

**Buffalo and Erie County Workforce Investment Board, Inc.**

**Request for Proposal for Legal Services**

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**Request for Qualifications:  
Legal Services**

**Section I: General Information**

**Purpose of the Request for Qualifications**

The Buffalo and Erie County Workforce Investment Board, Inc. (BECWIB) seeks an attorney licensed to practice law in the State of New York to act as its outside legal counsel (“Legal Counsel”). In this role, Legal Counsel will provide legal advice on issues affecting the organization and its Board of Directors. The successful Applicant will report to its Board of Directors through the Executive Director.

Applicants will be considered from those eligible applicants, identified in Section IV below, that demonstrate the legal qualifications to provide the services identified in this RFQ.

The contents of the submitted proposal will become the basis for the Letter of Engagement under this RFQ, which may include additional elements as negotiated. In addition, the successful Applicant will be required to agree to and comply with BECWIB policies and procedures, as well as any applicable federal or state policies, regulations or laws.

**Submitted proposals that fail to provide a statement that the Applicant is not debarred, suspended, or otherwise excluded from or made ineligible for participation in Federal or State assistance programs or activities, will be disqualified from consideration.**

**Procurement Timetable:**

<b>Activity</b>	<b>Due Date</b>
RFP released and available at <a href="http://www.workforcebuffalo.org">www.workforcebuffalo.org</a>	September 2, 2021
<b>Questions</b> with the subject clause <i>RFQ for Legal Services</i> may be sent electronically to <a href="mailto:info@becwib.org">info@becwib.org</a> All <b>questions and answers</b> will be posted at <a href="http://www.workforcebuffalo.org">www.workforcebuffalo.org</a>	9:30 a.m. (ET) on September 17, 2021
<b>Proposals:</b> A signed and electronically submitted Proposal Form with the email subject clause <i>RFQ for Legal Services</i> must be received at <a href="mailto:info@becwib.org">info@becwib.org</a> <b>Paper submissions &amp; late proposals will not be accepted.</b>	No later than 2 p.m. (ET) on September 24, 2021
Award Notification*	Wk. of October 25 2021
Negotiation of Letter of Engagement	TBD
Letter of Engagement anticipated start date	November 15, 2021

\*The final award is subject to the approval and recommendation of the BECWIB Executive Committee and adoption by the Full Board at its October 26, 2021 meeting.

## **Number of Awards**

One award for legal services will be made under this RFQ. An executed Letter of Engagement is estimated to begin November 15, 2021 and end June 30, 2022. BECWIB reserves the right to extend the Letter of Engagement for up to three additional one-year periods, each beginning July 1 and ending June 30. Extensions will be based on funding availability, satisfactory performance, and any other factors that BECWIB, in its sole discretion, deems appropriate

The executed Letter of Engagement will provide payment on a fixed price basis. Billing statements for services rendered must disclose, at a minimum, the date of the service, the identity of the individual performing the service, a description of the service performed, the time it took to perform the service, and the hourly rate of the individual performing the service.

## **Section II: Overview of BECWIB and the WDC**

BECWIB is a 501(c)(3) charitable corporation. Established under the provisions of the Workforce Investment Act of 1998, it continues as the local area's workforce development board under the Workforce Innovation and Opportunity Act of 2014 (WIOA)<sup>1</sup>. It is composed of a private-sector driven board appointed by the Erie County Executive and the Mayor of the City of Buffalo. As such, it is charged with developing, coordinating and overseeing publicly funded workforce development and training initiatives in Buffalo and Erie County (the Local Workforce Development Area). Its partners in the workforce development system range from public agencies, to private for-profit and non-profit businesses, to education and training providers, to community and economic development partnerships, to job seekers using the NYS One-Stop Operating System (OSOS). Its oversight responsibilities include certification of career centers, business development, the selection and monitoring of service providers, integrating service delivery efforts, creating policies, and setting local performance standards.

As the local administrative agent of WIOA programs and activities, BECWIB is authorized to procure and designate Legal Counsel.

The WDC, also a 501(c)(3) organization, functions as a provider of career services under Title I of WIOA, and as the fiscal agent and sub-recipient for WIOA funds pursuant to programs of the United States Government and the State of New York, as well as for funds from private foundation for workforce development initiatives.

## **Section III: Overview of WIOA and the Workforce Development System**

WIOA is the primary federal legislation that supports workforce development. Succeeding the Workforce Investment Act of 1998, WIOA was enacted in July 2014 to bring about increased coordination among federal workforce development and related programs. Most of WIOA's provisions went into effect July 1, 2015.

