

ERIE COUNTY DEFERRED COMPENSATION COMMITTEE

**c/o Brian Bray, Erie County Commissioner of Personnel
95 Franklin Street, Room 604, Buffalo, NY 14202
Brian.Bray@erie.gov**

February 5, 2024

Re: Erie County Deferred Compensation Committee Request for Proposals Fiduciary Consultant

The Erie County Deferred Compensation Committee (“Committee”) is conducting a Request for Proposals for Fiduciary Consultant for the Committee and the Erie County Deferred Compensation Plan, a government-sponsored 457(b) deferred compensation plan. The request for proposals (“RFP”) is enclosed.

Your proposal must address the original RFP and all items contained in this correspondence to be considered complete.

Written proposals must be received by 3 p.m. on March 4, 2024. Please forward ten (10) copies of each proposal to:

Brian Bray

Chairman, The Erie County Deferred Compensation Committee
c/o Erie County Department of Personnel

95 Franklin Street, Room 604
Buffalo, New York 14202

Also, please provide one electronic copy of the proposal to Dr. Bray via email at Brian.Bray@erie.gov. For any questions concerning this RFP, please contact Dr. Bray at Brian.Bray@erie.gov.

Sincerely yours,

Erie County Deferred Compensation Committee

Enclosure

ERIE COUNTY DEFERRED COMPENSATION COMMITTEE

**C/O ERIE COUNTY DEPARTMENT OF PERSONNEL
95 FRANKLIN STREET, ROOM 604
BUFFALO, NEW YORK 14202**

REQUEST FOR PROPOSALS

FIDUCIARY CONSULTANT

RFP # 012924-BB

February 5, 2024

I. INTRODUCTION

The Erie County Deferred Compensation Committee (“Committee”) is conducting a Request for Proposals for Fiduciary Consultant for the Committee and the Erie County Deferred Compensation Plan (“Plan”). The Committee is the governance body overseeing the Plan, a 457(b) optional plan for employees of Erie County, New York that operates pursuant to the Rules and Regulations and Model Plan of the New York State Deferred Compensation Board.

The request for proposals (“RFP”) is enclosed. The contract term will be for five (5) years, with options for two (2) one-year extensions.

II. PROPOSAL PROCEDURES

A. ANTICIPATED SCHEDULE OF PROPOSAL

ISSUE RFP:	February 5, 2024
PROPOSALS DUE:	March 4, 2024
INTERVIEWS:	To be scheduled if necessary
SELECTION MADE:	April 29, 2024
CONTRACT SIGNED:	Following all necessary approvals

B. REQUIREMENTS

If you choose to respond, please submit ten (10) copies of your proposal to Brian Bray, Chairman, Erie County Deferred Compensation Committee, c/o Erie County Department of Personnel, 95 Franklin Street, Room 604, Buffalo, New York 14202. Also, please provide one electronic copy of the proposal to Dr. Bray at Brian.Bray@erie.gov. For any questions concerning this RFP, please contact Dr. Bray at Brian.Bray@erie.gov.

C. RIGHT OF REJECTION

Notwithstanding any other provisions of this RFP, the Committee reserves the right to award this contract to the firm that best meets the requirements of the RFP and not necessarily to the lowest proposer. Further, the Committee reserves the right to reject any or all proposals prior to execution of the contract for any or no reason and without penalty to the Committee.

D. AWARD OF CONTRACT

The firm selected by the Committee to be awarded this contract will be asked to enter into negotiations with the Committee, with the intention of awarding the contract. Neither the selection of a firm nor the issuance of a Notice of Award shall constitute the Committee’s acceptance of the proposal or a binding commitment on behalf of the Committee to enter into a services contract with the firm, as any binding arrangement must be set forth in definitive documentation signed by both parties and subject to all requisite approvals.

E. CONTRACT NEGOTIATIONS

After issuance of the Notice of Award, the Committee intends to enter into contract with the winning firm who shall be required to enter into a written agreement, in a form approved by the Committee's legal counsel. The winning respondent's proposal, or any part thereof, may be incorporated into and made a part of the final contract(s).

