

The State Bar of California

# REQUEST FOR PROPOSAL



This document is a Request for Proposal (“RFP”) for leasing and maintenance of networked copiers.

The State Bar is seeking proposals for the leasing and maintenance of approximately 43 multi-function (copy, print, scan, fax), digital, networked copiers in Los Angeles and San Francisco for a period of three (3) years, with two (2) options to renew for additional twelve (12) month terms each.

The State Bar will accept proposals only from Original Equipment Manufacturers (OEMs), or the OEM-designated sales subsidiary/company. Independent office equipment dealers/resellers are **not** eligible to participate in the RFP process. If the OEM will provide maintenance through local authorized service agents, the OEM must include a letter of authorization, and confirmation that the local agents 1) have been in partnership with the OEM for a minimum of five years and 2) currently provide service to a minimum of five accounts of comparable size to the State Bar. Any equipment demonstrations will be conducted in the San Francisco Bay Area.

Please submit 7 copies of your proposal no later than 5 p.m. on July 27, 2011 to:

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

Attn: Steve Mazer

Operations

415-538-2326

[steve.mazer@calbar.ca.gov](mailto:steve.mazer@calbar.ca.gov)

## I. INTRODUCTION

The State Bar of California (“the State Bar”), created in 1927 by the Legislature and adopted into the California Constitution in 1960, is a public corporation within the judicial branch of state government. The primary purpose of the State Bar is to serve as an administrative adjunct to the California Supreme Court in all matters pertaining to the admission, discipline, and regulation of California lawyers. The State Bar Act and California court rules vest in the State Bar the duty to regulate the legal profession, formulate and elevate educational and professional standards, raise the quality of legal

services, advance the science of jurisprudence, and aid in the improvement of the administration of justice.

The State Bar is a unified, or integrated bar, and membership is mandatory for all attorneys who are licensed to practice law in the state. In addition to its mandated licensing and disciplinary and certification functions, the State Bar offers a number of other programs designed to assist, educate and protect its members and the public. The State Bar's programs are financed primarily by fees paid by attorneys and applicants to practice law. The State Bar has over 230,000 members, making it the largest unified state bar in the country. The State Bar has offices located in Los Angeles, Sacramento and San Francisco. More information about the organization can be found at

<http://www.calbar.ca.gov/AboutUs.aspx>.

## **II. STATEMENT OF WORK**

### **A. Scope of Services**

The term "copier" is used generically throughout this RFP to refer to any model or size of networked, digital copier/printer with scanning and fax capability, including all components necessary for installation and operation, and optional accessories. The requested and/or required features and capacities of specific copiers or groups of copiers are noted as appropriate.

The terms "copy," "click" and "page" are used generically throughout this RFP to refer to any single page of printed output, of any size up to legal-size, whether generated through network printing, walk-up copying or fax receipt. Ledger-size may count as two clicks. Scanning and fax transmission are not included.

The vendor will provide a comprehensive package that includes the following:

1. A fleet of new copiers, deployed in Los Angeles and San Francisco
2. All firmware/software necessary to operate the copiers, including upgrades and technical support
3. A device/fleet management system, preferably web-based
4. Delivery, installation/configuration and testing
5. User manuals and quick reference user guides
6. In-person Training
7. A maintenance agreement covering all parts and labor for preventive and remedial maintenance, as well as part/component upgrades as

released/recommended by the manufacturer

8. All consumable supplies except paper
9. Any other equipment or service required to satisfactorily provide the items above

**B. State Bar Locations**

The State Bar's Los Angeles office is located at 1149 South Hill Street, part of the AT&T Center, in the South Park section of downtown. Approximately 280 employees work in this location, distributed among six floors. The State Bar may move to new premises in southern California during the term of the contract.

The State Bar's San Francisco office is located at 180 Howard Street, in the downtown financial district. Approximately 280 employees work in this location, distributed among eight floors.

**C. Likely Makeup of New Copier Fleet**

The chart below lists the likely makeup of the copier fleet to be provided by the vendor. This projection is based on the State Bar's review of the size, features and usage of copiers in its current fleet. The composition of the new fleet to be provided, including number, size/speed, features and accessories, will be determined through a more comprehensive analysis to be conducted by the selected vendor and the State Bar, and may therefore differ from this projection.

| COPIER TYPE*                                  | LA #      | SF #      | TOTAL     |
|-----------------------------------------------|-----------|-----------|-----------|
| Color 55 PPM                                  | 2         | 0         | 2         |
| Color 65 PPM                                  | 0         | 1         | 1         |
| Black & White 45 PPM                          | 8         | 3         | 11        |
| Black & White 55 PPM                          | 2         | 6         | 8         |
| Black & White 65 PPM                          | 6         | 5         | 11        |
| Black & White 75 PPM                          | 2         | 4         | 6         |
| Black & White 85 PPM                          | 2         | 0         | 2         |
| Black & White light production approx 135 PPM | 0         | 2         | 2         |
| <b>TOTAL</b>                                  | <b>22</b> | <b>21</b> | <b>43</b> |

*\* Vendors whose equipment is segmented differently from the stated speeds of 45 PPM, 55 PPM, 65 PPM etc, may propose comparable equipment at plus or minus 5 PPM.*

