

Erie County Fiscal Stability Authority Master Plan

Agency Overview

The Erie County Fiscal Stability Authority (ECFSA) is a New York State Public Benefit Corporation which was established by the Erie County Stability Authority Act, which was signed into law on July 12, 2005 (Chapter 182 Laws of 2005). The ECFSA was created to proactively foster long-term fiscal responsibility in Erie County Government. The Board of Directors is comprised of seven, non-paid members, who lend their time and expertise to work with county administrators, taxpayers and employees to help establish that fine balance between providing desired, necessary and mandated services at a cost that won't unnecessarily burden its taxpayers

Mission

The ECFSA was created in response to the County of Erie's financial crisis which arose from poor practices that occurred in the past. To achieve long term fiscal responsibility, the ECFSA will carefully monitor the financial health of Erie County by review of items including but not limited to the Counties four year plan and budget, personnel vacancies, sales tax revenue projections, tax collection efforts, over time costs as well as issue bonds, notes or other obligations to achieve budgetary saving through debt restructuring. The ECFSA's goal is to be proactive and responsive on behalf of the county's taxpayers, employees and other community stakeholders for the development and execution of a substantial number of cost saving and administrative improvements directly impacting the County's financial health.

Major Areas of Procurement

In compliance with state law, it was necessary for the ECFSA to adopt Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts (the "Procurement Guidelines"), as required by sections 2879 and 3960 of the New York Public Authorities Law. The ECFSA consists of a managerial staff of four. The scope of our annual office budget is relatively small. It consists of 6 procurement contracts that fall under the meaning adopted by resolution ; being any written agreement of the Authority for the acquisition of goods or services of any kind in the actual or estimated amount of \$15,000, or more. These procurement contracts include our Legal Counsel, Auditors, Financial Advisors, Bond Counsel, Senior Underwriters and Co Managing Underwriters. The contractual engagements that are exempt from procurement include the lease for our office space, health/retirement benefits and payroll. Both the adopted procurement guideline and RFP process of the Authority comply with Article 17B of the New York State Executive Law requiring participation of Service-Disabled Veteran-Owned Business (SDVOB). Our adopted Procurement Guidelines as well as the attached portions of Appendix A of our RFP that relates to SDVOB:

ERIE COUNTY FISCAL STABILITY AUTHORITY
Guidelines Regarding the Use, Awarding, Monitoring
and Reporting of Procurement Contracts

ARTICLE I
STATEMENT OF PURPOSE

Section 101. These Erie County Fiscal Stability Authority Guidelines Regarding the Use, Awarding, Monitoring and Reporting of Procurement Contracts (“Guidelines”) are adopted pursuant to the provisions of the Act and Section 2879 of the Public Authorities Law and shall be reviewed and approved by a quorum of the Authority’s Directors at least annually.

ARTICLE II
DEFINITION OF TERMS

Section 201. Definitions. The following terms shall, for purposes of these Guidelines, have the following meanings unless the context shall clearly indicate some other meaning:

“Act” shall mean Chapter 182 of the Laws of 2005, as amended or supplemented.

“Authority” or “ECFSA” shall mean the Erie County Fiscal Stability Authority.

“Officer” shall mean any person so designated by the Directors of the Authority.

“Procurement Contract” or “Contract” means any written agreement of the Authority for the acquisition of goods or services of any kind in the actual or estimated amount of \$15,000, or more.

ARTICLE III
TYPES OF SERVICES FOR PROCUREMENT

Section 301. The areas of responsibility and oversight requiring Procurement Contracts for personal services include, but are not limited to the performance of legal, accounting, management consulting, investment, banking, planning, training, statistical, research, public relations, architectural, engineering, construction, surveying, or other services of a consulting, professional or technical nature for a fee, commission or other compensation by a person or persons who are not providing such services as officers or employees of ECFSA (“Personal Service(s)").

The reasons for use of Procurement Contracts for Personal Service include, but are not limited to:

- a. Requirements of special expertise or unusual qualifications;
- b. Nature, magnitude complexity of services required;
- c. Lack of sufficient in-house resources, support staff, specialized facilities or equipment;
- d. Lower cost;
- e. Short term need for the services;
- f. Infrequent need for the services; and
- g. Distance of the location or locations where the services must be performed from the Authority offices or facilities.

