

Attn: Andrew Conover
Procurement & Risk Management
415-538-2207
andrew.conover@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 247,000 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

Renewed interest in document management is being driven by an exploding volume of information and an increasingly complicated compliance and litigation environment, coupled with new technology platforms being introduced to operate our core lines of business. It is recognized that the State Bar needs a unified strategy and tools to manage information within the organization across its entire lifecycle. As one of our core agency assets is information, the need to protect and efficiently manage this information is critical to be able to serve and protect the public effectively and efficiently. The ideal Enterprise Content Management plan must include the proper balancing of many elements to achieve the solution that contains the lowest capture effort with the lowest consumption effort across the agency. A snapshot of the State Bar's current information, both paper documents and electronic files can be found on *Attachment B: Document Summary by Senior Executive Area*. For the purposes of this bid offering, Enterprise Content Management ("ECM") is defined as the strategies, methods, and tools used to capture, manage, store, preserve, and deliver content and documents related to organizational processes. This scope of this bid offering is for the governance plan only. Phase two of this project will focus on the actual implementation of the plan after it is adopted, using the recently deployed Sharepoint environment as the foundation for a KnowledgeLake-based Enterprise Content Management solution.

A. Document Management History

Historically, information has been shared through the use of shared network folders, dedicated partitions for functional areas and in AS/400 tables, and other ad-hoc methods as needed. Key events relevant to the history of ECM at the State Bar include:

1. The State Bar's Information Technology department implemented the initial Hummingbird content portal package with the assistance of General Networks Corporation based on a formal competitively bid award. Hummingbird DM 5.0 was initially rolled out to Chief Trial Counsel, State Bar Court, Executive Office, and General Counsel in late November 2002. This document management solution was later modified follow additional consulting directly via Hummingbird USA in late 2005. The State Bar is currently using Opentext DM v5.3.1, as Opentext acquired the Hummingbird software in 2006. Usage of Opentext DM is dependent on either departmental policy or attorney preference. Users not saving documents to DM are saving their documents to either their personal

network drives, or departmental shared drives. Although currently still in service, it is estimated that only roughly 42% of the State Bar utilizes the DM system as implemented, representing 201,102 individual documents from three primary functional areas within the State Bar.

2. The State Bar's Certification department engaged the services of Anacom Inc. in 2006 to begin to scan their collection of roughly 2.5 million documents to be used for e-retrieval purposes and lower offsite record storage costs. This was the first and largest externally-contracted document conversion project. No externally-sourced content conversion has occurred since this project.
3. The State Bar's Information Technology department embarked on a study to begin the development of a formal Document Retention Policy in 2007, partially in response to then recent amendments to the Federal Rules of Civil Procedure, concerning the discovery of "electronically stored information," which went into effect on December 1, 2006. The project goals were to set and enforce file storage and email quotas, implement retention cycle of document-related data and related staff training regarding any agency-wide training. Personnel records, Email retention, Office documents retention and technology to support document retention, and staff awareness training was included in the project scope. Offsite storage requirements and their destruction, conversion of in-house paper files to scanned online versions, Document Management (DM) systems, public web site content, and actual training of Office or DM software systems *were not included* in the project scope at that time. This was commissioned and completed in early 2008 by the Information Technology Advisory Group ("ITAG"). It contained a high-level assessment of document management within the agency and included an inventory of document types, department groups, and retention guidelines for each. These recommendations were not formally adopted at that time.
4. In early 2012, the State Bar released its [Five-Year Strategic Plan](#) which contained a Major Technology Initiative to retire and replace all four of its core line-of business ("LOB") software applications. Its goal is to transform the attorney discipline system from a largely paper-driven process into a near-paperless operation as well as expanding access to State Bar services and information by delivering a user-friendly, task-driven online e-portal. These core systems include the Prosecutorial Case Management System, Court Case Management System, Admissions System, and Member Records & Billing System. All four of the current systems in use were developed by the State Bar's in-house programming team over a period of many years on the AS/400 platform. The existing systems support fundamentally paper-driven business processes.
5. Our secure [record storage needs](#) have recently mushroomed to over 81,000 cubic feet of records stored offsite at GRM Information Management

Services (servicing our LA offices) and Iron Mountain Information Management Inc. (servicing our SF offices). Our recent office move in LA prompted a surge in records sent offsite for storage. This volume is in addition to the 12,726 of lineal feet of shared open filing space in the San Francisco offices and the 11,052 of lineal feet of shared open filing space in the newly renovated Los Angeles offices. This inventory includes banks of departmental filing cabinets, library bookshelves and open shelving units for document file record cartons. Filing cabinets and desk pedestals within the employee's workstation or private office are not included in this count. We expect to be able to reduce the overall volume of documents stored offsite to meet both cost-containment and risk-exposure objectives.