III. STATEMENT OF RIGHTS

The Committee and Plan are bound by, and follow the Rules and Regulations of the New York State Deferred Compensation Board (the "Rules and Regulations"). By virtue of submitting a response, proposers warrant and represent that they are familiar with the Rules and Regulations and will adhere to them if awarded a contract.

A. UNDERSTANDINGS

Please take notice, by submission of a proposal in response to this request for proposals, the proposer agrees to and understands:

- that any proposal, attachments, additional information, etc. submitted pursuant to this RFP constitute merely a suggestion to negotiate with the Committee and is not a bid under Section 103 of the New York State General Municipal Law;
- submission of a proposal, attachments, and additional information shall not entitle the proposer to enter into an agreement with the Committee for the required services;
- by submitting a proposal, the proposer agrees and understands that the Committee is not obligated to respond to the proposal, nor is it legally bound in any manner by submission of same;
- that any and all counter-proposals, negotiations or communications received by a proposing entity, its officers, employees or agents from the Committee, its officials, officers, employees or agents, shall not be binding against the Committee, its officials, officers, employees or agents unless and until a formal written agreement for the services sought by this RFP is duly executed by both parties and approved.

In addition to the foregoing, by submitting a proposal, the proposer also understands and agrees that the Committee reserves the right, and may at its sole discretion exercise, the following rights and options with respect to this RFP:

- To reject any or all proposals;
- To issue amendments to this RFP;
- To issue additional solicitations for proposals;
- To waive any irregularities in proposals received after notification to proposers affected;
- To select any proposal as the basis for negotiations of a contract, and to negotiate with one or more of the proposers for amendments or other modifications to their proposals;
- To conduct investigations with respect to the qualifications of each proposer;
- To exercise its discretion and apply its judgment with respect to any aspect of this RFP, the evaluations of proposals, and the negotiations and award of any contract;
- To enter into an agreement for only portions (or not to enter into an agreement for any) of the services contemplated by the proposals with one or more of the proposers;
- To select the proposal that best satisfies the interests of the Committee and not

Fiduciary Consultant RFP
Erie County Deferred Compensation Committee

- necessarily on the basis of price or any other single factor;
- To interview the proposer(s);
- To request or obtain additional information the Committee deems necessary to determine the ability of the proposer;
- To modify dates;
- All proposals prepared in response to this RFP are at the sole expense of the proposer, and with the express understanding that there will be no claim for reimbursement from the Committee for the expenses of preparation. The Committee assumes no responsibility or liability of any kind of costs incurred in the preparation or submission of any proposal;
- While this is a RFP and not a bid, the Committee reserves the right to apply the case law under General Municipal Law Section 103 regarding bidder responsibility in determining whether a proposer is a responsible vendor for the purpose of this RFP process;
- The Committee is not responsible for any internal or external delivery delays which may cause a proposal to arrive beyond the stated deadline. To be considered, proposals MUST arrive at the place specified herein and be time stamped prior to the deadline.

B. EVALUATION

The following criteria, not necessarily listed in order of importance, will be used to review the proposals. The Committee reserves the right to weigh its evaluation criteria in any manner it deems appropriate:

- Proposer's demonstrated capability to provide the services.
- Evaluation of the professional qualifications, personal background and resume(s) of individuals involved in providing the services.
- Proposer's experience in performing the proposed services.
- Proposer's ability to comply with all requirements of the Plan, the Rules and Regulations, and Section 457 of the Internal Revenue Code.
- Evaluation of the proposer's fee submission.
- A determination that the proposer has submitted a complete and responsive proposal as required by this RFP.
- Proposer's projected approach and plans to meet the requirements of this RFP.
- Proposer's presentation at and the overall results of any interview conducted with the proposer.
- Proposers may be requested to give an oral presentation of their proposal.
- No contract or agreement will be awarded to any proposer that is in arrears upon any debt or in default of any obligation owed to the Committee or the County of Erie or the Erie County Medical Center Corporation.

