THE STATE BAR
OF CALIFORNIA

DATE: December 12, 2007

TO: Members of the Board Committee on Operations

FROM: Starr Babcock, Senior Executive, Member Services

SUBECT: Bank of America Contracts: IOLTA, Merchant Services, Affinity Products and Programs

EXECUTIVE SUMMARY

Staff requests Board delegation of authority to the Executive Director or her designee to enter into three agreements with Bank of America (B of A) in a form approved by General Counsel. This request is made on an emergency basis, as the contracts are a package of benefits and services that include B of A compliance with the IOLTA comparability effective January 1, 2008. This agreement on IOLTA comparability will have an immediate positive impact on the Legal Services Trust Fund (LSTF) as B of A has approximately 20% of the California IOLTA accounts. The other two agreements, Affinity Products and Programs and Merchant Services will provide value added access to State Bar members with an established financial service partner with the largest retail footprint in California. It is anticipated the agreements will be completed before the end of the year. The Board may wish to announce to the membership, the legislature, and the public the benefit of the State Bar's efforts to increase legal service funding by use of its economic leverage.

ISSUE

Prior to 2006 the Foundation of the State Bar, now the California Bar Foundation (CBF), was the exclusive provider of affinity programs for the State Bar of California. That agreement was amended in June 2006 to shift the exclusivity back to the State Bar. The main reasons related to the State Bar's ability to more effectively select, oversee, and market value-added products to the members, and also pursue non-dues revenue consistent with the State Bar's statutory permission to do so. Staff has been pursuing a new agreement with B of A since July of 2006 as part of the overall enhancement of member services and products.

The CBF sponsored a B of A Credit Card program since 1992. The Affinity Products and Programs contract before the Board today represents an addendum to the existing CBF/B of A agreement. The addendum includes program enhancements as well as new products with better terms relating to oversight and control by the State Bar. In addition, the Merchant Services contract provides an entirely new line of member products that will be of assistance to small and solo firms.

Finally, the IOLTA agreement demonstrates the Board's leadership and leverage in pursuing the immediate compliance with AB 1723 and will provide a significant immediate increase in LSTF revenue. The B of A IOLTA agreement is time sensitive as comparability compliance by B of A will offer new members and members with existing trust accounts in non-compliant banks an immediate solution for compliance with the largest retail bank in California—B of A.

FISCAL/STAFF IMPACT:

Described above

RULE AMENDMENTS:

None

BOARD BOOK/ADMINISTRATIVE MANUAL IMPACT:

None

RECOMMENDATION:

Should the Board Committee on Operations wish to authorize contracts with Bank of America, the following resolution would be in order:

RESOLVED that the Board Committee on Operations, acting on behalf of the Board of Governors between meetings, approves in principle the contracts with Bank of America for Affinity Products and Programs and authorizes the Executive Director, or her designee, to enter into the contract in a form approved by the General Counsel.