**D. Summary of Actual Usage (Print, Copy, Fax), 2009 and 2010**

For reference, the chart below shows the total clicks produced by the State Bar's current fleet in 2009 and 2010. The projection for 2011 is comparable, based on

total clicks between January 1 and April 30. Usage will likely remain comparable in future years, as the State Bar does not foresee any significant changes to its programs or functions. Nevertheless, the State Bar cannot guarantee any particular usage rate.

|                         | <b>LA<br/>2009</b> | <b>SF<br/>2009</b> | <b>Total<br/>2009</b> | <b>LA<br/>2010</b> | <b>SF<br/>2010</b> | <b>Total<br/>2010</b> |
|-------------------------|--------------------|--------------------|-----------------------|--------------------|--------------------|-----------------------|
| Total Color Pages       | 10,117             | 150,591            | <b>160,708</b>        | 16,528             | 160,303            | <b>176,831</b>        |
|                         |                    |                    |                       |                    |                    |                       |
| B&W 45-85 PPM           | 3,602,151          | 3,088,377          | 6,690,528             | 3,707,381          | 2,973,043          | 6,680,424             |
| B&W Light<br>Production | 0                  | 3,970,621          | 3,970,621             | 0                  | 3,424,637          | 3,424,637             |
| Total B&W Pages         | 3,602,151          | 7,058,998          | <b>10,661,149</b>     | 3,707,381          | 6,397,680          | <b>10,105,061</b>     |
|                         |                    |                    |                       |                    |                    |                       |
| Grand Total Pages       | 3,612,268          | 7,209,589          | <b>10,821,857</b>     | 3,723,909          | 6,557,983          | <b>10,281,892</b>     |

#### **E. Additional Reference Materials**

More detailed information about the configuration and usage of the State Bar's current fleet is included for reference as *Attachment C: Current Fleet Profile*.

#### **F. General Functions/Requirements**

All copiers (or the overall package, as appropriate) must include the features and/or meet the requirements noted below:

1. Newly manufactured, with no used or refurbished parts, and not used since manufacture
2. The most current models in production, with the most current software/firmware version, and not scheduled for retirement/obsolescence within the next 24 months
3. A device/fleet management system, preferably web-based, that allows for monitoring of copier use and status; automated meter readings; programming of copier functions; uploading/editing of phonebooks, mailboxes and cost centers; standard and customizable reports of use/production; and related functions/services. Use of fleet management system for automated supply ordering and submission of service calls would be a plus.
4. Operable as network printers capable of receiving print requests from any PC on the network
5. Operable as "walk-up" copiers even if disconnected from the network

6. Color simplex or duplex scanning to standard image formats including PDF, Tiff and JPEG; transmission to email, fax or network folders
7. Faxing capability (135 PPM light production models excluded)
8. Secure/PIN mailbox for delayed printing, minimum capacity of 100 inboxes per copier
9. Email/Fax phonebook, minimum capacity of 200 addresses per copier
10. Cost center/accounting code capability, up to six digits, minimum capacity of 200 codes per copier
11. Standard user interface across all models (light production machines may vary)
12. Accommodate all standard paper sizes (letter, legal, ledger, etc) and weights (20 lb to 110 lb), including minimum 30% post consumer waste recycled content
13. Multi-position stapling
14. Offset stacking/collating
15. Tab and slip sheet capability
16. Reduce/enlarge 25% to 400%
17. Alphanumeric page numbering and Bates Stamping (indicate if standard feature or optional accessory)
18. External high capacity paper tray as optional accessory
19. Saddle stitching and hole punching finishers as optional accessories

**G. Network Connectivity Requirements**

1. Connectivity to the State Bar of California's Windows XP with SP2 and Windows 7 / Active Directory and IBM System i5 environment.
2. Protocols supported: TCP/IP
3. 10/100/1000MB Ethernet Connection
4. Scan supported: JPG, PDF, and TIFF

5. STMP (Simple Mail Transfer Protocol) supported
6. SMB (Server Message Block) supported

#### **H. Security Requirements**

1. Vendor will work in coordination with the State Bar to ensure the confidentiality and security of documents and information that pass through the copiers.
2. At the end of the contract term the State Bar is to retain ownership of each copier's hard drive (hard drive retention/swap out price will be included in the lease price).

#### **I. Requirements for Delivery, Installation, Testing & Training**

Vendor will be responsible for the delivery, installation, configuration, and testing of all copiers, in coordination with State Bar Office of Operations and Office of Information Technology ("IT") staff. This will be included as part of the lease price.

1. Vendor will specify all electrical requirements, including the necessity for special electrical receptacles, dedicated lines, etc. Vendor will provide an adequate surge protection device for each copier, as required, as part of the lease price.
2. Copiers will be deemed "accepted" by the State Bar after 30 continuous days of operation without difficulty or failure.
3. Vendor will provide a minimum of four hard-copy manuals/user guides for each copier type, and one "quick reference" card, sheet or booklet for each copier.
4. Vendor will provide training to State Bar staff on all aspects of copier use, both at the time of installation at any later time as required. Training will generally be provided in three categories:
  - a. End-Users: Small group demonstrations to State Bar end-users on general copier functions and features.
  - b. Copy Center Staff: In-depth training to designated "copy center" employees in the Office of Operations on general and advanced copier functions and features; basic maintenance and troubleshooting; supply replenishment; use of the device/fleet

management system; and related items. A limited number of “super users” from among the general State Bar staff may also be included in this category.

