

RFP FOR LEGAL SERVICES
ERIE COUNTY FISCAL STABILITY AUTHORITY
REQUEST FOR PROPOSALS

The Erie County Fiscal Stability Authority (“ECFSA” the “Authority”) invites proposals from law firms to provide legal services to the Authority on an as-needed basis.

1. BACKGROUND

The ECFSA is a corporate governmental agency and instrumentality of the State of New York constituting a public benefit corporation. The Authority was created by and operates pursuant to the Erie County Fiscal Stability Authority Act, Chapter 182 of the Laws of 2005 (“the Act”), as amended. The Authority has the responsibility under the Act to monitor and oversee the finances of the County of Erie (the “County”), all Erie County departments and covered organizations that receive or may receive money from the County such as Erie Community College, the Buffalo & Erie County Public Library and Erie County Sewer Districts. The Act provides for ECFSA to be in effect until a date not later than December 31, 2039.

1.1. Authority Functions – Control Powers

The Erie County Fiscal Stability Authority is vested with the control and advisory authority to oversee the budget, financial and capital plans of the County and covered organizations; to issue bonds or other obligations to achieve budgetary savings through debt restructuring or deficit financing; to finance short-term cash flow or capital needs; and, if necessary, to develop financial plans on behalf of the County if the County is unwilling or unable to take the required steps toward fiscal stability.

1.2. Directors and Management

The Authority is to be governed by seven directors, each appointed by the Governor including one each appointed on the written recommendation of the State Comptroller, Temporary President of the State Senate and the Speaker of the State Assembly. The Governor designates a chair and vice chair from among the directors. One director appointed by the Governor and the directors appointed on the written recommendation of the State Comptroller, Temporary President of the State Senate and the Speaker of the State Assembly must be residents of Erie County. All directors of the Authority serve without salary.

The Directors are as follows:

James Sampson - Chairman

Peter Marlette– Vice-Chairman

Catherine Creighton

Craig Speers

Oliver Young

James Connelly

Peter Stuhlmiller

The ECFSA is staffed by the following individuals:

Kenneth Vetter – Executive Director

Susan Pawlik –Office Manager

Gordon Panek – Financial Analyst

2. SCOPE OF SERVICES

The Authority expects from time-to-time to have a need for legal advice, assistance and representation in a number of areas, specified below. The firm or firms selected should have demonstrable qualifications to handle legal work in one or more of the following areas:

2.1. Powers of the Authority

Advising on, and protecting through litigation where necessary, the powers of the Authority. In particular, counsel is sought relating to the Authority's scope of powers during a control period and its responsibility for approving or disapproving County financial plans; imposing a financial plan under certain circumstances; setting a maximum level of spending; and taking certain actions in relation to municipal employees, including the power to impose a wage and/or hiring freeze or to defer a wage or salary increase.

2.2. General Corporate Activities

Preparing and reviewing corporate resolutions and other documents; advising on personnel issues, including hiring and firing; benefits; tax compliance and other issues related to the effective and efficient internal operations of the ECFSA.

2.3 Laws Affecting the Authority

Advising on miscellaneous legal matters including, but not limited to, those related to: federal and State constitutional matters; municipal, local finance, public authority, employment, tax, labor, home rule, open meetings, public officers, and executive laws; the Ethics in Government Act, the Freedom of Information Act and other State and federal laws, statutes, rules and regulations.

NOTE: ECFSA has engaged other professionals, including bond counsel, to advise on and oversee ECFSA financing. A separate RFP has been issued for that function.

The term of this Contract is January 1, 2023 through December 31, 2025. However, the Authority retains the right to terminate the contract at any time.