Section 302. Procurement Contracts for Goods

The types of goods requiring Procurement Contracts include:

- a. Goods needed in order to proceed with a project of ECFSA; and
- b. Goods needed in order to support the administrative needs of ECFSA.

**ARTICLE IV
SELECTION OF PERSONAL SERVICE CONTRACTORS**

Section 401. Selection Criteria. Except as specifically waived in accordance with the provisions of these Guidelines, the Act, State law, rules or regulations, Procurement Contracts shall be awarded as follows:

1. General Policy

Procurement Contracts are to be awarded to persons/firms on a competitive basis to the maximum extent possible.

- a. Such awards are to be made after notice is published in the New York State Contract Reporter and after the solicitation of proposals obtained from at least three qualified persons/firms.
- b. Such ECFSA requests for proposals shall be preceded, where possible, by the preparation of reasonable cost estimates for such Contracts. Such cost estimates

shall be the responsibility of the ECFSA staff members initiating such requests for proposals.

- c. All proposals should be received at one designated location within the initiating department, and immediately should be stamped with the date and time of receipt.
- d. When appropriate, written selection criteria shall be prepared for each Contract, which shall include price as an important factor to be considered in the selection process. Analysis of the proposals and/or bids submitted and the award of the Contract shall be documented in reasonable detail. Awards to other than the low bidder shall include in such documentation the reason the low bidder was not selected.
- e. The initiator shall ensure that documentation related to proposals and/or bids and awards are maintained for not less than two years after completion of the services contracted for.

Section 402. Advertisement Requirements. The solicitation of bids, proposals or submissions of qualification data for Personal Service contracts shall be made by the Authority in a manner determined by an authorized Officer of the Authority to be the most cost effective for providing reasonable competition for the Authority's Personal Service contracts while also promoting State business enterprises where possible, practical, feasible and consistent with open bidding. This may include advertisement in appropriate newspapers or trade journals, direct mailings to firms considered qualified and such other outreach mechanisms as are consistent with the policy of these Guidelines and as directed in section 2879 of the Public Authorities Law. Notice of Procurement Contracts opportunities must also be advertised in the State's New York State Contract Reporter

Section 403. Term. All contracts for Personal Services shall be limited to a maximum of three years unless the Authority Directors by resolution determine that a longer period for a particular contract is in the best interest of the Authority. Contracts for legal services and financial advice services shall not be longer than five years, including the initial contract period and any contract extensions approved by the Directors of the Authority.

Section 404. Waiver of Selection Criteria. Procurement Contracts may be awarded without notice being published in the New York State Contract Reporter to persons/firms on a sole source or single source basis only on the written approval of the Executive Director or the Directors of ECFSA. That approval will only be granted where the initiator can demonstrate:

- a. Emergency or other extraordinary circumstances exist which make competition impracticable or inappropriate; or
- b. Only one source for the goods or services is available; or

- c. Specialized services are required for which a certain person/firm's expertise is unique or such person/firm has greatly superior qualifications to perform the services at a cost that is determined to be fair and reasonable.

The initiator shall ensure that documentation related to the reason for awarding the contract on a sole source or single source basis and for not publishing notice in the New York State Contract Reporter is maintained for not less than two years after completion of the services contracted for.

Section 405. Approval Process The ECFSA Directors shall approve the award of all Procurement Contracts for Personnel Services, regardless of the amount of said contract.

**ARTICLE V
SELECTION OF VENDORS AND SUPPLIERS FOR THE
PURCHASE OF GOODS**

Section 501. Except as provided by the Act, State law, rules or regulations, in the procurement of furniture, equipment, supplies and other goods for the Authority, the Authority shall perform the following tasks:

- a. Establish a realistic furniture, equipment and supplies budget.
- b. Place advertisements for goods and service in the same manner as described in 402 of these Guidelines.
- c. Perform a comparative pricing and cost analysis for each item needed, including prices of those items, which are available through the State Office of General Service contracts.
- d. Prepare contracts and/or purchase orders for the acquisition of all commodities. Use of State contracts is preferable when the items are available at lower costs.
- e. Monitor vendors for quality control and timely deliveries.
- f. Verify the quantities received and the quality of the products in light of the specifications, and monitor the vendor invoices for timely payments.
- g. If the estimated cost of the goods exceeds \$15,000 or more, a competitive bidding procedure will be followed.