C. CONTRACT

After selection of the successful proposer, a formal written contract will be prepared by the Committee and will not be binding until signed by both parties. No rights shall accrue to any proposer by the fact that a proposal has been selected by the Committee for submission to the Committee's Board of Directors for approval.

D. INDEMNIFICATION AND INSURANCE

The proposer accepts and agrees that language in the following form will be included in the contract between the proposer and the Committee:

“In addition to, and not in limitation of the insurance requirements contained herein the consultant agrees:

- (a.) That except for the amount, if any, of damage contributed to, caused by or resulting from the negligence of the Committee, the consultant shall indemnify and hold harmless the Committee, its officers, employees and agents, and the County of Erie and the Erie County Medical Center Corporation from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorneys’ fees or loss arising directly or indirectly out of the acts or omissions hereunder by the consultant or third parties under the direction or control of the consultant; and
- (b.) To provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of this agreement and to bear all other costs and expenses related hereto.

Upon execution of any contract between the proposer and the Committee, the proposer will be required to provide proof of the insurance coverage. Insurance coverage in amount and form shall not be deemed acceptable until approved by the Committee’s legal counsel.

E. INTELLECTUAL PROPERTY RIGHTS

The proposer accepts and agrees that language in substantially the following form will be included in the contract between the proposer and the Committee:

All deliverables created under this Agreement by the Consultant are to be considered “works made for hire.” If any of the deliverables do not qualify as “works made for hire,” the Consultant hereby assigns to the Committee all right, title and interest (including ownership of copyright) in such deliverables and such assignment allows the Committee to obtain in its name copyrights, registrations and similar protections which may be available. The Consultant agrees to assist the Committee, if required, in perfecting these rights. The Consultant shall provide the Committee with at least one copy of each deliverable.

The Consultant agrees to indemnify and hold harmless the Committee for all damages, liabilities, losses and expenses arising out of any claim that a deliverable infringes upon an intellectual property right of a third party. If such a claim is made, or appears likely to be made, the Consultant agrees to enable the Committee’s continued use of the deliverable, or to modify or replace it. If the Committee determines that none of these alternatives is reasonably available, the deliverable will be returned. All records compiled by the Consultant in completing the work described in this Agreement, including but not limited to written reports, source codes, studies, drawings, blueprints, negatives of photographs, computer printouts, graphs, charts, plans, specifications and all other similar recorded data, shall become and remain the property of the Committee. The Consultant may retain copies of such records for its own use.

F. NON-COLLUSION

The proposer, by signing the proposal, does hereby warrant and represent that any ensuing agreement has not been solicited, secured or prepared directly or indirectly, in a manner contrary to the laws of the State of New York and the Committee or the County of Erie, and that said laws have

not been violated and shall not be violated as they relate to the procurement or the performance of the agreement by any conduct, including the paying or the giving of any fee, commission, compensation, gift, gratuity or consideration of any kind, directly or indirectly, to any Committee employee, officer or official.

G. CONFLICT OF INTEREST

All proposers must disclose with their proposals the name of any officer, director or agent who is also an employee of the Committee or the County of Erie or the Erie County Medical Center Corporation.

Further, all proposers must disclose the name of any the Committee or County or Erie County Medical Center Corporation employee who owns, directly or indirectly, an interest of ten percent or more in the firm or any of its subsidiaries or affiliates. There shall be no conflicts in existence during the term of any contract with the Committee. The existence of a conflict shall be grounds for termination of a contract.

H. COMPLIANCE WITH LAWS

By submitting a proposal, the proposer represents and warrants that it is familiar with all federal, state and local laws and regulations and will conform to said laws and regulations. The preparation of proposals, selection of proposers and the award of contracts are subject to provisions of all federal, state and County laws, rules and regulations. This includes compliance with the Rules and Regulations.

I. EFFECTIVE PERIOD OF PROPOSALS

All proposals must state the period for which the proposal shall remain in effect (i.e. how much time does the Committee have to accept or reject the proposal under the terms proposed). Such period shall not be less than 180 days from the proposal date.