- c. IT Staff: All specialized network connectivity, configuration and other information technology training as required for Office of Information Technology staff.

## **J. Requirements for Maintenance and Support**

### **1. Warranty Period**

- a. Copiers will be under warranty for a minimum of 90 days from date of installation. The warranty will provide a “total customer satisfaction guarantee.” During the warranty period vendor will bear all material and labor costs for required repairs, and will replace any copier that does not function according to specifications.
- b. The contracted maintenance agreement will commence upon the expiration of the warranty period.

### **2. Uptime**

- a. Each copier will be expected to perform the intended functions, to operate satisfactorily and to produce acceptable copy/print quality for a minimum of 98% uptime, defined as the available work hours over a consecutive three-month period. Time dedicated to preventive maintenance or scheduled software upgrades shall not be included in the uptime analysis.
- b. Failure to meet the 98% uptime standard as required will cause the State Bar to take a service credit and withhold that amount from invoices owed the vendor. The service credit will be \$50.00 per hour for each hour below 98% uptime.
- c. Any copier or feature that does not meet the 98% measurement for any period of three consecutive months will be replaced with new, at no charge to the State Bar.

### **3. Preventive Maintenance & Upgrades**

- a. Preventive maintenance will be regularly scheduled based on the recommended preventive maintenance cycle of each copier. Software/firmware upgrades or part/component upgrades will be scheduled within 60 days of release.

- b. Preventive maintenance will be scheduled between 8:00 a.m. and 5:00 p.m., Monday to Friday, unless otherwise agreed on a case-by-case basis.
- c. Vendor will provide a per-copy credit for all copies made during the course of preventative maintenance.

4. **Remedial Maintenance & Support**

- a. Remedial maintenance (service calls) will be scheduled between 8:00 a.m. and 5:00 p.m., Monday to Friday, unless otherwise agreed on a case-by-case basis.
- b. Vendor will provide a local or toll-free number for support and service calls, available between 8:00 a.m. and 5:00 p.m. Monday to Friday, except for recognized State holidays.
- c. The maximum “call back” time allowed, to answer a question or establish technician’s estimated time of arrival for service, will be one (1) hour from the initial service call.
- d. The maximum “response time” allowed for a technician to arrive on site will be four (4) hours from the initial service call.
- e. Failure to respond as required will cause the State Bar to take a service credit and withhold that amount from invoices owed the vendor. The service credit will be \$50.00 per hour for each hour after the 4th hour.
- f. Vendor will provide a per-copy credit for all copies made during the course of remedial maintenance.
- g. The maximum “repair time” allowed for a copier to be brought back to satisfactory working order will be forty-eight (48) hours from the initial service call, excluding weekends and State holidays.
- h. If during a repair call it is determined that a copier cannot be repaired in place within forty-eight (48) hours, vendor will provide a comparable loaner copier, at no cost other than the contract maintenance per-copy charge in effect at the time.

5. **OEM Parts**

Vendor will guarantee the availability of Original Equipment Manufacturer replacement parts and supplies for the duration of the contract term.

### III. CONTRACT BID PRICING

Vendor will submit all itemized costs detailed in its *Attachment A-1: Itemized Cost Proposal*. Any costs not itemized on this schedule specifically must be stated separately as listed in the Submission Requirements in Section IV.A. Costing categories are detailed below.

#### A. Equipment Leasing

Vendor will quote a monthly lease price per copier, based on a 36-month **Fair Market Value** lease. The lease price will reflect the model and the added accessories of each individual copier. To ensure that the State Bar receives apples-to-apples price comparisons from all vendors submitting proposals, vendor is directed to quote a monthly lease price per copier type, based on a defined configuration per type (see *Attachment A-2: Copier Pricing Configuration*). The lease price must include ALL of the following items:

1. Copiers, with all required components necessary for installation and operation, including surge protectors as required
2. Firmware/software, including upgrades/updates, and technical support. [This may be considered part of the *maintenance* price as opposed to the *lease* price, along with any part/component upgrades released/recommended by the manufacturer. In either case it is to be included as part of the package and not charged separately.]
3. Device/fleet management system
4. Delivery, installation and testing
5. User manuals and quick reference user guides
6. In-person training
7. Cost of returning the copiers to vendor at end of contract
8. Cost of removing/swapping out hard drives at end of contract, before copiers are returned to vendor

*Attachment A* will provide for separately listing the additional costs for selected accessories (i.e., costs that will be **added to** the base monthly lease price of each

copier type, **if** the State Bar chooses to add that accessory to any individual copier).

## **B. Maintenance and Supplies**

Vendor will quote composite single per-click fees for maintenance and supplies for both Black & White and Color clicks. The maintenance fee will be based on annual, pooled clicks, fleet-wide. There will be no pricing on a per-copier basis.