**ARTICLE VI
MINORITY AND WOMEN-OWNED and SERVICE DISABLED VETERAN OWNED
BUSINESSES BUSINESS ENTERPRISE PARTICIPATION**

Section 601. The Authority shall, in order to promote the use of minority and women owned enterprises in Procurement Contracts, solicit offers from minority and women-owned business enterprises and Service-Disabled Veteran-Owned Businesses known to have experience in the area of the goods or service to be provided, all in accordance with the ECFSA Act and State and Federal laws and regulations.

ARTICLE VII
POLICIES TO PROMOTE THE PARTICIPATION BY NEW YORK BUSINESS
ENTERPRISES AND NEW YORK STATE RESIDENTS IN PROCUREMENT
CONTRACTS

Section 701. The Authority shall comply with the Act and the State Omnibus Procurement Law when applicable.

ARTICLE VIII
PROVISIONS MADE A PART OF SERVICE CONTRACTS

Section 801. Provisions to be contained in Personal Service contracts shall include but not be limited to:

- a. Scope of services;
- b. Contract price or fee structure;
- c. Method or basis of payment;
- d. Use of the Authority's supplies;
- e. Use of the Authority's personnel
- f. Term of the contract; and
- g. The Authority's Schedule A, "Conditions Applicable to ECFA Agreements with Law Firms and other Consultants" which Schedule is made a part of these Guidelines.

ARTICLE IX
PROCUREMENT CONTRACTS WITH FORMER OFFICERS OR
EMPLOYEES OF THE AUTHORITY

Section 901. The Authority may not enter into Procurement Contracts with former Officers or employees of the Authority or former employees of New York State who provided services to the Authority, where such Contracts would be in contravention of law, would create a conflict of interest or may create the appearance of impropriety.

ARTICLE X
REPORTS TO THE DIRECTORS CONCERNING PROCUREMENT CONTRACTS

Section 1001. The Authority shall annually prepare for approval by the Directors and public availability a report on Procurement Contracts as of the end of each fiscal year summarizing procurement activity by the Authority for the period of the report, including a listing of all Contracts entered into, the selection process used to select such Contractors and the status of existing Procurement Contracts. ECFA's Executive Director shall also prepare, on an annual basis, a report for submission to:

- a. The Division of Budget;
- b. The Department of Audit and Control;
- c. The Senate Finance Committee;
- d. The Assembly Ways and Means Committee;
- e. The Department of Economic Development; and
- f. Members of the public (upon receipt of reasonable requests therefore),

which shall include the Guidelines, amendments thereto, and an explanation thereof.

**ARTICLE XI
ANNUAL REVIEW AND APPROVAL OF GUIDELINES**

Section 1101. The Directors shall annually review and approve these Guidelines.

**ARTICLE XII
AMENDMENT OF GUIDELINES**

Section 1201. The Authority may, from time to time, amend by resolution, these Guidelines.

**ARTICLE XIII
EFFECT OF NONCOMPLIANCE WITH GUIDELINES**

Section 1301. Failure by the Authority to comply with provisions of these Guidelines shall not be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement for the procurement of goods or services.