Workforce development programs provide a combination of education and training services to prepare individuals for work and to help them improve their prospects in the labor market. They

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<sup>1</sup> Public Law No. 113-328, 128 Stat. 1425, codified as amended at 29 U.S.C. 3101 et. seq.

include activities such as job search assistance, career counseling, occupational skill training, classroom training, and on-the-job-training. WIOA provides universal access to basic career services. For individualized career and training services, WIOA provides a priority of service to recipients of public assistance, other low-income individuals, individuals who are basic skills deficient, and to veterans.

### **Service Delivery System**

The cornerstone of WIOA workforce development is the service delivery system. This delivery system is the mechanism through which programs and services are integrated within the Local Workforce Development Area (LWDA). Integrated points of service are located in Career Centers and Affiliate Sites, where state and local WIOA employment and training activities are provided, and certain partner programs coordinated. Administration of the career center system occurs through Workforce Development Boards (WDBs). WDBs, the majority of whose members are representatives of business, are authorized to determine, among other things,<sup>2</sup> the mix of service provisions, eligible providers, and types of training programs.

### **WIOA titles, programs and their partner agencies in the Workforce Development System are as follows:**

<b>Programs and Statutory Titles</b>	<b>Partner Agencies</b>
Adult, Dislocated Worker, and Youth under Title I of WIOA	Buffalo and Erie County Workforce Development Consortium, Inc.
Job Corps under Title I of WIOA	Cassadaga Job Corps Academy
YouthBuild under Title I of WIOA	The Service Collaborative of WNY, Inc.
Indian and Native American Programs (INAP) under WIOA Title I:	Native American Community Services of Erie and Niagara Counties, Inc.
Adult Education and Family Literacy Act programs under Title II of WIOA (Adult Ed.)	New York State Education Department
New York State Department of Labor (NYSDOL) administered programs: <ul style="list-style-type: none"> <li>• Wagner-Peyser program under Title III of WIOA (WP)</li> <li>• Trade Adjustment Assistance (TAA) under Title II of Trade Act</li> <li>• Jobs for Veterans State Grants (Vets) under Title 38, U.S.C.</li> </ul> State Unemployment Insurance (UI) programs	New York State Department of Labor

<sup>2</sup> Local WDB functions are authorized in WIOA Section 107(d)

Vocational Rehabilitation—Adult Career & Continuing Education Services (ACCES-VR) under Title IV of WIOA	NYS Department of Education ACCES-VR
Vocational Rehabilitation—Office of Children and Family Services, New York State Commission for the Blind (OCFS)/ NYSCB under Title IV of WIOA	NYS Commission for the Blind
Senior Community Service Employment Programs (SCSEP) State Office for the Aging (SOFA) under Title V of Older Americans Act	Associates for Training & Development
Senior Community Service Employment Programs (SCSEP) under Title V of Older Americans Act	Erie County Department of Senior Services
Career and Technical Education programs at the postsecondary level (CTE) under Perkins Career and Technical Education Act	NYS Education Department, Postsecondary Access, Support and Success (OPASS)
Community Services Block Grants (CSBG) employment and training	Community Action Organization of Western NY Inc.
Housing and Urban Development (HUD) employment & training	Buffalo Municipal Housing Authority
Temporary Assistance to Needy Families (TANF)	Erie County Department of Social Services

#### **Section IV. Eligible Applicants**

The successful Applicant should meet or exceed the qualifications stated herein, be readily accessible to authorized BECWIB and WDC representatives, have experience working with local government and/or nonprofits, be scrupulous in adhering to required standards of professional conduct and ethics, and committed to rendering sound legal advice with suitable objectivity and professional detachment.

**Applicants must provide a statement that the Applicant is not debarred, suspended, or otherwise excluded from or made ineligible for participation in Federal or State assistance programs or activities. Applicants that fail to provide such statement will be disqualified from consideration.**

#### **Minimum Qualifications:**

Bar Admission

Legal Counsel and all those who serve as back-up to the Legal Counsel must be a member in good standing of the New York State Bar and submit a Certificate of Good Standing from the New York State Unified Court System, Office of Court Administration.

