

REQUEST FOR PROPOSALS

ENDORSED MALPRACTICE INSURANCE CARRIER

June, 2003

**San Diego County Bar Association
1333 Seventh Avenue
San Diego, CA 92101
619/231-0781
619/338/0042 FAX
www.sdcbba.org**

REQUEST FOR PROPOSALS

Issue Date: June 1, 2003

Title: Endorsed Malpractice Insurance Carrier

Issuing Entity: San Diego County Bar Association
1333 Seventh Avenue
San Diego, CA 92101

Period of Contract: For three years from September 2003, with three one-year renewal options

**Proposals Will Be Received Until July 31, 2003, 5:00 p.m. PDT.
Any proposal received after that date and time will be rejected.**

All Inquiries For Information Should Be Directed To:

**Sheree Swetin
Executive Director
San Diego County Bar Association
1333 Seventh Avenue
San Diego, CA 92101
619/231-0781
619/338/0042 FAX
Email: sswetin@sdcba.org**

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I. PURPOSE OF REQUEST FOR PROPOSALS

The purpose and intent of this Request For Proposals (RFP) is to enter into a contract with a malpractice insurance carrier for a lawyers professional liability insurance program that would receive the endorsement of the San Diego County Bar Association ("SDCBA"). The essential features of this program are profit sharing with SDCBA policy holders and opportunities for sharing information, input and consultation on decisions affecting policy coverage, underwriting standards, claims handling, risk management programs, debt service, marketing and reinsurance. Of particular importance are the scope of coverage offered and the risk management and claims handling services provided to insureds. The SDCBA has more than 7,000 members.

II. BACKGROUND

In the past, SDCBA has had a sponsorship agreement with different brokers or carriers, most recently with Robert Driver and Co. This agreement expired in July 2002.

SDCBA is publishing this RFP with the intent of receiving proposals for comparison and evaluation to determine whether entering an endorsed relationship would be in the best interests of its membership in light of current and anticipated insurance market developments. The SDCBA also will consider proposals for endorsed brokerage agreements and for development of a risk retention group or other mutual, reciprocal, or other type of "captive" arrangement.

III. DEFINITIONS

The term "Offeror" shall refer to the entity submitting a proposal. The term "Contractor" shall refer to the entity to which a contract has been awarded.

IV. STATEMENT OF NEEDS

Due to the nature and importance of the services to be provided in any program endorsed by the SDCBA, the Offeror will be required to demonstrate, at a minimum, the following:

- A. Compliance with all requirements for organization and licensure by at least one state department of insurance in the United States. Identify the admitted status of the company and whether or not it would have guaranteed fund protection in California.
- B. A sufficient number of full-time employees to perform the administrative duties associated with this RFP and the administration of the endorsement contract.
- C. A commitment to assisting SDCBA and its members in managing loss prevention and providing risk management services to San Diego lawyers.

- D. A policy form providing coverage on terms at least as favorable to those of SDCBA's previously endorsed carrier, including a specific provision for defense costs outside the policy limits.
- E. Authorization by the governing body of the Offeror for the appointment by SDCBA of a management advisory committee to be called the SDCBA Advisory Committee ("SDCBAAC") that must be consulted and allowed to have input on all major decisions a reasonable person would consider relevant in endorsing or recommending a carrier to provide professional liability insurance coverage. A major decision is one that has the potential to significantly affect future success, profitability and costs of insurance coverage for San Diego policyholders, such as expansion into another jurisdiction, incurring substantial additional debt or materially changing the nature or terms of reinsurance. Of particular importance is the ability to demonstrate a commitment to treat the SDCBA as a strategic partner in evaluating and making decisions materially affecting the future of the San Diego book of business.
- F. A commitment to sharing information on a timely basis with the SDCBAAC on the offeror's performance generally and in San Diego, with the San Diego book of business maintained separately so as to show current and cumulative profits and losses.
- G. Program features which the SDCBA will consider attractive, including:
 - (1) A profit-sharing plan for San Diego policyholders based on profitability experienced by the Contractor on the San Diego book of business;
 - (2) A risk management program managed by the SDCBAAC committee and funded by a percentage of premium paid by San Diego policyholders;
 - (3) A San Diego based marketing program that includes advertising with the SDCBA and other appropriate publications and sponsorship of events at SDCBA and other appropriate meetings;
 - (4) Continuous SDCBA ownership of expiration dates with a covenant not to compete with any replacement SDCBA endorsed program for a period of three years;
 - (5) Competitive premiums for San Diego insureds; and
 - (6) A rating of not less than A- by AM Best or by one or more insurance rating agencies satisfactory to the SDCBA and its legal and insurance counsel.