Attachment: Schedule A

ARTICLE XIV

SERVICE-DISABLED VETERAN-OWNED BUSINESS (SDVOB)

The Authority shall, in accordance with New York State Executive Law Article 17-B, promote the use of Service-Disabled Veteran-Owned businesses in Procurement Contracts, solicit offers from SDVOB enterprises known to have experience in the area of the goods or service to be provided, all in accordance with the ECFSA Act and State and Federal laws and regulations. The ECFSA will consult approved vendor lists in an effort to facilitate the use of appropriate vendors. The ECFSA, when appropriate, will reach out to organizations to facilitate the use and inclusion of SDVOB vendors on appropriate NYS lists. Staff who initiate purchasing will be provided the most up-to-date SDVOB list and encouraged to use that list in searching for vendors for ECFSA goods and services. The ECFSA shall target certain areas of purchasing, including office machinery, office supplies and other related items for purchase under this category. The Executive Director will meet with purchasing staff on a monthly basis to review efforts to do business with SDVOB's.

SCHEDULE A

CONDITIONS APPLICABLE TO ECFSA AGREEMENTS WITH LAW FIRMS AND OTHER CONSULTANTS (COLLECTIVELY, "CONSULTANT")

"ECFSA" IS THE ERIE COUNTY FISCAL STABILITY AUTHORITY

ARTICLE I

RELATION OF CONSULTANT TO ECFSA

Section 101. Supervision By ECFSA. The services to be performed by Consultant under this Agreement shall be subject to the general supervision and direction of ECFSA provided that neither ECFSA's exercise nor failure to exercise such supervision and direction shall relieve the Consultant of any of its obligations or responsibilities for its acts or failure to act pursuant to this Agreement.

Section 102. Consultant's Personnel. The Consultant shall designate in writing to ECFSA one individual, satisfactory to ECFSA, who shall be responsible for coordinating all of the services to be rendered by the Consultant and who shall be ECFSA's normal point of contact with the Consultant on matters relating to such services. Such individual shall be replaced upon ECFSA's written request.

Section 103. Approval of Sub consultants. The Consultant shall not employ, contract with or use the services of any consultant, special contractors, or other third parties (collectively "Sub consultant") in connection with the performance of its obligations under this Agreement without the prior written consent of ECFSA. The Consultant shall inform ECFSA in writing of the name, proposed service to be rendered, and compensation of the Sub consultant, and of any interest it may have in the proposed Sub consultant.

Section 104. Consultant as Independent Contractor. Notwithstanding any other provisions of this Agreement, the Consultant's status (and that of any Sub consultant) shall be that of an

independent contractor and not that of an agent or employee of ECFSA. Accordingly, neither the Consultant nor any Sub consultant shall hold itself out as, or claim to be acting in the capacity of an employee, or agent of ECFSA.

Section 105. Conflict-of-Interest. The Consultant represents that:

(a) The Consultant has not now, and will not now, and will never acquire, any interest, direct or indirect, present or prospective, in the project to which the Consultant's work relates or the real estate which is the subject of the project, or in the immediate vicinity thereof and has not employed and will not knowingly employ in connection with work to be performed hereunder, any person or entity having any such interest during the term of this Agreement.

(b) No officer, employee, agent or director of ECFSA, or any of its subsidiaries shall be admitted to any share or part hereof or to any benefit to arise here from.

(c) No officer, employee, agent or director of ECFSA, or any of its subsidiaries shall participate in any decision relating to this Agreement which affects his personal interest or the interests of any corporation, partnership, or association in which he is directly or indirectly interested; nor shall any officer, agent, director or employee of ECFSA, or any of its subsidiaries have any interest, direct or indirect, in this Agreement or the proceedings thereof.

ARTICLE II

DOCUMENTS AND RECORDS

Section 201. Maintenance of Records. The Consultant shall, until three years after completion of its services hereunder or termination of this Agreement by ECFSA, maintain and shall require each Sub consultant to maintain (a) complete and correct records of time spent by Consultant (and Sub consultant) in the performance of its obligations under this Agreement and (b) complete and correct books and records relating to all out-of-pocket expenses incurred under this Agreement, including, without limitation, accurate cost and accounting records specifically identifying the costs incurred by Consultant (and Sub consultant) in performing such obligations. Said time records shall specify the dates and numbers of hours or portions thereof spent by Consultant (and Sub consultant) in performing its obligations hereunder. Consultant shall make such books and records available to ECFSA or its authorized representatives for review and audit at all such reasonable times as ECFSA shall from time to time request. Consultant shall submit duplicate copies of time records and substantiation of out-of-pocket expenses at the time of submission of Consultant invoices in accordance with this Agreement.

