



## REQUEST FOR PROPOSAL

This document is a Request for Proposal (**RFP**) for a cloud-based electronic filing solution that will be integrated with the internal case management system.

The State Bar of California (**State Bar**) seeks proposals for a cloud-based electronic filing solution that will be integrated with the internal case management system for the State Bar Court, the Office of Chief Trial Counsel, and the Office of Probation. 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 Renewal Period(s), if elected, means the **Term**. The State Bar expects to award a contract based on this RFP by **July 23, 2021** for a contract term to begin by October 4, 2021.

Please submit one (1) flash drive containing the proposal in PDF (file-to-PDF only, do not print and scan) and attachments in Excel format no later than 4:00 p.m. on **July 9, 2021** (Submission Deadline) to:

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

Attn: Sunly Yap  
Office of General Services  
213-765-1121  
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 of California 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 of California'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 of California seeks proposals for a cloud-based electronic filing solution for the State Bar Court, the Office of Chief Trial Counsel, and the Office of Probation. The successful vendor will demonstrate an understanding of these efforts and industry best practices and will have experience with similar projects.

### **A. Background**

The California attorney discipline system works to protect the public, the courts, and the legal profession. The State Bar Court (SBC) is the nation's only professional court that exclusively handles attorney discipline and regulation and was created by the Legislature. It is an administrative arm of the California Supreme Court. The SBC has statutory authority to impose public and private reprimands. It can also temporarily remove lawyers from the practice of law when they are deemed to pose a substantial threat of harm to clients or the public. In cases in which more severe discipline, such as suspension or disbarment, is warranted, the SBC issues written findings of fact and conclusions of law and makes a recommendation for discipline to the California Supreme Court. Attorneys may seek review of SBC decisions in the California Supreme Court.

The SBC is overseen by a presiding judge who is appointed by the California Supreme Court. The Hearing Department is the trial level of the SBC with five (5) full-time trial judges appointed by the California Supreme Court, the Governor, the Speaker of the Assembly, and the Senate Committee on Rules. The trial judges handle a statewide caseload from the Los Angeles and San Francisco venues. The Review Department is the appellate level of the SBC with a full-time presiding judge and two other review judges appointed by the California Supreme Court. The three-judge panel conducts reviews of Hearing Department decisions and orders in cases in which at least one party seeks review.

The SBC handles 27 different case types with an annual workload of about 1,000 new case filings and numerous pleadings that are filed by parties that appear before the SBC. Based on 2020 activity, SBC handled approximately 13,000 documents in 12 months. That volume will increase once more documents can be filed electronically with or by SBC.

The Office of the Chief Trial Counsel (OCTC) has the primary responsibility for carrying out the prosecutorial functions of the State Bar. This includes receiving, resolving, and investigating complaints from members of the public and others, and, where necessary, acting as the prosecution in the proceedings leading to suspension and/or disbarment of attorneys in California. In addition to the proceedings filed in the SBC, OCTC also initiates and conducts proceedings before California Superior Courts involving the assumption of law practices throughout the state.

The Office of Probation (OP) monitors disciplined attorneys' compliance with court orders, provides timely information to the State Bar Court, OCTC, and disciplined attorneys regarding compliance status, and provides information to disciplined attorneys to assist them in successfully returning to the practice of law. The OP files motions to modify the terms and conditions of reprobation and probation matters and responds to such motions filed by disciplined attorneys. The OP also files motions to revoke probation.

While the SBC occupies facilities provided by the State Bar of California, the SBC's adjudicative functions are kept completely separate from the prosecutorial and probation functions of the agency. The independence of the SBC is indispensable in promoting public confidence in the integrity and impartiality of the judiciary.

## **B. Current Process**

The SBC currently estimates that it receives over one thousand filings monthly which can be submitted by mail, email, or in person. These filings vary in type and include stipulations, motions, Notice of Disciplinary Charges (NDC), petitions, responses, declarations, etc. Additional documents that are generated by the court include: notices, orders, decisions, stipulations, opinions, Supreme Court transmittals, certificates, proofs of services, etc. In addition, parties also generate a wide variety of pleadings, including motions, exhibits lists, witness lists, statements, responses, replies, briefs, etc. All processes related to filings are done manually which leaves room for human error and slows down the filing process.