6. The State Bar's General Services operations replaced the existing fleet of Toshiba copiers with new [machines from Konica-Minolta](#) in spring of 2012. There are 24 copy stations in Los Angeles and 24 individual copy stations in San Francisco. This update marks the first time that each and every deployed copier contain full-function high-speed color scanners and recognition software to convert to both MSWord and XL and send to either a shared network folder or individual email address. It is expected that in-house scanning be utilized along with other measures to convert documents deemed permanent as a result of a Document Retention policy adoption.
7. The award for commercial off-the-shelf ("COTS") software for the [Prosecutorial Case Management System](#) was made to Sustain Technologies Inc. in mid-2012 and implementation is currently underway. The bid offering for the [Court Case Management System](#) is currently on hold. An award for [Data Integration Software](#) was made to IBM Websphere in spring 2013 to connect the data from legacy systems with the new COTS packages being deployed. This project is currently underway as well. End-user [computing hardware](#) was refreshed for all State Bar staff in May 2013.
8. Information Technology commissioned ShareSquared Inc. to install Microsoft SharePoint 2013 ("SP2013") in August 2013 to support the State Bar's vision for content management and document retention, and to be able to utilize the SharePoint platform for other programs and services. SP2013 runs on Microsoft Windows Server 2012 with Microsoft SQL 2012 for its backend database. Three separate environments were deployed for development, testing and production. The initial implementation of SP2013 is to support the Office of the Chief Trial Counsel's department for content/document management and workflow. This Sharepoint platform has been chosen to manage content for the entire organization starting with the design and implementation within the Sustain case management system.

B. ECM Long-Term Goals

The successful management and control over all agency information, including:

1. Reducing task duplication
2. Minimizing time spent searching for old documents
3. Automating business processes in order to facilitate content handling and replace existing manual paper processing
4. Reducing the overall storage requirements for maintaining paper and electronic documents
5. Minimizing the liability and burden during legal discovery
6. Ensuring the preservation of vital company information in the case of disaster

C. Performance

The vendor selected to develop the governance policy to drive the implementation of an agency-wide Enterprise Content Management solution will be expected to successfully perform the following:

1. Propose a Document Retention solution to govern the capture, storage, retrieval, control, sharing, tracking, and preservation of content that includes documents (paper or electric format), audio and video content. Recommendation will include a method for defining and governing enterprise taxonomy (to be used in later phase to define metadata for system deployment) and making key decisions regarding present and future content types.
2. A plan to manage stakeholder buy-in of the Document Retention solution proposed.
3. Propose a Discovery Plan, including the review of the 2008 ITAG report any additional research on which to develop a record retention policy.
4. Development of an agency retention schedule by document type and function with references cited (IRS, federal, state, best industry practice, etc.). Application of retention schedule and implementation designed to maximize efficiencies and revision control within functional areas, provide required security trimming to limit outside access, minimize agency risk regarding compliance or litigation, and reduce filing and storage costs. Schedule to include document destruction and reformatting guidelines.

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 a completed ***Attachment A: Vendor History Questionnaire*** with their proposals.
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, including a representative project plan describing the migration of existing content from the legacy solution to the proposed solution that includes the tasks necessary to implement, including these important governance issues:
 - a. Describe how you would evaluate our current record management policies, procedures, and practices.
 - b. Describe how you will assess our current policies/practices against benchmark of industry standards.

- c. Describe how you would propose that we abide by critical corporate retention requirements, length and method of retention, destruction methods and policies for various types of records.
 - d. Describe how you would identify record custodians, including how you will work with various record owners to confirm the methods for storage, protection, length, destruction for each type of record.
 - e. Describe how you will advise on compliance with various privacy laws regarding the data contained in the different types of records.
7. A description of the chronology for completing the work, including a time line and deadlines for each task.
8. A detailed cost proposal, including any travel costs and other expenses.. 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.
9. A written acknowledgement of the acceptance of the Contracting Requirements set forth in section IV of this RFP. Specific terms may be reserved for future negotiation, but must be clearly identified and reasons given for the reservation.

Proposals 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 (10%).
 - 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 (45%).
 - 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 May 6, 2014 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 May 13, 2014. 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.

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 Andrew Conover at andrew.conover@calbar.ca.gov. All questions must be submitted no later than 8

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, Procurement Director, (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.

Vendor represents and warrants that: (i) as of the effective date of the contract, the Products and associated documentation and technical support comply with the State Bar of California Accessibility Standards in Procurement ("Accessibility Standards"), as they exist at the time of entering the contract, unless and to the extent that Parties otherwise expressly agree in writing; and (ii) if the Products will be in the custody of the State Bar or a recipient of services from State Bar after the contract expiration or termination, the Products will continue to comply with such Accessibility Standards after the expiration or termination of the contract term, unless the State Bar uses the Products in a manner that renders it noncompliant.

In the event Vendor should have known, becomes aware, or is notified that the Product and associated documentation and technical support do not comply with the Accessibility Standards, Vendor represents and warrants that it will, in a timely manner and at no cost to the State Bar, perform all necessary steps to satisfy the Accessibility Standards, including but not limited to remediation, replacement, and upgrading of the Product, or providing a suitable substitute.

Vendor acknowledges and agrees that these representations and warranties are essential inducements on which the State Bar relies in awarding this contract.

Vendor's representations and warranties under this subsection will survive the termination or expiration of the contract and will remain in full force and effect throughout the useful life of the Product.

In the event of a breach of Vendor's representations and warranties with respect to the State Bar's Accessibility Standards, Vendor will be liable for direct and consequential damages and any other remedies to which the State Bar may be entitled. This remedy is cumulative of any and all other remedies to which the State Bar may be entitled under this contract and other applicable law.

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: Risk Management, 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.