

AGENDA ITEM

MARCH 112
Government Affairs
Contract: ROA

DATE: February 12, 2010

TO: Members, Board Operations Committee
Members, Board of Governors

FROM: Robert Hawley, Deputy Executive Director

SUBJECT: Contract for Government Affairs Representation: 2010 Renewal, Request for Action

EXECUTIVE SUMMARY

This item seeks approval to renew for the remainder of 2010, the contract by which the State Bar obtains Government Affairs advocacy representation. This item was before the Board in January. At that time, the Board authorized renewal of the existing contract for the remainder of 2010, subject to renegotiation and final approval of the Board. To facilitate this, the existing contract that was with Wada Williams Law Group, LLP, is being extended through March 31, 2010. The W Group, Strategic Public Affairs, LLC, the successor to Wada Williams, has proposed continuing the existing contract through the end of 2010 with two substantive changes: (1) recognizing the succession of The W Group to Wada Williams and (2) recognizing The W Group's subcontract to another firm to cover the Sections' legislative work. The contract's compensation structure is unchanged. The contract at issue is for a three year period starting in 2008, renewable in one year increments and followed a Request for Proposals (RFP) competitive bidding process. 2010 is the final third year of the contract. An RFP process will be conducted in 2010 for Government Affairs advocacy representation in 2011 and beyond. The issue here is how to service the State Bar's Government Affairs advocacy representation for the remainder of 2010. This would normally be a staff renewal determination. But, due to fiscal constraints resulting from funding limitations in 2010, this was presented to the Board in January for review and approval and returns to the Board for final approval based on the terms set forth in The W Group's proposal. To facilitate Board consideration of this item at the March meeting, and to assure continuity in Government Affairs representation, an interim renewal of the contract through March 31, 2010 is being effectuated.

RECOMMENDATION AND PROPOSED RESOLUTION

It is recommended that the Board authorize the State Bar to renew the existing contract for Government Affairs advocacy representation through December 31, 2010. The existing contract and its interim extension is attached as Attachment 1. The W Group's proposal to assume performance under the contract from Wada Williams Law Group at the same compensation level and to perform the legislative work of the Sections through a subcontractor is attached as Attachment 2. The State Bar anticipates engaging in an RFP process in 2010 for Government Affairs advocacy representation for 2011 and thereafter. The issue presented here pertains only to how the State Bar services its need for Government Affairs advocacy representation for the remaining nine months of 2010. The recommendation is to proceed with The W Group as the successor to Wada Williams on the terms proposed. Providing that the Board concurs, the following resolution is recommended:

RESOLVED, that upon recommendation of the Board of Governors Operations Committee, the Board of Governors authorizes staff to renew the agreement between the State Bar of California and The W Group Strategic Public Affairs, LLC, as successor to Wada Williams Law Group, LLP for Government Affairs advocacy representation through December 31, 2010; and it is

FURTHER RESOLVED that the terms of the agreement remain unchanged with the exception that services to the State Bar Sections may be performed by a subcontractor and charges for services rendered to the Sections may be renegotiated with the Sections; and it is

FURTHER RESOLVED that the contract amount for which the State Bar's Board of Governors is liable, as opposed to the Sections, shall remain unchanged from the initial contract that is being renewed; and it is

FURTHER RESOLVED that the necessary amendments to the contract be effectuate by the Office of General Counsel.

BACKGROUND

The State Bar's Government Affairs Office consists of two components. One is the non-advocacy component that provides technical assistance to the branches of government on legislation, rules, and other enactments that bear upon the legal profession, the practice of law, and the regulation of the practice of law in California. The State Bar provides a significant amount of research assistance, commentary, analysis and input to the branches of government and their various departments and agencies on these legislative, rule, and other initiatives. This component of the State Bar's Government Affairs Office is provided by regular staff employees of the State Bar currently housed in the San Francisco office. These activities are not included in this contract.