3. PROPOSAL

3.1. Management and Qualifications

In setting forth its qualifications, each interested law firm should provide, in concise but adequate detail, the information sought below. Responses should be limited to 10 single sided pages and should be prepared on 8½ x 11-inch paper using at least 12-point type with standard margins. You are requested to provide a copy of your firm's Affirmative Action Policy as an appendix to your proposal. **This appendix will not count against the page limit restriction.**

- 3.1.1. State the names of the partners and associates who would be assigned to the Authority's account, describe the expected services to be provided by each attorney and provide their resumes. **Resumes will not count against the page limit.**
- 3.1.2. Describe any subjects related to the services to be provided in response to this RFP in which you feel your law firm has special expertise and the nature of that special expertise.
- 3.1.3. Describe the resources available within the firm to assist the Authority in its dealings with relevant federal, state and local agencies.
- 3.1.4. Identify any work your firm has done for the State of New York, State Public Authorities, the City of Buffalo, the Buffalo Public Schools, the Buffalo Urban Renewal Agency, the Buffalo Municipal Housing Authority, the County of Erie, any County labor organization, or any New York State oversight or control board, including those established for the cities of New York or Yonkers and that established for the County of Nassau and that established for the City of Buffalo.

- 3.1.5. Identify the nature of any potential conflict of interest your firm might have in providing legal services to the Authority. Each firm must certify in writing that its representation of the Authority will not create any conflict of interest involving that firm. Describe the firm's policies and procedures for handling potential conflicts of interest which may arise in the course of an engagement with the Authority, and the Authority's rights under such a circumstance.
- 3.1.6. Identify any past, pending or threatened litigation or administrative or State ethics board or similar body proceedings to which you or any of your partners are a party, and indicate the extent to which such would either materially impair the firm's ability to perform the services enumerated herein and for which this RFP was issued or, if decided in an adverse manner, would materially adversely affect the financial condition of your firm.
- 3.1.7. Comment on your firm's ability to respond in a timely fashion to litigation that might be commenced against the ECFSA in local and other courts. Litigation counsel must be immediately available to ECFSA.
- 3.1.8. Explain your firm's availability to the ECFSA at its corporate headquarters in Buffalo, and the attorney's access and availability to ECFSA staff, officers and directors.

3.2. COST

- 3.2.1. State the rates at which the services of partners, associates, and non-attorney law clerks, paralegals or other paraprofessionals would be provided to the Authority for the next three years. Include:
 - For each attorney whose resume is provided in response to Section A above, your normal hourly rate and the hourly rate you propose to charge the Authority.
 - For each applicable category of non-attorney law clerk, paralegal, or other paraprofessional, your normal hourly rate and the hourly rate you propose to charge the Authority.
 - A schedule of all out-of-pocket disbursements, which you anticipate will result in a charge to the Authority and the rate for each. Note that the Authority expects that disbursements will be charged at the firm's actual out-of-pocket cost. Indicate the calculation of travel costs for legal staff not stationed in Buffalo, and the extent and/or rate at which travel time to and from Buffalo would be charged.

In responding to this item, provide the following, in respondent's order of preference: (i) a single hourly rate for all partners and a separate single hourly rate for all associates; (ii) a blended hourly rate for all partners and associates; and (iii) the individual hourly rates for each partner and each

associate. Note that clerical support costs are to be included in the law firm's hourly rates for attorneys and paraprofessionals.

- 3.2.2. In addition, you may propose any alternative fee structure that you deem appropriate.
- 3.2.3. State any special considerations with respect to billing or payment of fees and expenses that your firm offers and that you believe would differentiate it from other respondents and make your firm's legal services more cost effective for the Authority.
- 3.2.4. State whether the Authority is getting the lowest rate charged by your firm for its municipal clients.

4. EVALUATION AND SELECTION

4.1. Evaluation Factors

A selection committee consisting of Authority staff, with possible additional review by certain Authority directors, will evaluate the proposals. This selection committee will make its recommendations to the board of the Authority for final approval. The selection committee will consider the following factors, not necessarily in order of importance:

- 4.1.1. Quality and depth of the firm's expertise and, based on similar services provided previously, its capacity for providing the currently requested services.
- 4.1.2. Anticipated cost of legal services and disbursements, including such factors as hourly rates, discounts, and cost-effectiveness. (Although proposed fees will be given significant weight in the selection process, the Authority reserves the right to negotiate with any firm selected lower fees or a different fee structure than proposed.)
- 4.1.3. Commitment of time (especially by the partner in charge) and resources to the Authority.
- 4.1.4. Information provided by client references.
- 4.1.5. Overall organization and quality of proposal, including cohesiveness, conciseness, and clarity.
- 4.1.6. MWBE and SDVOB status/participation

4.2. Selection Process

The selection committee will determine whether to invite select firms to make oral presentations to the board members and staff of the Authority.