All filings vary in size (MB) and the number of pages submitted per filing can range anywhere from 10 to 500+ pages. All documents must be scanned and uploaded to the case in Odyssey manually which is a laborious effort. The addition of an e-filing solution will eliminate this manual task, allowing the SBC staff to take care of other high-priority items. An e-Filing platform will enhance the ability of the Bar to accomplish its goals and objectives, including expanding access to justice.

Currently, all filings are processed manually at the SBC offices in Los Angeles and San Francisco. Service of documents by SBC is done via regular mail (US Postal), overnight mail (UPS), email, certified mail, and personal service. The email option for filing and service was added due to the Covid-19 Virus Pandemic in 2020.

OCTC uses Tyler Technologies' Odyssey, Attorney Manager, to track complaints about attorney conduct. The case management system serves as the electronic record of the case and is used for the management of complaints regarding attorney conduct from inception (intake) through investigation, pre-filing, and prosecution. Of the roughly 45,000 calls per year that OCTC receives inquiring about the process for lodging a formal complaint, approximately 15,000 formal complaints are ultimately submitted to the SBC and created into cases within Odyssey by the SBC staff.

The OP monitors attorneys' compliance with the conditions imposed on suspensions and reprovals. The OP files motions to modify the terms and conditions of reprobation and probation matters and responds to such motions filed by disciplined attorneys. The OP also files motions to revoke probation when individuals fail to meet the conditions of their probation.

Currently, all filings by OCTC and OP are processed manually at the SBC offices, in Los Angeles and San Francisco. Filings are submitted in several ways to the SBC, personally, by mail, and by email. The email option was added in March 2020 in response to the Covid-19 Virus Pandemic.

Service of documents by OCTC and OP is executed via regular mail (US Postal), overnight mail (UPS), email, fax, certified mail, and personal service. For court documents or bank records service is executed through an attorney service who will serve the business entity.

With an e-filing solution, those who are commencing legal action, filing into an ongoing matter, or seeking to reopen a closed case in the SBC would be able to file and serve documents electronically, reducing the time and data entry needed to file the paperwork.

## **C. Objectives**

### **1. Benefits to e-Filer:**

- a. Convenience - The internet is available 24 hours, 7 days a week. With access to the Internet, many court transactions can be conducted virtually, from anywhere in the world. Parties do not have to travel to or physically appear in the SBC offices to conduct their court business. The convenience of e-filing also has the potential to balance access to justice for all filers.
- b. Immediacy - By reducing or eliminating the processing time involved in clerk review, filers receive quicker confirmation that their documents have been either accepted into the court record or rejected. If the files are rejected, filers can quickly address the errors and resubmit without delay.
- c. Accuracy - The filer is in greater control of how the information is recorded in the Court as duplicative data entry is removed. Instead of data entry, the clerk focuses on the accuracy and completeness of the filed document(s).
- d. Lower Fees and Costs - E-filing eliminates delivery, courier, and service fees for parties in an existing case.
- e. Usability - Implement a system that utilizes defined workflow processes and end-user functionality to guide users through the system during the entire case filing process from initiation through case disposition.

### **2. Benefits to Court:**

- a. Improved Processing Time - Facilitate the end-user's response to and receipt of filings in a timely, more organized manner.
- b. Data Accuracy - Less potential for error during Data Entry, as the filing information will be recorded automatically in the SBC CMS.
- c. Increased Efficiencies - Workflows such as Automated Scheduling will arrange for the filing to be reviewed or heard by a judge.
- d. Improved Process Management - Less scanning, less file management, simpler file sharing, less physical file storage.
- e. Cost savings - e-Filing allows the SBC to analyze, modify and optimize workflows and processes due to automation.

## **D. Project Scope**

The State Bar is seeking a Software-as-a-Service (SaaS) solution application, services, and pricing for electronic filing manager (EFM) and indigent/government agency (I/GA) electronic filing service provider (EFSP). This system should integrate with the existing Case Management System (CMS)—

Odyssey, a COTS package from Tyler Technologies, Inc.—to look up existing cases within Odyssey and to upload e-filing documentation once reviewed and approved.