1. There will be no guaranteed minimum clicks. “Copy” or “Click” is defined as any single page of printed output, of any size up to legal-size, whether generated through network printing, walk-up copying or fax receipt. Ledger-size may count as two clicks. Fax transmission and scanning will not count as clicks.
2. There will be no limit to maximum allowable clicks (except for the manufacturer’s stated duty cycle).
3. As a guide to determining its per-click price, vendor is referred to the State Bar’s likely annual, fleet-wide usage of approximately ten million (10,000,000) black & white clicks and one-hundred-fifty-thousand (150,000) color clicks. See usage summary in Section II.D. above, and additional details in *Attachment C: Current Fleet Information*.
4. The per-click price will be fixed for the full 36-month lease term and subsequent lease renewal terms, if exercised.
5. The maintenance price must include ALL of the following items (as more specifically defined throughout this RFP):
  - a. Preventive maintenance
  - b. Remedial maintenance
  - c. Software/firmware upgrades
  - d. Part/component upgrades
  - e. All consumable supplies including toner and staples (paper is specifically excluded)
  - f. Shipping/delivery charges for consumable supplies

## **C. Provisions for End of Contract**

At the end of the 36-month fair market value lease, the State Bar will have the following options:

1. Return the copiers to vendor (see provisions above for return shipment costs and hard drive costs).
2. Purchase all or some of the copiers at the current fair market value.
3. Re-lease all or some of the copiers for an additional 12-month term, at a new reduced lease rate based on the current fair market value, but otherwise under the same terms and conditions as the original lease.

If the State Bar exercises option (3), it will have the option to re-lease all or some of the copiers for a second 12-month term at the end of the first 12-month renewal term, under the same terms and conditions noted above.

**D. Other Provisions**

**1. Changes During The Contract Term**

Vendor is requested to list and clearly explain the options available to the State Bar, and the associated cost or cost calculation method, for the following scenarios that could arise during the 36-month lease term or one of the 12-month renewal terms:

- a. Adding an additional copier to the fleet, with a lease term coterminous with that of the existing fleet.
- b. Replacing a copier in the fleet with a higher-end or lower-end model, with the lease term of the replacement copier coterminous with that of the existing fleet.
- c. Adding an accessory to a copier in the fleet other than as bid on Attachment A-1 #2: *Equipment Lease, Optional Accessories*.
- d. Returning and/or buying out the lease of one or more copiers that may no longer be needed.

**2. Other**

Vendor is requested to describe its willingness/ability, if awarded the contract, to bear the total or partial cost for returning the State Bar's existing fleet of Toshiba e-Studio copiers (19 in San Francisco and 21 in Los Angeles) to the lessor.

#### IV. GENERAL INFORMATION

The submission requirements for this RFP are set forth below. A proposal shall constitute an irrevocable offer for 120 business days following the deadline for its submission. Reference to a certain number of days in this RFP shall mean business days unless otherwise specified.

Contact with State Bar personnel in connection with this RFP may not be made other than as specified in this RFP. Unauthorized direct or indirect contact with any State Bar personnel may be cause for rejection of a bid.

##### A. Submission Requirements

To be considered responsive, a proposal must contain the following, prefaced by a table of contents, referenced by number and in the order below. Proposals may include parts of the original RFP if answering questions asked or used in tailoring a specific response, but should not be included in full unaltered form for filler. If specific submission requirements are particularly large and self-contained (i.e., annual reports, 10-k, users' guide, etc.) they may be included in a separate appendix. Proposals should not direct the evaluation team to visit online sources to obtain information, or include *to be provided after award*, or *provided upon request* clauses. Special instructions will be included for portions that must be submitted in their native format, usually .xls files (i.e., itemized cost forms, financial questionnaires, etc.).

1. A brief description of the history of the bidder's organization and product lines. If service component is proposed to be a local service organization other than the bidding OEM, history of servicing agent as well.
2. Copies of business licenses, professional certifications or other credentials, together with evidence that bidder, if a corporation, is in good standing and qualified to conduct business in California.
3. Letter of authorization and written confirmation that the local service agents have been in partnership with bidder for a minimum of five years and currently provide service to a minimum of five accounts of comparable size (if maintenance is not to be provided by direct OEM personnel).
4. 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 to [andrew.conover@calbar.ca.gov](mailto:andrew.conover@calbar.ca.gov) by the due date specified on page one.