5. PROPOSAL INSTRUCTIONS AND CONDITIONS

5.1. Limitations

- 5.1.1. This RFP does not commit the Authority to award a contract, pay any costs incurred in the preparation of a response, or procure or contract for services of any kind whatsoever. The Authority reserves the right to accept or reject any or all responses as a result of the RFP, to negotiate with any or all considered law firms, or to cancel this RFP in whole or in part. The Authority reserves the right to request additional information from all respondents.
- 5.1.2. Respondents may be requested to clarify the contents of their proposals. Other than to provide such information as may be required by the Authority, no respondent will be allowed to alter its proposal or to add new information after the RFP due date.
- 5.1.3. A proposing firm may be required to participate in negotiations and to submit any price, technical, or other revisions to its proposal, which may result from such negotiations.
- 5.1.4. All material submitted in response to this RFP will become the sole property of the Authority.
- 5.1.5. From among the proposals received, the Authority may select one or more law firms to be available to provide legal services in one or more of the areas described herein.

5.2. Proposal Submission.

- 5.2.1. Proposals must include a cover letter indicating the mailing address of the office from which the proposal is submitted, name of the individual who will represent the firm as the primary contact person for the proposal, and the telephone and telecopy numbers of the primary contact person.
- 5.2.2. A proposer must submit 5 copies of their proposal to:

Kenneth Vetter
Executive Director
Erie County Fiscal Stability Authority
295 Main Street, Suite 946
Buffalo, New York 14203

Responses must be received no later than 4:00 pm at the above address on September 9, 2022 will not be considered and the proposing firm will be disqualified.

5.2.3. Non-responsive proposals include, but are not limited to, those that:

- are irregular or not in conformance with RFP requirements and instructions;
- are conditional, incomplete, indefinite or ambiguous;
- are intended to accomplish only part of the overall work;
- have no signature or an improper one; or
- are not submitted on time or are submitted at any time via facsimile.

The Authority may waive minor informalities or irregularities in a proposal that are merely a matter of form and not substance and the correction of which would not be prejudicial to other proposals.

5.2.4 Any inquiries concerning this RFP should be addressed to the Authority's Executive Director, Kenneth Vetter via fax (716) 608-2270 or email to kenneth.vetter@ecfsa.ny.gov before 4:00 pm on August 19, 2022.

Summary of Proposal Submission and Evaluation Time Schedule

Request for Proposals Dated	.....	August 5, 2022
Notification of Interest By	.....	August 19, 2022
Proposal Due Date	.....	September 9, 2022
Selected Contractor Notified on or about	.....	October 31, 2022
Contract Executed on or about	.....	January 1, 2023

5.3. Administrative Specifications

- 5.3.1. All proposals must be irrevocable for 90 days and signed by an authorized officer of the firm.
- 5.3.2. The successful bidder must agree to provide the Authority with audit access with respect to the statements rendered by such bidder.
- 5.3.3. All proposers are obligated to update any changes in their proposal prior to the Authority's selection of counsel.

DATED: August 5, 2022

A-5: EEO Standard Language

State agencies shall include in all State contracts and all documents soliciting bids or proposals for State contracts the following language:

(1) Contractors and subcontractors shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, affirmative action shall apply in the areas of recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

(2) Prior to the award of a State contract, the Contractor shall submit an Equal Employment Opportunity ("EEO") Policy Statement to the contracting agency within the time frame established by that agency.

(3) The Contractor's EEO Policy Statement shall contain, but not necessarily be limited to, and the contractor, as a precondition to entering into a valid and binding State contract, shall, during the performance of the State contract, agree to the following:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts.
- b. 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.
- c. 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.

(4) Except for construction contracts, prior to an award of a State contract, the contractor shall submit to the contracting agency a staffing plan of the anticipated work force to be utilized on the State contract or, where required, information on the Contractor's total work force, including apprentices, broken down by specified ethnic background, gender, and Federal Occupational Categories or other appropriate categories specified by the contracting agency. The form of the staffing plan shall be supplied by the contracting agency.