The scope of the RFP is to obtain specific, hosted e-filing services required to support the SBC and their constituents in automatically filing into the court. This includes both an EFM and an I/GA EFSP solution.

1. Support e-filing statewide for all State Bar litigation.
2. Integration with Odyssey CMS application provided by Tyler Technologies, Inc., which also includes a document management repository.
3. Provide accounting support to allow SBC to reconcile for-fee EFSP filing.
4. Provide a zero-cost e-filing option for indigent and government filers.
5. Integration to State Bar's payment processing solution, CyberSource.
6. Implement a system that utilizes defined workflow processes and end-user functionality to guide users through the system during the entire case filing process from initiation through case disposition.
7. Provide dashboard overview to monitor Key Performance Indicators and track workflows.
8. Increase efficiencies and accuracy through automation and reduction of manual entry.
9. Improve the State Bar's ability to share and exchange relevant data among staff, the public, and key stakeholders.

#### **E. E-Filing Solution Requirements**

The list below provides functional groupings, but the requirements are not limited to the content below. Vendors must respond to the full list of Functional Requirements (Attachment A), and Non-Functional Requirements (Attachment B) that accompany this statement of work.

The e-filing solution will provide external entities with the capability to file documents with the court via the Internet, this should provide equal access. The e-filing solution shall include the following essential functions:

1. Electronic Filing Manager (EFM) - An EFM is a hosted application service that acts as the intermediary between a court and the EFSP solution certified for filing into the California courts. It provides facilities for the SBC to maintain and enforce its e-filing court policies. The EFM application service provides an application for e-filing review by SBC staff and provides an automated conduit for the submission of e-filings to the court's CMS and DMS. The EFM also provides the SBC an automated transaction and audit log of all filing and fee collection events and an accounting dashboard to aid in the reconciliation process completed daily by court accounting staff.
2. Ability to configure filing fees per case type - Payment processing will be handled by filing fees entities fulfilling the role of the EFSP. The EFM will collect e-filing transaction and financial data from the EFSPs filing into their application service. The EFM will provide an accounting dashboard to aid in the reconciliation process completed daily by SB accounting staff.
3. ADA Compliance - All application web pages must meet WCAG 2.1 AA accessibility requirements.

4. The EFM provider will operate an application that will serve as the intermediary between EFSP solutions and court case management and document management systems. This hosted application will provide the following general functions:
  - a. Accept filings from all certified EFSP solutions.
  - b. Accept transaction, audit, statistical, and accounting data from EFSP solutions for submission to the SBC.
  - c. Provide automated notification of e-filing results to the EFSP submitting a filing.
  - d. Provide an application for a court to establish and maintain a court e-filing policy.
  - e. Provide an application (which may be employed by SBC for a court to review, approve, and reject filings).
  - f. Submit filings to the court CMS and DMS.
  - g. Submit transaction, audit, statistical, and accounting data to the SBC.
  - h. Provide service-level performance reports to the SBC.
  
5. Hosted I/GA EFSP Solution Operations - Under the agreement resulting from this RFP, the Proposer will also provide a no-fee hosted I/GA EFSP solution application service to indigent and government agency filers. This I/GA EFSP solution provides applications to compile filings, file these with the courts, prepare documents for service, effect service, maintain records of these services, and report these records to the SBC. It will provide these services at no fee exclusively to indigent and government filers.
  - a. Assemble e-filings.
  - b. Submit e-filings to the EFM.
  - c. Provide electronic service of documents - Electronic service means service of a document on a party or other person by either electronic transmission or electronic notification. Electronic service may be performed directly by a party, by an agent of a party, including the party's attorney, or through an EFSP. "Electronic transmission" means the transmission of a document by electronic means to the electronic service address at or through which a party or other person has authorized electronic service. "Electronic notification" means the notification of the party or other person that a document is served by sending an electronic message to the electronic address at or through which the party or other person has authorized electronic service, specifying the exact name of the document served and providing a hyperlink at which the served document may be viewed and downloaded.
  - d. Submit e-filing transaction and audit logs to the EFM.