5. A description of at least three (3) similar installations of similar size and variety to the State Bar, completed by the bidder within the past three (3) years. Include personal references with contact information for each.
6. Qualifications, background and experience of the project director, account executive and/or any other key staff proposed to work on the project.
7. A description of the specific equipment and overall package/solution being proposed, including functions and features, and an explanation of the advantages of the proposed package over comparable solutions available from competitors. Bidders must confirm that the package meets all functional, network and security requirement as described in RFP Sections II.F, II.G and II.H. Additionally, bidders must submit *Attachment D: Proposed Equipment Quick Reference*, in hard copy with its proposal, and electronically in native .xls format to [steve.mazer@calbar.ca.gov](mailto:steve.mazer@calbar.ca.gov) by the due date specified on page one.
8. Equipment Warranty Statements for the specific equipment proposed.
9. A general description of the techniques, approaches and methods to be used in completing the installation and training for the new equipment, including description of the chronology for completing the work (Implementation Plan and Training Plan).
10. A detailed description of the device/fleet management system, including screen shots and sample reports.
11. A sample monthly invoice.
12. An explanation of the options available to the State Bar, and the associated cost or cost calculation method, for possible equipment changes during the contract term, as described in RFP Section III.D.1.
13. A statement as to the bidder's willingness/ability, if awarded the contract, to bear the total or partial cost for returning the State Bar's existing fleet of Toshiba e-Studio copiers (19 in San Francisco and 21 in Los Angeles) to the lessor, as described in RFP Section III.D.2.
14. Product brochures/specification sheets for all proposed equipment.
15. A detailed cost proposal, including all equipment leasing, maintenance and supply costs for the contract term. Bidders must submit *Attachment A-1: Itemized Cost Proposal* with its proposal in hard copy, and electronically in native .xls format to [andrew.conover@calbar.ca.gov](mailto:andrew.conover@calbar.ca.gov) by the due date specified on page one. 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.

16. A written acknowledgement of the acceptance of the Contracting Requirements set forth in section IV of this RFP. Specific terms may be reserved for future negotiation, but must be clearly identified and reasons given for the reservation.

Proposals which fail to address each of the submission requirements above may be deemed non-responsive and will not be further considered. Note that responses to questions must be specifically answered within the context of the submitted proposal. The State Bar's evaluation team will not refer to a designated web site, brochure, or other location for the requested information. Responses that utilize references to external materials as an answer will be considered non-responsive.

## **B. Rejection of Proposals**

**The State Bar reserves the right in its sole discretion to reject any or all proposals in whole or in part, without incurring any cost or liability whatsoever.** All proposals will be reviewed for completeness of the submission requirements. If a proposal fails to meet a material requirement of the RFP, or if it is incomplete or contains irregularities, the proposal may be rejected. A deviation is material to the extent that a proposal is not in substantial accord with RFP requirements.

Immaterial deviations may cause a bid to be rejected. The State Bar may or may not waive an immaterial deviation or defect in a proposal. The State Bar's waiver of an immaterial deviation or defect will in no way modify the RFP or excuse a bidder from full compliance with the RFP requirements.

Any proposal may be rejected where it is determined to be not really competitive, or where the cost is not reasonable.

Proposals that contain false or misleading statements may be rejected if in the State Bar's opinion the information was intended to mislead the State Bar regarding a requirement of the RFP.

## **C. Evaluation Process and Highest Scored Bidder**

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

Following the initial review and screening of the written Proposals, using the selection criteria described below, several bidders may be invited to participate in

the final selection process, which may include participation in an oral interview , service facility tours and/or live equipment demonstrations. The State Bar reserves the right to determine the suitability of proposals on the basis of a proposal's meeting administrative requirements, technical requirements, the review team's assessment of the quality and performance of the equipment and services proposed, and cost.

During the evaluation process, the State Bar may require a bidder's representative to answer questions with regard to the proposal and/or require certain bidders to make a formal presentation to the evaluation team and/or the State Bar Senior Executive Team. The State Bar may also have discussions with those bidders falling within a competitive range, request revised pricing offers from such bidders and make an award and/or conduct negotiations thereafter.

This Request for Proposal does not commit the State Bar to awarding a Contract. Bidders shall bear all costs incurred in the preparation of the Proposal and participating in the Proposal evaluation process. The State Bar reserves the right to reject any and all Proposals, to accept the Proposal it considers most favorable in its sole discretion, and to waive minor irregularities. The State Bar further reserves the right to seek new Proposals when such procedure is considered by it to be in the best interest of the State Bar.

1. The following criteria will be used in reviewing and comparing the proposals and in determining the HSB. The weight to be assigned to each criterion appears following each item.
  - a. Responsiveness of the proposal to the submission requirements set forth in the RFP (5%).
  - b. Agreement with the State Bar's contracting requirements (10%).
  - c. The technical ability, financial viability, capacity and flexibility of the bidder to perform the contract in a timely manner, on budget, and to the State Bar's standards of customer service and professionalism, as verified by, e.g., the quality of the proposal, the quality of any demonstration, client references, demonstrated success in projects with similar requirements and any other contracts with the State Bar (25%).
  - d. The features and functional capabilities of the proposed equipment (20%).
  - e. The total cost of the proposal solution. If the proposal contains itemized rates, per piece pricing, or commission-based pricing, the State Bar reserves the right to calculate total contracted cost by calculating rates using either previous known usage activity or

future projected volume. Costs will be evaluated only if a proposal is determined to be otherwise qualified. Costs should be itemized by type to allow the State Bar to implement the solution over the term of the contract (40%).

2. If a large number of proposals are received, the State Bar reserves the right to review the proposals using a tiered evaluation system. All qualified proposals will be evaluated based on the Submission Requirements and Cost, with the top candidates advancing as finalists and receiving a full evaluation as outlined above.