(5) After an award of a State contract, the Contractor shall submit to the contracting agency a work force utilization report, in a form and manner required by the agency, of the work force actually utilized on the State contract, broken down by specified ethnic background, gender, and Federal Occupational Categories or other appropriate categories specified by the contracting agency.

(Note: The Contractor shall include the language of the above provisions in every subcontract in such a manner that the requirement of the provisions will be binding upon each subcontractor as to work in connection with the State contract, including the requirement that subcontractors shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and, when requested, provide to the Contractor information on the ethnic background, gender, and Federal Occupational Categories of the employees to be utilized on the State contract.)

A-6: Contractor's Requirement Under Article 15-A

Article 15-A of the Executive Law has been in existence since July 1988. This legislation, in conjunction with Executive Order 21, which was promulgated in August of 1983, provides specific rules, regulations and procedures for minority and women business participation in certain State contracts.

The Division is required to implement the provisions of Article 15-A for all its contracts (1) in excess of \$25,000 for labor, services, supplies, equipment, materials, or any combination of the foregoing and (2) for contracts in excess of \$100,000 for real property renovation and construction. For purposes of this contract, the agency hereby establishes a goal of 3 percent for minority business enterprises (MBE) participation and 13.5 percent for women owned business enterprises (WBE) participation.

In order to be awarded a contract with the Division, every bidder must comply with the requirements, rules and regulations outlined in Article 15-A.

POLICY AND PROVISIONS

It is the policy of the State of New York to promote equality of economic opportunity for minority and women-owned business enterprises (M/WBE's) in State contracting. In order to comply with the State's objectives, the Contractors shall use "good faith efforts" to provide meaningful participation by M/WBE subcontractors or suppliers in the performance of this contract.

For the purpose of determining a contractor's good faith effort to comply with the requirements of Article 15-A or to be entitled to a waiver therefrom, the contracting agency shall consider:

- (a) Whether the contractor has advertised in general circulation media, trade association publications, minority-focus and women-focus media. In such event,
 - (i) whether or not certified minority or women-owned businesses which have been solicited by the contractor exhibited interest in submitting proposals for a particular project by attending a pre-bid conference; and
 - (ii) whether certified businesses which have been solicited by the contractor have responded in a timely fashion to the contractor's solicitations for timely competitive bid quotations prior to the contracting agency's bid date; and
 - (b) Whether there has been written notification to appropriate certified businesses that appear in the directory of certified businesses prepared pursuant to paragraph (f) of subdivision three of section three hundred eleven of this article; and
 - (c) Whether the contractor can reasonably structure the amount of work to be performed under subcontracts in order to increase the likelihood of participation by certified businesses.
1. **GOALS** - The MBE and WBE participation goals as stated earlier are based on the availability of M/WBE's currently certified by New York State and geographically located to be able to perform the work in the region where the project is located. The total dollar value of the contract, scope of work, the supplies and equipment necessary to perform the project, are also considerations used to determine the percentage goals.
 2. **UTILIZATION** - The Contractor may count as M/WBE participation: subcontracting part of the contract to certified firms or purchasing supplies and equipment used to perform the terms and conditions of the contract from certified firms.
 2. **MINORITY AND WOMEN-OWNED BUSINESS OFFICER** - The Contractor shall designate a M/WBE business officer and assign the officer the responsibility and authority to monitor the M/WBE program for this contract. This contracting agency's staff is available to help in identifying certified M/WBE's.

4. **REQUIRED REPORTS** - The Contractor is required to submit a Utilization Plan to the contracting agency within 14 days of notification of being the apparent low bidder. The required Utilization Plan requires a list of New York State certified minority and women-owned businesses that have agreed to participate in fulfilling the terms and conditions of this contract. The Contractor must also submit the MBE/WBE Letter of Intent to Participate. The Letter of Intent to Participate is a commitment by the Contractor and the subcontractor/supplier that the terms and conditions for M/WBE participation on this contract are agreed to. Any modifications or changes to the agreed participation by certified M/WBE's, over the term of the contract, must be reported on a revised Utilization Plan.

5. **NONDISCRIMINATION** - The Contractor agrees not to discriminate on the basis of race, creed, color, national origin, gender, age, disability, or marital status, in any respect, against any potential subcontractor, supplier, other company, firm, or enterprise in any manner relating to the performance of this contract.