#### **F. Pre-Implementation Project Requirements**

1. An assessment of the integration to Tyler's Odyssey system shall be conducted prior to the implementation of a new system. This analysis will include review of APIs, workflow processes, and OCTC case lookup.
2. Successful creation of a Test environment and Production Environment.
3. Proposed architecture diagrams

#### **G. Training Requirements**

The **EFM and EFSP service provider** shall provide at a minimum training for the following roles and features that are recorded for future reference related to all features implemented.

Knowledge Base training is acceptable for new features post-implementation and shall be provided within a Release Management communication. In addition to the training below, the EFSP provider will be available as needed for those individuals' e-filing to assist in any technical issues that they may have.

1. IT Technical Support
2. SBC System Administrators - create new rules and workflow set up to meet business needs.
3. SBC Staff users - process e-filings submitted by outside attorneys and internal business units.
4. OCTC - file documents (motions/ responses to motions) with the court as needed during the life of the case. Also upload documentation for one or multiple cases.
5. OP staff - file documents (motions to modify/responses to such motions) with the court after the case is closed by SBC and file initiating document (motion to revoke probation); receive final disciplinary orders from SBC for monitoring.
6. External Parties - file documents with the court as needed during the life of the case.

#### **H. State Bar of California Acceptance Testing**

1. E-filers will be able to look up pending cases within the Odyssey system to reduce duplicate entry and data entry errors.
2. The e-filing solution will provide a digital end-to-end solution from the initiation of the case to the submission to the case management system, including digital signatures where required.
3. The e-filing solution will streamline the amount of time it takes to file a case.
4. The solution will reduce the amount of time and data touchpoints of the State Bar of California's Courts team.
5. Test Use Cases

#### **I. Project Deliverables**

1. Final Architecture diagram
2. Environments: Will require at least 2 environments (test and production)
3. Integration documentation
4. Project Deliverable Plan with milestones
5. Test Plan
6. Training materials

## J. GLOSSARY

Acronym	Term	Description
<b>SBC</b>	State Bar Court	Business unit who reviews and rules on cases
<b>SOW</b>	Scope of Work	Scope of Work is defined as the narrative description of a project’s work requirement. It defines project-specific activities, deliverables, and timelines.
<b>CMS</b>	Case Management System	Odyssey Navigator by Tyler Technologies
<b>ECF</b>	Electronic Court Filing	The automated transmission of digital legal documents from an attorney, party, or self-represented litigant to a court.
<b>ECMS</b>	Electronic Case Management System	A system where all cases are created, documented and tracked in a digital version.
<b>NDC</b>	Notice of Disciplinary Charges	Document that initiates a case in State Bar Court
<b>OCTC</b>	Office of Chief Trial Counsel	The office within the State Bar the files disciplinary cases
<b>EFM</b>	Electronic Filing Manager	An EFM is a hosted application service that acts as the intermediary between a court and the various EFSP solutions certified for filing into the California courts
<b>EFSP</b>	Electronic Filing Service Provider	While an EFSP provides applications to collect and forward e-filings to the court, the EFM will engage with and accept filings from all California-certified EFSP solutions
<b>SaaS</b>	Software as a Service	Software licensing and delivery model in which software is licensed on a subscription basis and is centrally hosted.
<b>COTS</b>	Commercially off the shelf	Packaged software which is adapted to meet the needs of the organization
<b>OP</b>	Office of Probation	The office within the State Bar that monitors disciplinary orders and files/responds to motions to modify and files motions to revoke probation

## III. GENERAL INFORMATION

The submission requirements for this RFP are set forth below. A proposal shall constitute an irrevocable offer for 90 Business Days following the Submission Deadline. Reference to a certain number of days in this RFP shall mean Business Days unless otherwise specified. **“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.