#### **D. Award and Execution of Contract**

Subject to the State Bar's right to reject any or all proposals, the HSB will be awarded the contract. Notice will be posted at the State Bar's offices at 180 Howard Street, San Francisco, CA and written notice sent to bidders on or about September 14, 2011 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 September 21, 2011. The evaluation team will select a winning proposal subject to approval by the Board of Governors. Upon selection, the State Bar and the selected Vendor will enter into good faith negotiations on a contract containing, without limitation, the Statement of Work and Contracting Requirements sections below.

No contract or agreement, express or implied, shall exist or be binding on the State Bar before the execution of a written contract by both parties. If agreement on the terms of such a contract cannot be reached after a period deemed reasonable by the State Bar in its sole discretion, the State Bar may enter into negotiations and sign a contract with any other bidder who submitted timely, responsive and responsible proposals to this RFP.

If, after the State Bar and the HSB agree to terms and execute a contract, that contract is terminated for any reason, the State Bar may, in its sole discretion, either enter into negotiations with the next highest scored bidder, or issue a new RFP and begin the proposal process anew.

Questions regarding the State Bar's award of any business on the basis of proposals submitted in response to the RFP, or on any other matter in connection with the selection process, should be addressed in writing to [andrew.conover@calbar.ca.gov](mailto:andrew.conover@calbar.ca.gov).

Where written notice is required in this RFP, the notice must be sent by U.S. mail and either facsimile or e-mail.

#### **E. Errors in the RFP**

If a bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in the RFP, the bidder should immediately provide the State Bar with written notice of the problem and request that the RFP be clarified or modified. Without disclosing the source of the request, the State Bar may modify the document prior to the date fixed for submission of proposals by issuing an addendum to all potential bidders to whom the RFP was sent.

If prior to the date fixed for submissions, a bidder knows of or should have known of an error in the RFP but fails to notify the State Bar of the error, the bidder shall bid at its own risk, and if, awarded the contract, shall not be entitled to additional compensation or time by reason of the error or its later correction.

#### **F. Questions Regarding the RFP**

Questions regarding the RFP may be addressed in writing to Steve Mazer at [steve.mazer@calbar.ca.gov](mailto:steve.mazer@calbar.ca.gov). All questions must be submitted no later than 8 days prior to the date for submission of proposals. Questions and answers regarding the RFP may be shared with all bidders known to be interested in submitting a proposal.

If a question relates to a proprietary aspect of its proposal and the question would expose proprietary information if disclosed to competitors, the bidder may submit the question in writing, conspicuously marking it as "CONFIDENTIAL." With the question, the bidder must submit a statement explaining why the question is sensitive. If the State Bar concurs that the disclosure of the question or answer would expose proprietary information, the question will be answered, and both the question and answer will be kept in confidence. If the State Bar does not concur regarding the proprietary nature of the question, the question will not be answered in this manner and the bidder will be notified.

A bidder who believes that one or more of the RFP's requirements is onerous or unfair, or unnecessarily precludes less costly or alternative solutions, may submit a written request that the RFP be changed. The request must set forth the recommended change and reason for proposing the change. The State Bar must receive any such request no later than 7 days before the deadline for submitting proposals.

#### **G. Addenda**

The State Bar may modify the RFP prior to the date fixed for submission by posting, mailing, emailing or faxing an addendum to the bidders known to be interested in submitting a proposal. If any bidder determines that an addendum unnecessarily restricts its ability to bid, it must notify the State Bar in writing no later than 5 days before the deadline for submitting proposals.

## **H. Withdrawal and Resubmission/Modification of Proposals**

A proposal may be withdrawn at any time prior to the deadline for submitting proposals by notifying the State Bar in writing of its withdrawal. The notice must be signed by the bidder. The bidder may thereafter submit a new or modified proposal, provided that it is received at the State Bar no later than the deadline.

Modification offered in any other manner, oral or written, will not be considered. Proposals cannot be changed after the evaluation process begins.

## **I. Protest Procedure**

A bidder may protest the award if it meets all the following conditions:

1. The bidder has submitted a proposal that it believes is or should have been the HSB, under the criteria set forth above;
2. The bidder believes that its proposal meets the State Bar's administrative and technical requirements, proposes services of proven quality and performance, and offers a competitive cost to the State Bar; and
3. The bidder believes that the State Bar has incorrectly selected another bidder.

A bidder qualified to protest should contact Andrew Conover, Finance Manager, (415) 538-2207, to attempt an informal resolution. If this contact is unable to resolve the protest to the bidder's satisfaction, the bidder must file a written protest within 5 days of the notice of intention to award the contract. The written protest must state the facts surrounding the issue and the reasons the bidder believes the award to be invalid. The protest must be sent by certified or registered mail or delivered personally to:

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

Attention: Peggy Van Horn, Chief Financial Officer

Protests will be reviewed and decided by the State Bar's Award Protest Team within 30 days after the State Bar issues written acknowledgment of the protest. In the event that a protest is filed, the contract award will be postponed pending resolution of the protest.

## **J. News Releases**

News releases pertaining to the award of a contract may not be made without the prior written approval of the State Bar.