Section 202. Ownership of Documents And Other Materials. All originals and negatives of all plans, drawings, reports, photographs, charts, programs, models, specimens, specifications, and other documents or materials required to be furnished by the Consultant under this

Agreement including drafts and reproduction copies thereof, shall be and remain the exclusive property of ECFSA, and ECFSA shall have the right to publish, transfer, sell, license and use all or any part of such reports, plans, drawings, specification and other documents without payment of any additional royalty, charge or other compensation to Consultant. Upon request of ECFSA during any stage of the work, Consultant shall deliver all such material to ECFSA.

The Consultant agrees that it shall not publish, transfer, license or, except in connection with carrying out its obligations under this Agreement, use or reuse all or any part of such reports and other documents, including working papers, without the prior written approval of ECFSA, except that Consultant may retain copies of such reports and other documents for general reference use.

ARTICLE III

TERMINATION

Section 301. Optional Termination By ECFSA. ECFSA at any time, in its sole discretion, may terminate this Agreement or postpone, delay, all or any part of the Agreement upon written notice to the Consultant. In the event of such termination, postponement, or delay, ECFSA shall pay the Consultant for reasonable professional time and out-of-pocket expenses incurred by Consultant to the date notice of such action is received by Consultant. The Consultant agrees to cause any agreement or contract entered into by Consultant with any Sub consultant to provide for an optional termination by Consultant similar to the provision of this Section.

ARTICLE IV

PROVISIONS REQUIRED BY LAW

Section 401. Consultant To Comply With Legal Requirements. The Consultant in performing its obligations and in preparing all documents required under this Agreement shall comply with all material applicable laws and regulations. All provisions required by such laws and regulations to be included in this Agreement shall be deemed to be included in this Agreement with the same effect as if set forth in full.

Section 402. Consultant To Obtain Permits, Etc. Except as otherwise instructed in writing by ECFSA, the Consultant shall obtain and comply with all legally required licenses, consents, approvals, orders, authorizations, permits, restrictions, declarations and filings required to be obtained by ECFSA or the Consultant in connection with this Agreement.

Section 403. Non-Discrimination. The Consultant during the performance of this Agreement, specifically agrees that the Consultant will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, age, disability or marital status.

Section 404. No Assignment Without Consent. The Consultant agrees that:

(a) It is prohibited from assigning, transferring or otherwise disposing of this Agreement, or of its rights or interests therein, or its power to execute such agreement to any person, company, partnership, or corporation, without the previous written consent of ECFSA;

(b) If the prohibition of Section 404(a) be violated, ECFSA may revoke and annul this Agreement and ECFSA shall be relieved from any and all liability and obligations thereunder to the Consultant and to the person, company, partnership or corporation to whom such assignment, transfer or other disposal shall have been made and the Consultant and such assignee or transferee shall forfeit and lose all the money theretofore earned under this Agreement.

ARTICLE V OTHER STANDARD PROVISIONS

Section 501. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of New York.

Section 502. Entire Agreement/Amendment. This Agreement constitutes the entire Agreement between the parties hereto and no statement, promise, condition, understanding, inducement, or representation, oral or written, expressed or implied, which is not contained herein shall be binding or valid and this Agreement shall not be changed, modified or altered in any manner except by an instrument in writing executed by the parties hereto.

Section 503. Confidentiality. Consultant hereby agrees that all data, recommendations, reports and other materials developed in the course of this study are strictly confidential between Consultant and ECFSA and Consultant may not at any time reveal or disclose such data, recommendations or reports in whole or in part to any third party without first obtaining permission from ECFSA, other than as required by law. Notwithstanding the preceding sentence, Consultant shall cooperate fully with such third parties as ECFSA may designate by written request. Such cooperation shall include making available to such parties, data, information and reports used or developed by Consultant in connection with this study.