### Experience

Legal Counsel must have a minimum of five years of experience in providing legal advice for governmental entities, and/or non-profit organizations, or possess equivalent experience with Boards of Directors. Responses to this RFQ should include references for government offices, non-profit organizations, or Boards of Directors represented within in the past five years. Experience with the Workforce Innovation and Opportunity Act of 2014 is preferred, but is not required.

### Accessibility

Legal Counsel must commit to returning calls and responding to emails from BECWIB and the WDC either personally or through a qualified back-up within 24 hours of the call or email. Legal Counsel, with a minimum notice of two weeks, must attend the meetings of the BECWIB and the WDC Boards of Directors, as well as selected subcommittees of these Boards. Legal Counsel must also commit, as a general rule, to responding to requests for written opinions within one week unless the circumstances of the opinion warrant a shorter or longer time frame for a response.

### Back-up

Legal Counsel must have within his/her firm or through an established “of counsel” relationship, at least one other qualified attorney available to render advice and otherwise represent the interests of BECWIB and the WDC when the Legal Counsel is unavailable. In this context, “qualified attorney” shall mean another lawyer who substantially meets the minimum qualifications set forth herein for Legal Counsel.

### Concurrent Conflict of Interest

Legal Counsel and all those who serve as back-up to him/her may not represent BECWIB or the WDC if they currently provide representation or should acquire representation of the New York State Workforce Investment Board, the New York State Department of Labor, The Buffalo Public Schools, Erie Community College, or Catholic Charities.

### Fee for Service

Legal Counsel must commit to and provide quotes for an hourly rate for the next one to five years. BECWIB will not consider proposals which include a required retainer. Billing statements for services rendered must disclose, at a minimum, the date of the service, the identity of the lawyer or staff person performing the service, the subject matter reference for the service, a description of the service performed, the time it took to perform that service and the hourly rate for the individual performing the service.

## Conflict of Interest Disclosure Statement

Prior to appointment, the Legal Counsel chosen and those who serve as back up to Legal Counsel must complete and sign a Conflict of Interest Disclosure Statement. That Statement will be provided at the time of final selection.

### **V. Scope of Service**

Legal Counsel must be readily available to perform the following legal services, as requested by BECWIB and the WDC:

1. Attend quarterly meetings of the Boards of Directors and their selected subcommittees as necessary;
2. Defend lawsuits, administrative claims, or other legal claims;
3. Advise on government grant and contract issues;
4. Advise on any inquiry, investigation, audit or other proceedings of federal or state regulatory agencies;
5. Advise on matters concerning NYS' Open Meeting Law and Freedom of Information Act;
6. Review, draft, and/or negotiate contracts, leases, and memoranda of understanding;
7. Advise on matters concerning not-for-profit corporations
8. Advise on individual labor and employment matters;
9. Review personnel, fiscal and other policies, as well as corporate by-laws; and
10. Other legal services as needed.

### **VI. Proposal**

**All proposals must be submitted on the attached Applicant Proposal Form.**

The Applicant's proposal will include the following:

#### Background information

Name, address, principal place of business, telephone number, fax number, and email address of the legal entity with whom the Letter of Engagement will be written.

The name of the Applicant's contact person.

A brief description of Applicant's organization, its size, structure, and areas of practice. Attach a copy of the firm's Equal Opportunity/Affirmative Action Policy, if the firm has one.

#### Certified Statements:

A statement advising that the Applicant has not experienced contracts that were terminated for default within the past 5 years. "Termination for Default" is defined as notice to Applicant to stop performance due to the Applicant's non-performance or poor performance and the issue was either: (a) not litigated or (b) litigated and such litigation determined the Applicant to be in default.

A statement that the Applicant is not debarred, suspended, or otherwise excluded from or made ineligible for participation in Federal or State assistance programs or activities.

A statement that Legal Counsel and all those who serve as back-up to the Legal Counsel are members in good standing of the New York State Bar, with the Certificate(s) of Good Standing from the New York State Unified Court System, Office of Court Administration for each attorney expected to work on this representation.

#### Legal Experience

A brief description (250 words or less) of how the firm/practitioner will meet the scope of services outlined in this RFQ, including availability to attend quarterly meetings of BECWIB and WDC Boards of Directors and their selected subcommittees; experience advising government entities, non-profit organizations or boards of directors; experience with federal and state regulations; and any experience with the Workforce Innovation and Opportunity Act of 2014.