- I. The facilities and capacity to perform assignments in a timely fashion. The Offeror should demonstrate its ability to comply with time lines established by law and outlined in applicable regulations governing the claims handling process.
- J. Compliance with applicable regulatory and ethical guidelines governing the selection of executive officers, including general counsel. Of particular importance to SDCBA are:
 - (1) a management team characterized by strong, independent, experienced insurance executives; and
 - (2) the provision of legal advice to the carrier from strong, independent and experienced legal and coverage counsel fully accountable to management and the governing body of the carrier.
- K. A strong record of success in underwriting lawyers professional liability insurance in the United States.

V. PROPOSAL PREPARATION AND SUBMISSION REQUIREMENTS

A. GENERAL REQUIREMENTS

- 1. In order to be considered for selection, Offerors must submit a complete response to this Request For Proposals. All information requested shall be submitted. Failure to submit all information requested may result in the SDCBA requiring prompt submission of missing information and/or giving a lowered evaluation of the proposal. Proposals that are substantially incomplete or lack key information may be rejected by the SDCBA. Mandatory requirements are those required by law or regulation or are such that they cannot be waived and are not subject to negotiation.
- 2. One (1) original and ten (10) copies of the proposal must be submitted along with an electronic version in either Microsoft Word or PDF, and must contain the full name and address of every Offeror having an interest in the proposal. This submission must be in a sealed envelope and must be received no later than 5:00 p.m. on July 31, 2003. Proposals received after that date and time will be returned unopened and will not be considered.
- 3. Proposals should be prepared simply and economically. SDCBA is most interested in the quality of the proposal with regard to the program being suggested, and will be least interested in puffery or the aesthetic "look" of the proposal. There should be a straightforward, detailed, thorough and concise description of the program proposed by the Offeror and the

Offeror's capabilities to satisfy the requirements of the Request For Proposals. Emphasis should be on completeness and clarity of content.

4. Proposals should be organized in the order in which the requirements are presented in the Request For Proposals. All pages of the proposal should be numbered. The proposal should contain a table of contents which cross-references the Request For Proposals requirements. Information which the Offeror desires to present that does not fall within any of the requirements of the Request For Proposals should be inserted at an appropriate place or be attached at the end of the proposal and designated as additional material. Proposals that are not organized in this manner risk elimination from consideration if the evaluators are unable to find where the Request For Proposals requirements are specifically addressed.
5. Each copy of the proposal should be bound or contained in a single binder where practical. All documentation submitted with the proposal should be contained in that single binder.
6. Ownership of all data, materials and documentation originated and prepared for the SDCBA under this Request For Proposals shall belong exclusively to the SDCBA. Trade secrets or proprietary information submitted by an Offeror shall not be subject to public disclosure. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information. The classification of the entire proposal document as proprietary or trade secrets is not acceptable and will result in rejection of the proposal.
7. IDENTIFICATION OF PROPOSAL ENVELOPE: The signed proposal should be returned in a separate envelope or package, sealed and identified as follows:

FROM:

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Name of Offeror	Due Date	Time
<hr/>		
Street or Box No.	RFP No.	
<hr/>		
City, State, Zip Code	RFP Title	

Attention: Sheree Swetin, Executive Director

B. SPECIFIC PROPOSAL REQUIREMENTS

Proposals should be as thorough and detailed as possible so that the SDCBA may properly evaluate the Offeror's capabilities to provide the required services. Offerors are required to submit the following items as a complete proposal:

1. A written statement that includes the following:
 - a. **QUALIFICATIONS** - Because of the nature and importance of the work that will be performed, it is critical that the Offeror possess very strong qualifications. An Offeror should be able to demonstrate that it has considerable experience or expertise in legal malpractice insurance. The Offeror should also be duly licensed and qualified to operate in California or able to demonstrate its ability to secure all necessary licenses and qualifications to operate in California on or before September 1, 2003. Appropriate credentials and experience for qualification as required by applicable laws and regulation are also a necessity.
 - b. **CAPACITY** - A thorough discussion of the capacity of the Offeror to successfully provide the desired services. This explanation should include a description of the range and services and the systems used to handle claims including:
 1. Your method of resolving claims within the time allowed by law;
 2. Your method for selecting and assigning counsel to defend claims including your method for checking on possible conflicts of interest for the Offeror or any of its service providers;
 3. Your method for preserving confidentiality of client records, personal information and proprietary information;
 4. Your method of communicating with all parties involved in the claims handling process including the insured, claimants and regulatory officials;
 5. Your hours of operation and requisite on-call staff to process claims within the required deadlines.