Section 504. Indemnification. Notwithstanding anything to the contrary contained herein, Consultant shall be responsible for all injuries to persons, including death, or damage to property sustained while performing or resulting from the work under this Agreement, if and to the extent the same results from any act, omission, negligence, fault or default of Consultant or Sub consultants, or their employees, agents, servants, independent contractors or subcontractors retained by Consultant pursuant to this Agreement. Consultant agrees to defend, indemnify and hold the indemnities (the State of New York and ECFSA) harmless from any and all claims, judgments and liabilities, including but not limited to, claims, judgments and liabilities for injuries to persons (including death) and damage to property, if and

to the extent the same results from any act, omission, negligence, fault or default of Consultant or its Sub consultants, or their agents, employees, servants, independent contractors and subcontractors and from any claims against, or liability incurred by the indemnities by reason of claims against Consultant or its Sub consultants, or their employees, agents, servants, independent contractors and subcontracts for any matter whatsoever in connection with the services performed under this Agreement, including, but not limited to, claims for compensation, injury or death, and agree to reimburse the indemnities for reasonable attorneys' fees incurred in connection with the above. Consultant shall be solely responsible for the safety and protection of all its Sub consultants, or the employees, agents, servants, independent contractors, or subcontractors of Consultant or its Sub consultants, and shall assume all liability for injuries, including death, that may occur to said persons due to the negligence, fault or default of Consultant, its Sub consultants, or their respective agents, employees, servants, independent contractors or subcontractors.

This Article shall survive the expiration or earlier termination of this Agreement.

Section 505. Miscellaneous. The parties hereto agree that this Schedule A shall be controlling in the event of any inconsistencies or conflicts between the terms of this Schedule A and any part of the Agreement.

ARTICLE VI **BILLING POLICY**

Section 601. Invoices. The Consultant is required to submit detailed documentation in support of Consultant's request for reimbursement. All invoices and their accompanying documentation must be forwarded to:

Accounts Payable Department
Erie County Fiscal Stability Authority
295 Main Street, Suite 946
Buffalo, New York 14203

Invoices shall be made on the Consultants own invoice forms or letterhead and must include ECFSA's contract and project numbers, if any. Consultant shall also include federal identification number with their first invoice, and a list of each individual who is expected regularly to bill time to this matter, his/her title and hourly billing rate. Invoices shall be in the form attached to this Schedule A. Time shall be billed on a 1/10th of an hour basis.

Section 602. Reimbursable Expenses. Consultant's monthly invoices should present out-of-pocket expenses on a daily, itemized basis, grouped by general category. The Consultant must submit supporting documentation for each individual expense item over \$250. Out-of-pocket expenses

will be reimbursed only in accordance with the attached **SCHEDULE OF MAXIMUM REIMBURSEMENT ALLOWANCES FOR ECFSA AGREEMENTS WITH LAW FIRMS AND OTHER CONSULTANTS.**

Section 603. Non-Reimbursables. The following will not be reimbursed:

- a) Flight insurance
- b) Valet Services (except five or more consecutive days)
- c) Personal expenses of any type
- d) Expenses paid for ECFSA employees
- e) Travel to any ECFSA office to "deliver vouchers or pick up check".

Section 604 No Reimbursement For Sales Tax Charges. ECFSA is a public benefit corporation and as such is exempt from all sales and use taxes in New York State. ECFSA will not reimburse the Consultant for sales or use taxes over \$10.00 incurred in connection with the contract. If the Consultant will make purchases of goods or services that involve sales or use taxes in excess of that amount, the Consultant must, in advance of making such purchases, obtain a sales tax certification from ECFSA so that no such taxes are incurred.

Section 605. General.

- (a) All receipts must be legible. Illegible receipts will not be reimbursed.
- (b) Whenever possible original receipts should be presented for reimbursement.

At any time or times until three years after completion of Consultant's services or earlier termination of this Agreement by ECFSA, ECFSA may have the vouchers and statements of cost audited. Each payment theretofore made shall be subject to reduction for amounts included in the related voucher, which are found by ECFSA on the basis of such audit, not to constitute allowable cost. Any such payment may be reduced for overpayments or increased for underpayment, as the case may be.