POST AWARD

The contracting agency will monitor the Contractor's compliance with the Utilization Plan by requiring the Contractor to submit to the Office, the following forms, by the 10th day of each month:

1. Cumulative Monthly Income Statements
2. Monthly Affirmation of Income Payments

All questions regarding compliance to Article 15-A requirements or copies of the forms should be addressed to the contracting agency.

SERVICE AND/OR CONSULTANT FIRMS INSTRUCTIONS FOR COMPLETION

PURPOSE: The *Work Force Utilization Report for Service and/or Consultant Firms* is prepared by all contractors, and subcontractors, if any, providing services (skilled or non-skilled) or professional consulting services to a state agency to document their actual employment of minority group members and women during the period covered by the report. The report has a format similar to forms used by the Federal government for reporting equal employment opportunity data. When the contract specific work force can be identified, the report covers all employees (including apprentices or trainees) working on the project. If the contract specific work force cannot be separated out, the contractor's total work force is reported. The completed reports are used by the contracting state agency to monitor the contractor's and subcontractor's compliance with the contract's equal employment opportunity requirements.

GENERAL INFORMATION:

3. *Name of contracting state agency* and state agency code (five digit code).
4. *Reporting period* covered by report (mm/dd/yy to mm/dd/yy); check to indicate *Quarterly* or *Semi-Annual* Report.
5. *Contractor firm name* (prime contractor on summary report submitted to agency) and *address* (including city name, state and zip code); check if the contractor is a NOT-FOR-PROFIT.
6. *Type of Report:* check to indicate whether report covers (i) the *Contract Specific Work Force* or (ii) the *Company's Total Work Force* (in the event the contract specific work force cannot be separated out).
7. *Contractor Federal Employer Identification number* or payee identification number (prime contractor i.d. on summary report); check to indicate prime or subcontractor report.
8. *Contract Amount* is dollar amount based on terms of the contract.
9. *Contract Number* is the agency assigned number given to the contract (seven digits).
10. *Location of work* including county and zip code where work is performed.
11. Indicate *Product or Service provided* by contractor (brief description).
12. *Contract start date* is month/day/year work on contract actually began.
13. Contractor's *estimate of the percentage of work completed* at the end of this reporting period.

FEDERAL OCCUPATIONAL CATEGORIES: The contractor's work force is broken down and reported by the nine *Federal Occupational Categories (FOC's)* consistent with the Federal government's EEO-1 categories for the private sector labor force. These are: *Officials and Managers, Professionals, Technicians, Sales, Office and Clerical (Administrative support), Craft Workers, Operatives, Laborers and Service Workers*. The categories are general in nature, and include all related occupational job titles. The contracting agency can provide assistance in categorizing specific jobs.

TOTAL NUMBER OF EMPLOYEES: Record the *total number of all persons employed* in each FOC during the reporting period, regardless of ethnicity (either working on the specific contract OR in the contractor's total work force, based on the type of report indicated above). Report the total number of male (M) employees in column (1) and the total number of female (F) employees in column (2) for each FOC. In columns (3) thru (10) report the numbers of male and female *minority group members* employed, based on the following defined groups:

Black (not of Hispanic origin): all persons having origins in any of the Black African racial groups;

Hispanic: all persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American or either Indian of Hispanic origin, regardless of race;

Asian or Pacific Islander: all persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands;

Native American or Alaskan Native: all persons having origins in any of the original peoples of North America.

TOTAL % MINORITY = sum of all minority group members (male and female) employed in the FOC divided by the total number of all employees in that FOC (column 1 + column 2).

TOTAL % FEMALE = total number of female employees in the FOC (column 2) divided by the total number of all employees in that FOC (column 1 + column 2).

TOTALS: column totals should be calculated (sum each column) for all FOC's combined. Total minority and female percentages should be calculated as shown above, based on the column totals.

SUBMISSION: The work force utilization report is to be completed by both prime and subcontractors and signed and dated by an *authorized representative* before submission. This Company Official's name, official title and telephone number should be printed or typed where indicated on the bottom of the form.