In addition, the Offeror must provide a description of the administration and operation of its organization. This should include an estimate of the number, types, and functions of the personnel necessary to the administration and operation of the organization. The Offeror must provide a chart that details the individuals responsible for the operation of the Offeror, including all members of the governing body, the officers and directors if it is a corporation, and the partners

and associates if it is a partnership or association, and their levels of responsibility within the organization. A resume or short background description for each individual meeting the description should be included.

- c. STAFF - Identification of all senior management and personnel responsible for managing the San Diego program, including those responsible for underwriting, risk management, marketing and handling claims, with a description of the relevant experience of each. The information provided shall include: the name, professional license(s), board certification, specialty, experience, affiliations or contracts with attorneys and law firms in San Diego, and any disciplinary actions imposed or pending. The Offeror should identify who will perform these functions, describe the extent of their involvement, and demonstrate their qualifications. In addition, the Offeror will be required to indicate for each person identified its best estimate of the actual percentage of each person's time that will be allocated to this contract, and whether such time will be primarily technical, supervisory, in an oversight capacity, or on a consulting basis. New personnel to be employed in California to carry out responsibilities under the endorsed programs proposed should be identified as to number and qualifications.

- d. APPROVAL OF CONTRACTOR PERSONNEL: Personnel commitments identified in a proposal in response to subparagraph (c) shall be considered mandatory to the work performed under this RFP. Staffing must include those individuals proposed. No changes to personnel may be made by the Contractor without prior written consent of SDCBA with the exception of death or the removal of personnel who have permanently terminated employment or who become unavailable due to an extended illness. Replacement of any personnel, if approved, shall be with personnel of equal ability, experience and qualifications. The key personnel shall not be diverted from the program without written consent of SDCBA. Key personnel are those individuals who are determined by SDCBA to be central to the management and development of the San Diego program. Changes or diversion of Contractor key personnel without written consent of SDCBA will be sufficient grounds for termination of the contract for default.

If personnel are lost because of death, termination or extended illness, Contractor agrees to replace them within a reasonable time not to exceed sixty (60) days, including preapproval of the replacement. SDCBA may extend the time for replacing these personnel if the Contractor submits a written request for an extension of time. The Contractor shall include in the required status reports its efforts and

progress in finding replacements and the effect of the absence on the progress of the program. In addition, the Contractor shall make interim arrangements to assure that the program's progress is not adversely affected by the loss of the personnel.

- e. REFERENCES: If possible, Offerors should list at least three references where similar services have been provided through an endorsed state bar program. Each reference should include the name of the organization, the complete mailing address, the name of the contact person and telephone number.

<u>ORGANIZATION</u>	<u>ADDRESS</u>	<u>CONTACT PERSON</u>	<u>TELEPHONE</u>
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1.

2.

3.

- f. AUTHORIZED PROVIDERS: A description of the process that would be used to select and maintain a panel of qualified counsel.

- g. AVAILABILITY OF PROVIDERS: A description of how the Offeror will ensure the availability of providers as needed for timely and efficient handling of claims. This description should include the method the Offeror will use to obtain a provider not currently under contract with the Offeror.

- h. ADDITIONAL INFORMATION: Any additional facts the Offeror considers relevant to this Request For Proposals may be included. Offerors are encouraged to provide the following information:

- i. Service providers. The names, addresses, qualifications and areas of expertise of the providers it would use to perform services under this Request For Proposals;

- ii. Internet site. A description of how the Offeror could provide insureds with internet access to the following information:

- a. a link to the Contractor's provider directory along with a capability to select a provider by fax, e-mail or both;

- b. benefits information;

- c. renewal application;
 - d. an outline of coverage and
 - e. other information about the plan.
 - iii. Benefits brochure. A model brochure for insureds explaining how the offeror's policy works.
- C. FINANCIAL STATEMENTS: Offeror shall include with its proposal copies of its most recent annual and quarterly financial statements filed with federal and state regulatory authorities including any amendments, addendums, and supplementary materials.
- D. ORAL PRESENTATION: The Offeror's written response to the Request For Proposals must be complete in all respects. Subsequent oral presentations may be scheduled at the sole discretion of the SDCBA.