RFP VERBIAGE

Appendix A: STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic

predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State; or (iii) banking services, insurance policies or the sale of securities. The State

shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Governor's Office of Minority and Women's Business Development pertaining hereto.

13. EQUAL EMPLOYMENT OPPORTUNITIES FOR SERVICE-DISABLED VETERANS' BUSINESS DEVELOPMENT. In accordance with New York State Executive Law Article 17-B if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then:

EXCLUSION LIST

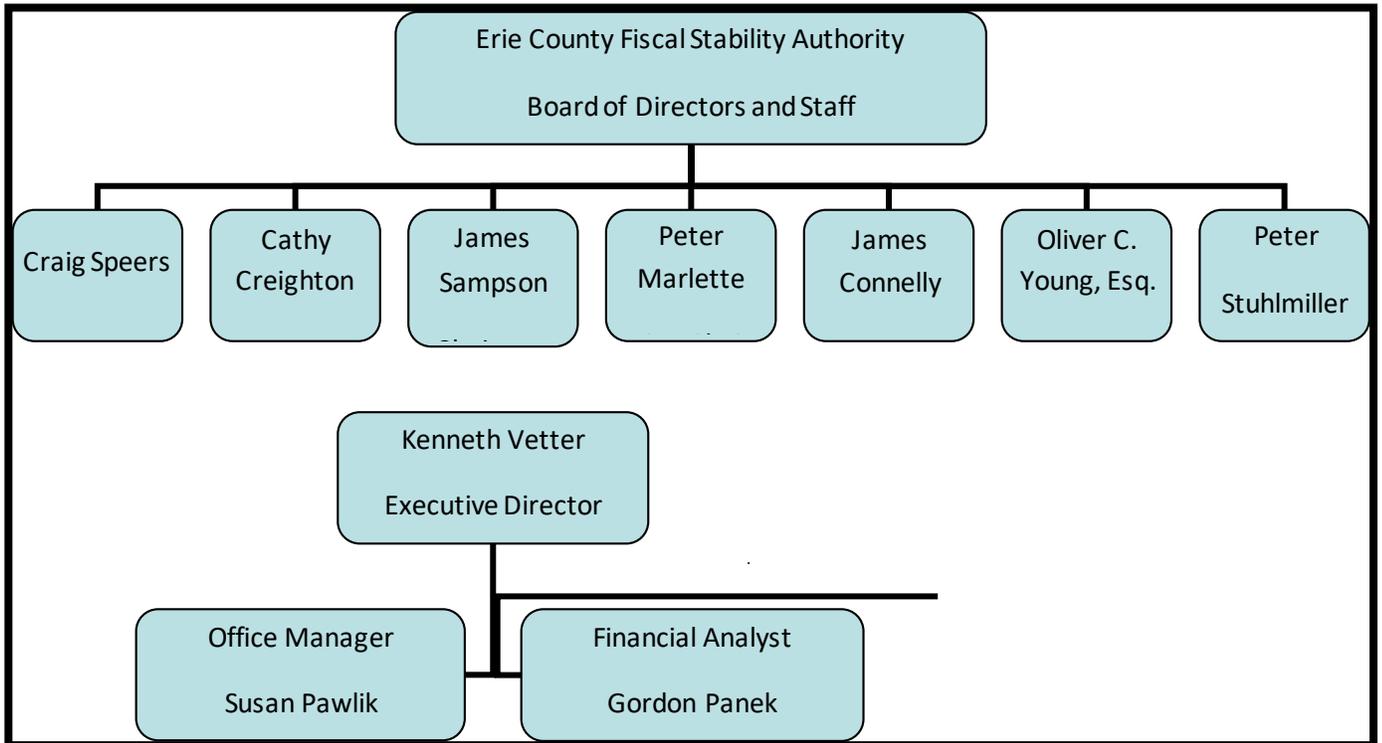
Based on current industry knowledge, there are MWBE firms that exist which are capable of providing the services the Authority requires. An Exclusion List is not required.

BOILERPLATE LANGUAGE

This language is included in our RFP Form; Appendix A.