#### Attorney Qualifications

The qualifications of the attorney(s) to be assigned to the representation, including their position in the firm, a brief description (250 words or less) of their professional and educational background, and prior experience with the legal matters listed above. A resume/biography of attorney(s) likely to be assigned to the representation may be included and will not count against the 5-page limit.

#### Hourly Rates

Information on the hourly billing rates of each attorney and other legal staff expected to work on this representation and charges for expenses, if any, such as legal research, copies and faxes. A monthly flat fee that would be charged to advise on routine matters that could be handled over the phone or otherwise without extensive research or other legal work, may be included.

#### Client References

Three applicable client references, with a contact person's name and telephone number.

References listed must be familiar with Applicant's work and be able to comment on services performed that were similar in scope to the services being requested under this RFQ.

#### Electronic Signature

Signing the Application Proposal Form indicates that the Applicant accepts the terms and conditions of this RFQ and that the person signing the letter is authorized to contractually bind the Applicant to its terms and conditions.

### **VII. Review and Selection Process.**

A committee led by BECWIB staff will review proposals and make recommendations to its Board of Directors for final approval. All proposals submitted will receive a response as to the action taken by BECWIB. Proposals will be reviewed in accordance with the following criteria:

- Whether Applicant has experience contracts that were terminated for default within the past 5 years, and whether the Applicant has been debarred, suspended, or otherwise



excluded from or made ineligible for participation in Federal or State assistance programs or activities;

- Proposed approach to scope of work;
- Level of experience of the individual(s) identified to work on this matter;
- Applicant's experience with similar clients and legal matters;
- Hourly Rates and ancillary costs;
- Response from references; and
- Interviews, if conducted.

BECWIB may, in its discretion, request presentations by, or meetings with, any or all Applicants, to clarify or negotiate modifications to the Applicant's proposal, including the structure of its hourly billing. However, BECWIB reserves the right to make an award without further discussion of the proposals submitted.

There is no commitment on the part of BECWIB to accept the lowest cost proposed or the conditions imposed by the Applicant as a requirement of acceptance. Although there are significant evaluation factors presented, BECWIB reserves its right, without limitation, to consider any and all other factors that may significantly impact the proposal. All proposals submitted will receive a response as to the action taken by BECWIB

## **VIII. Other Terms and Conditions**

### Letter of Engagement

The successful Applicant is expected to sign Letter of Engagement for legal services and any subsequent amendments thereto with BECWIB/WDC that may be required to address specific aspect of the proposal. The execution of the Letter of Engagement does not guarantee that any minimum number of cases or matters will be assigned to the successful Applicant.

BECWIB reserves the right to negotiate the specific services to be provided based on the requirements of this RFQ and the terms of the winning proposal. If the successful Applicant fails or refuses to sign Letter of Engagement or any subsequent amendment within 10 business days of delivery, BECWIB may elect to cancel the award with the Applicant and subsequently make an award to the next-highest ranked finalist.

### RFQ Costs

Neither BECWIB nor the WDC is responsible for any costs incurred by applicants prior to appointment. The cost to develop, submit, or present a response to this RFQ is not reimbursable.

### Conflicts of Interest

Prior to any award, the successful Applicant will disclose any potential conflicts of interest in carrying out activities under this RFQ that arise from the Applicant's relationship with services providers in the Career Center System, members of the Buffalo and Erie County Workforce Investment Board, the City of Buffalo, or the County of Erie.

### Disclaimer

The submission of a proposal to BECWIB does not assure or imply any contractual award to an individual or entity submitting a proposal. BECWIB reserves the right to accept or reject any proposals received, request clarifications from any Applicant regarding information in their proposal, modify the terms of this RFQ, or cancel this RFQ, in whole or in part, if it is in the best interest of BECWIB to do so.

There is no commitment on the part of BECWIB to accept the lowest cost proposed or the conditions imposed by the Applicant as a requirement of acceptance. Although there are significant evaluation factors presented, BECWIB reserves its right, without limitation, to consider any and all other factors that may significantly affect the proposal. Any fiscal obligations to the successful Applicant under this RFQ are limited to funds allocated and received by BECWIB pursuant to its grant under WIOA.

### Compliance with General Terms and Conditions

BECWIB reserves the right to incorporate standard BECWIB provisions into any Letter of Engagement resulting from this RFQ, including any provision required by federal or state policies, regulations or laws. This includes, but is not limited to, insurance coverage for comprehensive general liability, personal and advertising injury, auto liability, statutory workers' compensation, employer liability and disability benefits, and professional/consultant's liability.