The *prime contractor* shall complete a report for its own work force, collect reports completed by each subcontractor, and prepare a summary report for the entire combined contract work force. The reports shall include the total number of employees in each occupational category for all payrolls completed in the monthly reporting period. The prime contractor shall submit the summary report to the contracting agency as required by *Part 542 of Title 9 Subtitle N of the NYCRR pursuant to Article 15-A of the Executive Law*.

**WORK FORCE EMPLOYMENT UTILIZATION REPORT
SERVICE AND/OR CONSULTANT FIRMS**

Agency _____ /Code _____ Reporting Period _____
 Check one: Quarterly Report Semi-Annual Report

Contractor Firm Name _____ Address _____ City _____ State _____ Zip _____

Type of Report: Contract Specific Work Force Total Work Force Check if NOT-FOR-PROFIT

Federal ID/Payee ID No. _____ Check One <input type="checkbox"/> Prime Contractor <input type="checkbox"/> Subcontractor Contract Amount: \$ _____	Contract No. _____ Location of Work _____ County _____ Zip _____ Product/Service Provided: _____ Contract Start Date: _____ Percent of Job Completed _____
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Number of Employees												Total Percent Minority Employees	Total Percent Female Employees
Federal Occupational Category	Total Number of Employees		Black (Not of Hispanic Origin)		Hispanic		Asian or Pacific Islander		Native American/ Alaskan Native				
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female			
Officials/Admin													
Professionals													
Technicians													
Sales Workers													
Office and Clerical													
Craft Workers													
Operatives													
Laborers													
Service Workers													
TOTALS													

Company Official's Name _____ Signature _____ _____	Title _____ Date _____ Telephone Number _____ _____
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ATTACHMENT A
SOLICITATION AND CONTRACT TEXT WHEN SETTING SDVOB GOALS

PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN OWNED BUSINESSES

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (“SDVOB”), thereby further integrating such businesses into New York State’s economy. Erie County Fiscal Stability Authority recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of Erie County Fiscal Stability Authority contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

I. Contract Goals

- A. Erie County Fiscal Stability Authority hereby establishes an overall goal of 6 % for SDVOB participation, based on the current availability of qualified SDVOBs. For purposes of providing meaningful participation by SDVOBs, the Bidder/Contractor should reference the directory of New York State Certified SDVOBs found at: <https://ogs.ny.gov/veterans/>. Questions regarding compliance with SDVOB participation goals should be directed to the Erie County Fiscal Stability Authority Designated Contacts. Additionally, following Contract execution, Contractor is encouraged to contact the Office of General Services’ Division of Service-Disabled Veterans’ Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss additional methods of maximizing participation by SDVOBs on the Contract.
- B. Contractor must document “good faith efforts” to provide meaningful participation by SDVOBs as subcontractors or suppliers in the performance of the Contract (see clause IV below).

II. SDVOB Utilization Plan

- A. In accordance with 9 NYCRR § 252.2(i), Bidders are required to submit a completed SDVOB Utilization Plan on Form SDVOB 100 with their bid.

- B. The Utilization Plan shall list the SDVOBs that the Bidder intends to use to perform the Contract, a description of the work that the Bidder intends the SDVOB to perform to meet the goals on the Contract, the estimated dollar amounts to be paid to an SDVOB, or, if not known, an estimate of the percentage of Contract work the SDVOB will perform. By signing the Utilization Plan, the Bidder acknowledges that making false representations or providing information that shows a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids, and/or withholding of payments. Any modifications or changes to the agreed participation by SDVOBs after the Contract award and during the term of the Contract must be reported on a revised SDVOB Utilization Plan and submitted to Erie County Fiscal Stability Authority.
- C. Erie County Fiscal Stability Authority will review the submitted SDVOB Utilization Plan and advise the Bidder/Contractor of Erie County Fiscal Stability Authority acceptance or issue a notice of deficiency within 20 days of receipt.
- D. If a notice of deficiency is issued, Bidder/Contractor agrees that it shall respond to the notice of deficiency, within seven business days of receipt, by submitting to Erie County Fiscal Stability Authority a written remedy in response to the notice of deficiency. If the written remedy that is submitted is not timely or is found by Erie County Fiscal Stability Authority to be inadequate, Erie County Fiscal Stability Authority shall notify the Bidder/Contractor and direct the Bidder/Contractor to submit, within five business days of notification by Erie County Fiscal Stability Authority, a request for a partial or total waiver of SDVOB participation goals on SDVOB 200. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.
- E. Erie County Fiscal Stability Authority may disqualify a Bidder's bid or proposal as being non-responsive under the following circumstances:
- (a) If a Bidder fails to submit an SDVOB Utilization Plan;
 - (b) If a Bidder fails to submit a written remedy to a notice of deficiency;
 - (c) If a Bidder fails to submit a request for waiver; or
 - (d) If Erie County Fiscal Stability Authority determines that the Bidder has failed to document good faith efforts.
- F. If awarded a Contract, Contractor certifies that it will follow the submitted SDVOB Utilization Plan for the performance of SDVOBs on the Contract pursuant to the prescribed SDVOB contract goals set forth above.
- G. Contractor further agrees that a failure to use SDVOBs as agreed in the Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, Erie County Fiscal Stability Authority shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsibility.

