

AGENDA ITEM

MAY 141

Contract Authorization

DATE: May, 2010

TO: Members of the Pending Budget and Program Development Committee
Members of the Board of Governors

FROM: Robert A. Hawley, Deputy Executive Director

SUBJECT: Contract Authorization

EXECUTIVE SUMMARY

Under Board Policy, Tab 17 [Control Policies & Procedures], Article 3 [Contracts], Section 2 [Authority], contracts in excess of \$75,000 involving consulting services, capital equipment, or technology purchases must be authorized by the Board of Governors. Authority is sought here to proceed with the contracts described in this item.

BACKGROUND & GOVERNING AUTHORITIES

Tab 17 [Control Policies & Procedures], Article 3 [Contracts], Section 2 [Authority] of the Board's Policy Book states as follows:

“No contracts or consulting services, capital equipment, or technology purchases exceeding \$75,000 may be entered into, by or on behalf of the State Bar unless authorized by the Board of Governors. Any future amendments to a contract originally below the \$75,000 threshold that will result in bringing the total contract amount to this level will also require Board approval.”

Exempted are those contracts associated with the normal operations of the Bar including but not limited to site agreements, Admissions consultants, IOLTA and Equal Access grant distributions, and other routine contracted services exceeding \$75,000.

“Also exempted are cases of emergency where purchases necessary for the immediate preservation of the public health, welfare or safety, or protection of State Bar employees or property provided the details

justifying an emergency contract and other supporting documentation be reported to the Board at its next schedule meeting.”

This policy was recently adopted as amended by the Board of Governors at its March, 2010 meeting.

ISSUE

Authority is sought to proceed with the State Bar’s regular Procurement Process on the following contracts that are governed by the above policy:

1. IT Programming Services:

Packaged Business System, Inc. (PBSI) is a computer programming, consulting and temporary employee assistance firm specializing in the AS400 system that is the platform for most all of the State Bar’s “mission critical” IT systems. The State Bar has regularly contracted with PBSI for periodic programming and other AS400 assistance as needed. The Office of Admissions and Office of Information Technology (IT) wish to retain through PBSI, a programming specialist to assist Admissions with enhancements to the CalBar Grader application which is in need of redesign. This is the system that Admissions uses to administer the grading the California Bar Examination.

The State Bar currently has a standing Purchase Order in position and contract with PBSI for temporary IT programming and AS400 specialty assistance of this nature. IT and Admissions have identified a PBSI specialist who previously worked on the CalBar Grader application and who understands the program and would be the most efficient and best individual to undertake the redesign of the CalBar Grader program that is necessary.

IT’s plan is to assign an in-house IT staff person to work with the PBSI programmer in redesigning the CalBar Grader program so that it can be supported in-house in the future. However, the programming expertise that Admissions and IT need on this “mission critical” program is not currently available on staff.

IT has requested a \$200,000 enhancement to the existing PBSI contract to cover this and other incidental AS400 programming needs that are likely to arise through the end of 2010. Admissions has approved the CalBar Grader project. This particular project will be funded by Admissions, through its Special Fund. PBSI assistance on other projects covered by the contract enhancement will be charged as appropriate. This is within existing budget parameters. Approval of this project is requested.

2. Employee Benefit Plan Consultants:

The State Bar contracts regularly on a three year basis with benefit consultants who assist the State Bar in the administration of its employee benefit plans (e.g. health, vision, dental, life.) Historically, the State Bar has contracted with William H. Mercer, and is currently completing a three year contract term with AON Consulting. This contract ends in August 2010. As a result, the State Bar anticipates commencing a Request for Proposals (RFP) process for another three year term with a contractor to be selected from that process. The assistance these benefit consultants provide to the State Bar is invaluable. They assist the State Bar maintain regulatory compliance in the complex benefits area, market our plans annually to assure that the State Bar gets the best benefits at the best price, assist with collective bargaining on benefits issues, and assist with other special needs that arise in benefit administration. The recent passage of the Health Care Reform Act is an example of an area where the assistance of these consultants is critical in assuring that the State Bar's benefit plans conform to legal requirements.

Commonly, benefit consultants are compensated through commissions that they charge to plan providers, rather than charging fees to clients like the State Bar. In light of the State Bar's public entity status and the potential for conflict issues that arise from commission arrangements with vendors, the State Bar compensates our benefit consultants on an hourly billing basis for actual work performed and requests our consultants to apply any commissions they would receive from plan providers to reduce the cost of the benefits provided. The current contract has resulted in charges to the State Bar of approximately \$60,000 per year over a three year period, totaling \$180,000. This is in excess of the \$75,000 limit the Board has currently placed upon the authority of staff to enter into contracts. Therefore, it is requested that the Board authorize this RFP to proceed and allow the State Bar to select the "highest scored bidder" through the RFP process recognizing the cost for these services will exceed \$75,000 over the full term of the contract. This is within existing budget parameters.

3. 180 Howard Street Building Engineering Services:

The State Bar contracts with Able Engineering to provide engineering services for 180 Howard Street's physical structure and electrical and mechanical systems. The cost of these services is approximately \$342,000 per year, subject to possible adjustments for required overtime or emergency services, or for changes to the prevailing union labor rate.

The State Bar's procurement policy for engineering services is consistent with the State of California procurement policy, which exempts architectural, engineering and construction management firms engaged by public agencies from the typical RFP process that results in three-year contract limit. Instead, due to the specialized and long-term nature of architectural, engineering and construction management services, contracts are awarded or renewed based on

an evaluation of qualifications and on negotiated prices and terms of service. Able Engineering is one of the leading engineering companies in the United States (with a presence in 26 states), and is the largest engineering company in the Bay Area, providing engineering services to over 150 high rise buildings. The current contract with Able Engineering expires in August 2010. The Office of Operations seeks authority to renew the contract for an additional year, under the same terms and conditions as the existing contract. Funds for building engineering services have already been included in the 2010 budget.

CONCLUSION

Authority to proceed with these contracts is requested. It is recommended that each of the contracts described be authorized by the Board within the general parameters set forth. If the Board Committee and Board agree, the resolution below is recommended

FISCAL / PERSONNEL IMPACT: The personnel and budget impact is as set forth in the item.

RULE AMENDMENTS: None.

BOARD BOOK/ ADMINISTRATIVE MANUAL IMPACT: None.

PROPOSED BOARD COMMITTEE RESOLUTION

RESOLVED, that the Board Committee on Planning, Budget and Program Development, authorizes staff to proceed with the contracts identified in the item before the committee this date, within the parameters set forth.

PROPOSED BOARD RESOLUTION:

Should the Board concur with the board committee's recommendation, the following resolution would be in order:

RESOLVED, that upon the recommendation of the Board Committee on Planning, Budget and Program Development, the Board of Governors authorizes staff to proceed with the contracts identified in the item before the Board this date, within the parameters set forth.