The second component of the Government Affairs Office consists of advocacy on the State Bar's legislative program as approved by the Board of Governors. A primary component of this legislative program is the State Bar's fee bill authorizing funding for the agency. The State Bar also initiates and periodically supports non-ideological noncontroversial legislative proposals that enhance the administration of justice in California consistent with Business & Professions Code 6031 [Functions in Aid of Jurisprudence, Justice].

An entirely separate sub-component of the legislative advocacy program involves the State Bar's various Sections that also are active in the legislative process proposing and pursuing their own legislative agenda distinct from that of the State Bar's Board of Governors. Both components of these advocacy activities were performed on an "outsourced" basis by the law and government affairs firm, Wada Williams Law Group, LLP. The contract with Wada Williams distinguishes between the Board of Governors' legislative agenda and the Sections' legislative activities, as each is funded separately. Section activities are funded by non-mandatory voluntary Section membership fees paid by Section members unrelated to their annual attorney licensing fee. The State Bar's legislative agenda is funded by a special fund that allows members to subtract \$5 from their licensing fee if they do not wish to support the State Bar's legislative activities.

Consistent with the ruling in *Keller vs. The State Bar of California*, the State Bar's advocacy activities are noncontroversial and non-ideological. As an added precaution, the \$5 deduction assures that no State Bar member is compelled to support any government affairs advocacy by the State Bar of California regardless of its nature.

In 2008, the manner in which the State Bar staffed the Government Affairs function was substantially reorganized. What had previously been an in-house staff function was divided. The non-advocacy technical assistance activities discussed above were retained in-house on staff. The advocacy function was "outsourced." A request for proposal (RFP) competitive bidding process was engaged in 2008. As a result of that process, the Wada Williams Law Group was selected as the "best scoring proposer." The RFP contemplated a three year commitment, renewable in one year increments for 2008, 2009 and 2010.

The Wada Williams firm bid for the Government Affairs work of both the State Bar's Board of Governors and the Sections. Originally, the contract provided that Wada Williams would perform the State Bar's work while a subcontractor would perform the Sections' work, at the contracted cost. Subsequently, the Sections' work was assumed by Wada Williams and the subcontract was ended. The contract continued to distinguish the Sections' activities from the State Bar's legislative activities. These services are separately billed and separately paid from separate funds, i.e. the Sections Fund vs. the Government Affairs Fund.

Early in 2010, Anthony Williams, a principal in Wada Williams, left the firm and it was reconstituted as The W Group. Jennifer Wada remains as the principal of the firm. Ms. Wada has proposed that The W Group assume the performance under the existing contract through the end of 2010 continuing the same contract terms, except that Ms. Wada proposes a return to the original concept that allows the Sections' work to be performed by a subcontractor responsible to The W Group, while the State Bar's legislative agenda is serviced directly by The W Group. The contract's compensation terms are unchanged and reflect a division of duties for services rendered to the Sections and those rendered to the State Bar's Board of Governors legislative program. \$13,500 is billed to the State Bar for legislative activities on a monthly basis. \$6,500 is billed monthly to the Sections for their legislative activities. These billings total \$240,000 per year, \$162,000 of which is for the State Bar's legislative advocacy and the remainder is for the Sections. The contract also provides for costs incurred to be billed separately to the State Bar and to the Sections not to exceed the State Bar's travel and reimbursement expense policy standards.

To facilitate consideration of this issue by the Board, the existing contract was renewed for an interim period through February 28, 2010, and is being extended for an additional month

through March 31, 2010 to assure continuity in Government Affairs representation. The issue before the Board is the extension of the contract through the end of 2010.

FISCAL/STAFF IMPACT: As set forth.

RULE AMENDMENTS: None

BOARD POLICY BOOK/ADMINISTRATIVE MANUAL IMPACT: None

ATTACHMENTS: ATT 1: Board Agenda Item January 114
ATT 2: The existing contract, with interim renewal through February 28, 2010.
ATT 3: The W Group's Proposal.