III. Request for Waiver

- A. Prior to submission of a request for a partial or total waiver, Bidder/Contractor shall speak to the Designated Contacts at Erie County Fiscal Stability Authority for guidance.**
- B. In accordance with 9 NYCRR § 252.2(m), a Bidder/Contractor that is able to document good faith efforts to meet the goal requirements, as set forth in clause IV below, may submit a request for a partial or total waiver on Form SDVOB 200, accompanied by supporting documentation. A Bidder may submit the request for waiver at the same time it submits its SDVOB Utilization Plan. If a request for waiver is submitted with the SDVOB Utilization Plan and is not accepted by Erie County Fiscal Stability Authority at that time, the provisions of clauses II (C), (D) & (E) will apply. If the documentation included with the Bidder's/Contractor's waiver request is complete, Erie County Fiscal Stability Authority shall evaluate the request and issue a written notice of acceptance or denial within 20 days of receipt.
- C. Contractor shall attempt to utilize, in good faith, the SDVOBs identified within its SDVOB Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract award may be made at any time during the term of the Contract to Erie County Fiscal Stability Authority but must be made no later than prior to the submission of a request for final payment on the Contract.
- D. If Erie County Fiscal Stability Authority upon review of the SDVOB Utilization Plan and Monthly SDVOB Compliance Report (SDVOB 101) determines that Contractor is failing or refusing to comply with the contract goals and no waiver has been issued in regards to such non-compliance, Erie County Fiscal Stability Authority may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven business days of receipt. Such response may include a request for partial or total waiver of SDVOB contract goals.

Waiver requests should be sent to Erie County Fiscal Stability Authority

IV. Required Good Faith Efforts

In accordance with 9 NYCRR § 252.2(n), Contractors must document their good faith efforts toward utilizing SDVOBs on the Contract. Evidence of required good faith efforts shall include, but not be limited to, the following:

- (1) Copies of solicitations to SDVOBs and any responses thereto.
- (2) Explanation of the specific reasons each SDVOB that responded to Bidders/Contractors' solicitation was not selected.

(3) Dates of any pre-bid, pre-award or other meetings attended by Contractor, if any, scheduled by Erie County Fiscal Stability Authority with certified SDVOBs whom Erie County Fiscal Stability Authority determined were capable of fulfilling the SDVOB goals set in the Contract.

(4) Information describing the specific steps undertaken to reasonably structure the Contract scope of work for the purpose of subcontracting with, or obtaining supplies from, certified SDVOBs.

(5) Other information deemed relevant to the waiver request.

V. Breach of Contract and Damages

In accordance with 9 NYCRR § 252.2(s), any Contractor found to have willfully and intentionally failed to comply with the SDVOB participation goals set forth in the Contract, shall be found to have breached the contract and Contractor shall pay damages as set forth therein.

ATTACHMENT C SOLICITATION AND CONTRACT TEXT FOR SET-ASIDE PROCUREMENTS

PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN-OWNED BUSINESSES

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (“SDVOBs”), thereby further integrating such businesses into New York State’s economy. Erie County Fiscal Stability Authority recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of Erie County Fiscal Stability Authority contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders/Contractors are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

Erie County Fiscal Stability Authority established this procurement as a set aside contract pursuant to 9 NYCRR § 252.2(j). Nevertheless, Bidder/Contractor is encouraged to make good faith efforts to promote and assist in the participation of other SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: <https://ogs.ny.gov/veterans/>. Bidder/Contractor is encouraged to contact the Office of General Services’ Division of Service-Disabled Veteran’s Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss methods of maximizing participation by SDVOBs on the Contract.