ECFSA Organizational Chart

2022



*Kenneth Vetter and Susan Pawlik are responsible for all SDVOB Compliance in the following responsibilities:

Contracting or Procurement Unit's Responsibilities: Indicate who develops the contract, sends out RFP (Request for Proposals), RFQ (Request for Quotations) or negotiates, evaluates proposals, and makes award. These may include but are not limited to an analysis of the types of contracts to be identified for which individual goals may be established for participation by SDVOB.

Contract Compliance Unit's Responsibilities: All RFP's are created, distributed and solicited by the Director of Administration. Upon receipt of the contract proposals the Financial Analyst analyses each submission, creates a spreadsheet including contract rates, statistical data, personnel data, etc. The submissions along with the analysis are given to the Executive Director who then works with the Board of Directors to determine the outcome of the procurement process. All contracts are discussed and voted on a meeting of the Full Board. They are approved through resolution.

Internal Reporting Mechanisms and Responsibilities: Pursuant to the Regulations, quarterly reports are due on April 15, July 15, October 15 and January 15 of each fiscal year (or the first business day following). The agency’s method for capturing the statistical data relating to SDVOB contracting/procurement is through Quickbooks reporting and the Director of Administration is responsible for compiling the information and for submitting it quarterly.

DESCRIPTION OF PROCUREMENT STRATEGY

OUTREACH EFFORTS

The overall goal of the ECFSa to award SDVOB contracts in 2022-2023 is well intended with an interest in promoting business opportunities for Service Disabled Veteran Owned Businesses. However, the limited amount of RFP’s that the Authority solicits each year makes enforcing a strategy utilize qualified SDVOB firms, a challenge. No RFP’s are anticipated for the upcoming year. The ECFSa will proactively issue direct solicitations of SDVOB for all of its contracts using the OGS website: http://ogs.ny.gov/Core/docs/CertifiedNYS_SDVOB.pdf

The Authorities procurement process includes advertisements in the local business newspapers, submissions to the State Contract Reporter, postings to our website (www.ecfsa.state.ny.us) and direct solicitations of SDVOB. All of our advertisements welcome and encourage SDVOB. The ECFSa will also look into opportunities that make themselves available like seminars, workshops, trade shows, etc. to enhance and cultivate relationships with SDVOB firms. This ECFSa Master Goal plan can be viewed on the Authority’s website at: www.ecfsa.ny.gov/opdoc.html The ECFSa’s quarterly report can be viewed at [ECFSa- Operational Documents \(ny.gov\)](http://www.ecfsa.ny.gov/opdoc.html)

AGENCY SPECIFIC GOALS

- a. Projected Total Agency Budget: \$503,851**
- b. Projected Exempt Program Contracts:** The Authority foresees no additional exempt program contracts and construction percentages do not apply.
- c. Available Budget for Goals: \$55,800**
- d. Overall Budget for SDVOB 6%**
- e. Amount \$3,348**

PREVIOUS YEAR COMPARISON/COVID OUTREACH

The Erie County Fiscal Stability has improved its SDVOB utilization from the prior year. For a period of time, the ECFSa was unable to find SDVOB vendors who could meet the Agency's categorical office spending. Fortunately, continuously culling the SDVOB vendor list has uncovered appropriate spending opportunities. For the quarter ending 12/31/2021, 12.3% of eligible spending has gone to SDVOB commodities. The ECFSa does not bid necessary supplies, thereby awarding purchases to SDVOB Vendors.

In a COVID environment, outreach is a challenge, and the pandemic has resulted in reduced spending for the Authority. However, the ECFSa has continued to review lists of SDVOB vendors to find opportunities for such suppliers. The ECFSa is a 3-person agency with primarily, if not solely, office purchase needs.

CONCLUSION

The Erie County Fiscal Stability Authority is committed to making an honest and whole hearted effort in soliciting SDVOB with the intent to promote the utilization of qualified business firms owned by service-disabled Veterans. SDVOB lists are culled on a regular basis to determine whether there are purchases that can be made with eligible vendors. Recently, we have had some success. The Authority will continue in its pursuit to promote SDVOB opportunities.