**K. Disposition of Materials**

All materials submitted in response to an RFP will become the property of the State Bar of California and will be returned only at the State Bar's option and at the expense of the bidder. One copy of each proposal will be retained for the State Bar's official files and become a public record. Specific limited pages of a proposal, not including proposed cost and compensation, may be marked as proprietary and confidential. The entire proposal cannot be deemed confidential. The bidder's consent will be requested before release of such confidential pages to non-State Bar personnel. By submitting a proposal, a bidder agrees to these terms and waives any right to pursue a cause of action for damages incurred as a result of the release of any information contained in a proposal.

**V. CONTRACTING REQUIREMENTS**

Upon selection of a vendor, the terms set forth in this RFP are to be embodied in a definitive agreement containing such additional covenants and other provisions as may be mutually acceptable.

The State Bar contemplates that, in addition to the terms described above in this RFP, final agreement between the State Bar and the selected vendor will include, without limitation, the following terms. Submission of a proposal shall constitute agreement to contract on these terms, except for any term specifically reserved in the proposal for future negotiation.

**A. Time of Essence**

Time is of the essence with respect to Vendor's performance of the services and equipment to be provided in the final agreement.

**B. Warranties and Representations**

Vendor warrants and represents that it possesses such expertise, experience and resources to perform the scope of services required in a diligent, timely and professional manner consistent with the standards of the industry. Vendor represents and warrants that none of its work performed under this Agreement will infringe on the rights of third parties. Vendor will supply at all times an adequate number of well-qualified personnel to perform the work. Vendor will provide a contact person available and authorized to remedy any non-conformity with this warranty. If any of Vendor's work is found to be infringing, Vendor will correct the work to be non-infringing at no charge to the State Bar.

**C. Equipment, Tools, Supplies**

The Vendor will supply all equipment, tools, supplies, offices, personnel, instrumentalities, transportation, support services and insurance required. The Vendor is not required to purchase, rent or hire any equipment, tools, supplies, offices, transportation, personnel, insurance or instrumentalities from the State Bar. The State Bar has no obligation whatsoever to provide any equipment, tools, supplies, offices, personnel, instrumentalities, transportation, support services or insurance required to perform services under this agreement.

**D. Indemnity Obligations of Vendor**

Vendor will indemnify and defend the State Bar (including its Board of Governors, officers, director, agents, employees and volunteers, as the same may be constituted from time to time) from all claims, demands, damages, debt, liability, obligations, cost, expense, lien, action or cause of action (including but not limited to actual damages, fines and attorneys' fees, whether or not litigation is actually commenced) arising out of: (i) the material breach by Vendor of any warranty, representation, term or condition made or agreed to by Vendor; (ii) all products and services prepared by or for Vendor hereunder and provided to State Bar; (iii) any claim or action for personal injury, death or otherwise involving alleged defects in Vendor's business or any of its products or services provided to State Bar; (iv) any breach by Vendor of any statutory or regulatory obligation; (v) the actual or alleged infringement by Vendor of any patent, copyright, trademark or other proprietary right of any person or entity; and/or (vi) any act or omission of Vendor, its employees, agents or subcontractors.

**E. Insurance Obligations of Vendor**

The Vendor will provide and keep in full force and effect during the term of this agreement, at the Vendor's own cost and expense, the following insurance policies for the joint benefit of the Vendor and the State Bar, with an insurer reasonably acceptable to the State Bar:

1. Commercial general liability insurance with a general aggregate limit (other than products/completed operations) of at least Two Million Dollars (\$2,000,000.00); at least One Million Dollars (\$1,000,000.00) personal and advertising injury limit; at least One Million Dollars (\$1,000,000.00) premises and operations limit; at least One Million Dollars (\$1,000,000.00) each occurrence limit;
2. Workers' compensation coverage as required by law, together with employer liability coverage with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence.

3. Comprehensive automobile liability insurance covering owned, leased, hired and non-owned vehicles with at least One Million Dollars (\$1,000,000.00) combined single limit.
4. Professional liability insurance with a general aggregate limit of Two Million Dollars (\$2,000,000) and an occurrence limit of two Million Dollars (\$2,000,000).

The Vendor will deliver to the State Bar offices at 180 Howard Street, San Francisco, CA 94105 Attn: Operations, true and correct copies of its insurance policies required above, and certificates of such insurance within seven (7) days of the execution of this agreement. Each such policy will name the State Bar as an additional insured and will state that the Vendor's policy shall be primary and that any insurance carried by the State Bar shall be noncontributing with respect thereto. Each such policy will provide for thirty (30) days prior written notice to the State Bar in the event of cancellation or reduction in coverage or amount. If the Vendor fails to secure and maintain insurance policies complying with the provisions of this agreement, the State Bar may purchase the appropriate insurance policies and the Vendor will pay upon demand the cost of it to the State Bar or the State Bar may terminate this agreement. Additionally, if the Vendor assigns any portion of the duties under this agreement, each subcontractor or assignee will purchase and maintain the same insurance coverage required hereunder.

The Vendor will immediately notify the State Bar if the Vendor's commercial general liability insurance contains restrictive endorsements other than those restrictive endorsements normally included in the State of California. If the Vendor's commercial general liability insurance contains such restrictive endorsements, the Vendor shall have five (5) business days to remove said restrictions. If the Vendor is unable to do so, the State Bar may terminate this agreement, and will be required to give the Vendor no more than two (2) days' notice of such termination, anything in this agreement to the contrary notwithstanding.