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 pages, providing overview of bidder's organizational structure, history, services, market position, unique qualifications, strategic alliances, etc. Please include an explanation of how the property management and construction project management teams will communicate/coordinate in order to provide an integrated solution to the State Bar.
2. A description of at least three (3) similar projects completed by the bidder within the past three (3) years. Include references with contact information for clients, and for whom the firm performed services similar to those being requested in this RFP. Example documents from one (1) of the three (3) similar projects requested in the above submission requirement, as they relate to the deliverables requested in this RFP: Project Work Plan, Discovery Report, Configuration Workbook, System Requirements Document, Test Plans, Training Plans and Materials. These example documents may be redacted where they concern: personal identifying information; contact information; confidential information; information specific to the security state of that similar project; or incorporate Offeror intellectual property or trade secrets.
3. Qualifications, background, experience and resumes of the project director and other staff proposed to work on the project.
4. A general description of the techniques, approaches and methods to be used in completing the project.
5. 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.
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, Vendors' 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 the bidder has performed services similar to those being requested in this RFP. The references 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.
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. A list and description of any legal actions, lawsuits, arbitrations or formal protests related to real estate services in which 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.
10. Confirmation that vendor has all necessary business licenses, professional certifications or other credentials to perform the services, and that vendor, if a corporation, is in good standing and qualified to conduct business in California.
11. A written acknowledgement of the acceptance of the Contracting Requirements set forth in Section IV of this RFP, or an explanation of specific Vendor 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, Office of General Services, by the Submission Deadline noted on Page 1 of this RFP.

**The proposal package must include:**

1. 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)
  - Attachment C : e-Filing Functional Requirements (.xls)
  - Attachment D : e-Filing Non-Functional Requirements (.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 Vendor'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 vendor to be materially compliant, even if that vendor is non-compliant to a particular requirement of the RFP.

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

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

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

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 (10%).
2. Agreement with the State Bar's contracting requirements (10%).

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 (35 %).
4. The financial viability of the bidder as evidenced by standard financial reports (10%).
5. 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 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 (35%).

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.

- B. 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 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.

**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 posted at the State Bar's offices at 180 Howard Street, San Francisco, CA and written notice sent to bidders on or about July 16, 2021 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 **July 30, 2021**. 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 and responsive 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 Sunly Yap, Principal 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 seven (7) days prior to the date for submission of proposals. Questions and answers regarding the RFP may be shared with all bidders known to be interested in submitting a proposal.

If a question relates to a proprietary aspect of its proposal and the question would expose proprietary information if disclosed to competitors, the bidder may submit the question in writing, conspicuously marking it as "**CONFIDENTIAL.**" With the question, the bidder must submit a statement explaining why the question is sensitive. If the State Bar concurs that the disclosure of the question or answer would expose proprietary information, the question will be answered, and both the question and answer will be kept in confidence, 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 ten (10) 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 request for proposal.
3. The State Bar failed to follow the methods for evaluating and scoring the proposals specified in this request for proposal.
4. The State Bar is proposing to award the contract to a bidder other than the bidder given the highest score by the evaluation committee.

A bidder qualified to protest should contact Sunly Yap, Principal Program Analyst at [Sunly.Yap@calbar.ca.gov](mailto:Sunly.Yap@calbar.ca.gov), 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) 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) 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 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. 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;
3. (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; (ii) to the best of Vendor's knowledge, the P-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; and
4. If any deliverable fails to conform to the standard specified above, Vendor, at its sole expense, will promptly correct the defective deliverable. 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.
5. 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.
6. 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.
7. 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 deliverables.

**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.

**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 Two Million Dollars (\$2,000,000.00) 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) **Privacy Security Liability/Cyber Insurance** coverage for a minimum limit of One Million Dollars (\$1,000,000) per claim and annual aggregate. Such privacy security liability/cyber insurance will be with an insurance carrier with an A. M. Best rating of not less than A:X.

2. If **Blanket Fidelity/Commercial Blanket Bond** is required, the State Bar, its Board of Trustee, directors, officers, and employees will be named as additional loss payees ("**Additional Loss Payees**"). 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, including without limitation, licensee (former and current) or applicant records, data, non-public information pertaining to financial, personnel, or the activities, business or operations of the State Bar. 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. 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. 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.

4. License. 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.