NOTICE OF INTEREST
(Attachment 1)

Mr. Kenneth Vetter, Executive Director
Erie County Fiscal Stability Authority
295 Main Street, Suite 946
Buffalo NY, 14203

Fax: (716) 608-2270

Name of Firm: _____

_____ OUR FIRM INTENDS TO SUBMIT A PROPOSAL for Legal Counsel set forth in the Request for Proposals dated August 5, 2022.

_____ Please keep our name and address on your mailing list for future procurements.

Signature of Official: _____

Name (typed): _____

Title: _____

Date: _____

Contact Person:

Name _____

Title _____

Phone _____

**ERIE COUNTY FISCAL STABILITY AUTHORITY
LEGAL COUNSEL**

PROPOSAL CHECKLIST
(Attachment 2)

NOTICE OF INTEREST - Attachment 1 (optional and submitted separately)

TECHNICAL PROPOSAL

Transmittal letter

- State understanding of work/commitment to perform within time frames
- Name, title, address, phone and fax number, and e-mail address of contact person

Title page

- RFP subject
- Firm name
- Name, title, address, phone and fax number, and e-mail address of contact person
- Date of proposal

Table of contents

- Identify material by section and page number

MWBE Compliance

- Staffing Plan
- M/WBE Utilization Plan
- Request for Waiver (if applicable)
- M/WBE Contractor Unavailability Certification

SEALED DOLLAR COST BID

- Transmittal letter
- Estimates for 2023, 2024 and 2025 Engagements (Attachment 3)
- Billing structure for non-lawyer expenses
- Five (5) copies of the Dollar Cost Bid (in a separate, sealed envelope).

ATTACHMENT 3 – COST PROPOSAL

Page 1 of 2

2023 ERIE COUNTY FISCAL STABILITY AUTHORITY LEGAL COUNSEL COST EVALUATION

SCHEDULE OF PROFESSIONAL FEES AND EXPENSES

Disseminated

	Partner	Counsel	Associate	Paralegal	Other (specify)*	Blended Rate
Rate	\$	\$	\$	\$	\$	\$
Subtotal	\$	\$	\$	\$	\$	\$

2024 ERIE COUNTY FISCAL STABILITY AUTHORITY LEGAL COUNSEL COST EVALUATION

SCHEDULE OF PROFESSIONAL FEES AND EXPENSES

	Partner	Counsel	Associate	Paralegal	Other (specify)*	Blended Rate
Rate	\$	\$	\$	\$	\$	\$
Subtotal	\$	\$	\$	\$	\$	\$

ATTACHMENT 3 – COST PROPOSAL
Page 2 of 2

2025 ERIE COUNTY FISCAL STABILITY AUTHORITY LEGAL COUNSEL COST EVALUATION

SCHEDULE OF PROFESSIONAL FEES AND EXPENSES

	Partner	Counsel	Associate	Paralegal	Other (specify)*	Blended Rate
Rate	\$	\$	\$	\$	\$	\$
Subtotal	\$	\$	\$	\$	\$	\$

Note: *Fees for the "Other" titles will not be used as part of the cost evaluation. The cost evaluation will be scored as follows; each firm will be scored both on the basis of the fees for the individual titles and the fees for the blended rate, with the lowest score used as a rating for the firm.

Provide details on the firm's billing structure regarding non-lawyer expenses, specifically paralegal charges, word processing charges, mark-ups and copying, fax and related costs, and rules for taxi utilization. These costs are for informational purposes only and will not be included as part of the cost evaluation. Out-of-pocket expenses for staff travel, lodging and subsistence should be estimated at the per diem rates granted by the State for its Management/Confidential employees, which can be found on the U.S. General Services Administration's website at <https://www.gsa.gov/travel/plan-book/per-diem-rates> Click on Per Diem Rates, 2022 Domestic Rates, and New York State.