#### **F. Termination**

1. **Default by Vendor.** This agreement may be terminated by the State Bar upon fifteen (15) days written notice to the Vendor in the event the Vendor is in default under any of its provisions. In the event this agreement is terminated due to the default by the Vendor, the Vendor will not be entitled to receive any compensation for services performed or for any reimbursable expenses incurred, and the State Bar will have the right to have the services completed by other parties and the Vendor will reimburse the State Bar for the actual costs to complete the services in excess of the balance of the fee and reimbursable expenses, if any, provided for in this agreement. Any such act by the State Bar will not be

deemed a waiver of any other right or remedy of the State Bar, including, without limitation, the State Bar's right to consequential damages caused directly or indirectly by the Vendor's default.

2. **Authorization of Funds.** If the term of this agreement extends into fiscal year(s) subsequent to that in which it is signed, it is understood that the continuation of this contract is subject to the authorization of sufficient funding for such purpose by the California State Legislature. If sufficient funds are not so authorized, the parties mutually agree that the contract may be terminated or amended as appropriate in response to the reduction in funding. If the agreement is terminated, Contractor agrees to take back any affected equipment, products, software, or hardware furnished under this contract, and relieve the State Bar of any further obligation, except for the State Bar's obligation to pay for services already performed pursuant to this agreement.
3. **Automatic Termination.** This agreement will automatically terminate on the occurrence of any of the following events: (a) bankruptcy or insolvency of either party; (b) failure to comply with federal, state or local laws, regulations or requirements, or (c) expiration of the agreement.

#### **G. Confidentiality and Publicity**

The Vendor will retain all information provided by the State Bar in the strictest confidence and will neither use it nor disclose it to anyone other than employees requiring the information to perform services under this agreement without the prior written consent of the State Bar. The State Bar retains the right to enjoin any unauthorized disclosure in an appropriate court of law. The Vendor will not issue any public announcements concerning the State Bar without the prior written consent of the State Bar.

#### **H. Compliance with Laws**

The Vendor agrees to comply with all applicable federal, state, and local laws and regulations, including but not limited to the provisions of the Fair Employment and Housing Act (Govt. Code, § 12900 et seq.) and any applicable regulations promulgated there under (Cal. Code of Regs., tit. 2, § 72850.0 et seq.). Vendor agrees to include the non-discrimination and compliance provisions of this clause in any and all subcontracts to perform work under the agreement.

#### **I. Assignment/Subcontracting**

1. **Assignment.** The Vendor will not assign or transfer its interest, in whole or in part, under this agreement, without the written consent of the State Bar, which consent may be granted or withheld in the sole and absolute discretion of the State Bar.

2. **Subcontracting.** The Vendor may subcontract with other qualified firms or individuals as required to complete all, or a portion of, the delivery of equipment and services, with the prior written approval of the State Bar.

The Vendor will clearly describe the reason for using any subcontractors, the specific role each subcontractor will play in the project, and the relationship between the Vendor and its subcontractor to be maintained during the term of this agreement. No subcontract will be approved unless the Vendor provides a written guarantee that the Vendor's firm will be contractually obligated to assume all project responsibilities and the insurance requirements set forth above.

## **J. General Provisions**

1. **Force Majeure.** Neither party will be deemed in default of this agreement or any provision hereunder to the extent that any delay or failure in the performance of the obligations of such party (other than the payment of money) results from any significant and material causes beyond its reasonable control and without fault or negligence by such party. Examples of such causes include, but are not limited to, (a) acts of God or public enemy, (b) acts of the government in either its sovereign or contractual capacity, (c) fires, (d) floods, (e) epidemics, (f) quarantine restrictions, (g) strikes, (h) embargoes, (i) earthquakes, and (j) unusually severe weather.
2. **Governing Law.** The agreement will be governed by the laws of the State of California without giving effect to its principles of conflict of laws.
3. **Attorneys' Fees.** In the event either party institutes any action or proceeding against the other party relating to this agreement, the unsuccessful party in such action or proceeding will reimburse the successful party for its disbursements incurred in connection therewith and for its reasonable attorneys' fees as fixed by the court. In addition to the foregoing award of attorneys' fees to the successful party, the successful party in any lawsuit shall be entitled to collect or enforce the judgment. This provision is separate and several and shall survive the merger of the agreement into any judgment.
4. **Audit.** Vendor agrees that the State Bar or its designee shall have the right to review and copy any records and supporting documentation pertaining to the performance of this Agreement. Vendor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Vendor agrees to allow the State Bar or its designee access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such

records. Further, Vendor agrees to include a similar right of the State Bar or its designee to audit records and interview staff in any subcontract related to performance of this Agreement.

5. **License.** In those instances where required, the Vendor represents and warrants that the Vendor holds a license, permit or special license to perform the services pursuant to this agreement, as required by law, or employs or works under the general supervision of the holder of such license, permit or special license and shall keep and maintain all such licenses, permits or special licenses in good standing and in full force and effect at all times while the Vendor is performing the services pursuant to the agreement.