VI. EVALUATION AND AWARD CRITERIA

A. EVALUATION CRITERIA

Proposals shall be evaluated by SDCBA on the basis of a "points earned" matrix, comprised of the following sections:

1. Demonstration, via the written proposal, that the Offeror has the ability, facilities, and capacity to provide all required services in a timely, efficient and professional fashion. Specifically, the Committee will be evaluating proposals to determine if the Offeror is organized and has the appropriate infrastructure in place to administer the program by:
 - a. Its ability to effect timely resolution of claims, including its ability to respond to claims within the time allowed by law;
 - b. Its process of selecting defense counsel and other qualified providers of dispute resolution services;
 - c. Its methodology used for making assignments and its ability to communicate with all relevant parties involved in a claim;
 - d. Its experience and ability to evaluate and review claims;
 - e. Its ability to demonstrate due diligence in the processes used to determine whether a conflict of interests exists;
 - f. Its hours of operations;
 - g. Its ability to comply with the requirements concerning the confidentiality of clients records, personal and proprietary information;
 - h. Its ability to provide access to computer systems and to provide data in a format prescribed by SDCBA;

- i. A commitment to handling claims and providing risk management services from fully staffed offices located within the State of California; and
 - j. A commitment to a long-term relationship with the SDCBA.
 2. Experience and expertise of specific personnel assigned to the contract including:
 - a. The availability and experience of staff including quality and experience of staff responsible for handling claims and providing other management services;
 - b. The number and the qualifications of legal services providers under contract; and
 - c. Its demonstrated ability to obtain additional providers as needed.
 3. Profit-sharing proposal.
 4. Experience of the Offeror in providing similar services.
 5. References from past and/or current endorsing state bars.
 6. Rating of Offeror by insurance rating agency.

B. AWARD OF CONTRACT

SDCBA shall engage in individual discussions with two or more Offerors deemed fully qualified, responsible and suitable on the basis of initial responses and with emphasis on professional competence, to provide the required services. Repetitive informal interviews with these Offerors shall be permissible. Such Offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. At the discussion stage SDCBA may discuss nonbinding estimates of program profitability, including, but not limited to, and, where appropriate, nonbinding estimates of price for services. Proprietary information from competing Offerors shall not be disclosed to the public or to competitors. At the conclusion of the informal interviews, on the basis of evaluation factors published in the Request For Proposals and all information developed in the selection process to this point, SDCBA shall select, in the order of preference, two or more Offerors whose professional qualifications and proposed services are deemed most meritorious. Negotiations shall then be conducted, beginning with the Offeror ranked first. If a contract satisfactory and advantageous to the purchasing agency can be negotiated at a price considered fair and reasonable, the award shall be made to that Offeror. Otherwise, negotiations with the Offeror ranked first shall be formally terminated and negotiations conducted with the Offeror ranked second, and so on, until such a contract can be negotiated at a fair and

reasonable price. Should SDCBA determine in writing and in its sole discretion that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that Offeror. At any time during the negotiations, SDCBA may terminate all negotiations and re-advertise the requirements. The reason(s) for such termination shall be part of the file. SDCBA may reject proposals at any time prior to an award and is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous.

VII. TENTATIVE SCHEDULE OF EVENTS

	ACTIVITY	DATE
1.	Advertise Request for Proposals	June 1, 2003
2.	Proposals Due	July 31, 2003
3.	Proposal Review and Negotiations	August, 2003
4.	Contract Award	September 15, 2003
5.	Contract Date	October 1, 2003

VIII. CONTRACT PERIOD

The Contract period is from October 1, 2003, through September 30, 2006, with three (3) one year renewal options at the sole discretion of SDCBA. Compensation under the contract awarded will be paid pursuant to this Request For Proposals. The successful firm will provide a detailed report identifying the program in a form prescribed by the SDCBA on a monthly basis.