IV. BACKGROUND INFORMATION

The Committee oversees an Erie County, New York government-sponsored deferred compensation plan under Section 457(b) of the Internal Revenue Code. The Erie County Deferred Compensation Plan has 6,258 participants, including active and non-active employees or former employees of Erie County government and/or the Erie County Medical Center Corporation, a public benefit corporation of the State of New York.

As of September 30, 2023, the Plan had \$320.545 million in assets under management. The Plan's record- keeper is Corebridge, which was recently awarded a new five-year contract in 2023.

V. WORK TO BE UNDERTAKEN BY THE PROPOSER

The firm to be hired will provide fiduciary services to the Committee and the Plan. These services may include, but are not limited to:

- Assisting with plan governance
- Educating Committee members and Plan participants
- Conducting quarterly plan reviews (for fees as well as investments)

- Creating or editing investment policy statements
- Assisting with amendments or updates to the Committee and/or Plan's charter and by-laws
- Monitoring updates and amendments to the State Model Plan and assisting with document updates and reporting requirements under the Rules and Regulations
- Working with legal counsel and/or the New York State Deferred Compensation Board or Internal Revenue Service to keep the Committee and Plan in compliance with federal and state laws or regulations
- Ability to write and conduct a request for proposals for Plan record-keeper as necessary

VI. REQUIRED INFORMATION FOR RFP RESPONSE

The proposer must sign a statement acknowledging that as provided in the Rules and Regulations, if retained, the proposer will serve as a fiduciary with respect to all administrative or investment matters for which it will assume responsibility with respect to the Plan and Committee.

A. PROPOSED PRICE OF SERVICES

Each firm submitting a proposal is requested to provide a pricing proposal. It is important to remember that while price is a primary consideration, it will not be the sole factor in determining which firm will be awarded this contract. For out of scope and other services, provide on the pricing sheets a listing of hourly rates for partners, specialists, supervisors and staff levels. Proposals should clearly indicate all direct and indirect fees and charges.

B. REQUIRED INFORMATION IN PROPOSAL

Your proposal should also clearly provide the following information:

1. Qualifications and experience of the firm.
 - a. The size of the firm (or local office assigned to perform the work) in full-time equivalents.
 - b. Experience with advising 457(b) governmental deferred compensation plans, including a list of prior governmental engagements performed by the office expected to be performing the work, including in New York State.
 - c. Governmental client references.
 - d. Information specifying the firm's experience with and names of defined benefit and defined contribution clients outside of the governmental sector.
 - e. State whether the firm is registered with the US Securities and Exchange Commission as an independent investment advisory firm.
2. Qualifications and experience of the firm's staff.
 - a. Names and resumes, including the partners in charge, of personnel to be assigned to the engagement with the Committee. It is fully expected that the personnel indicated will be those assigned to the project. Please detail which of these personnel are "local", that is, which of these persons normally live and work in Western New York.
 - b. Proposed or estimated staffing (in hours).
 - c. Affirmation that all staff has met the continuing professional education requirements (if necessary) to serve as registered investment advisors.
3. Proposed Work Plan

Fiduciary Consultant RFP
Erie County Deferred Compensation Committee

- a. Present a draft Work Plan, including work to be performed by the firm in advising the Committee such as, but not limited to assisting with plan governance, reviewing and updating plan documents, educating Committee members and Plan participants, conducting quarterly plan reviews (for fees as well as investments) and creating or editing investment policy statements.
 - b. Discuss performance guarantees and timetables for responsiveness to Committee inquiries.
 - c. Discuss expectations for in-person meetings and the availability of the firm to meet with Committee members face-to-face.
4. Proposed Fee Structure
- a. Average hourly rate charged for the staff assigned to this engagement.
 - b. Any other expected fees or expenses, such as for travel or other costs.
 - c. Any “flat rate” or “not to exceed” price for this engagement and whether fees would change during the scope of an engagement.
5. An affirmation that no conflicts of interest exist between the firm and the Committee.
6. Evidence of malpractice or errors and omissions insurance with a minimum coverage of \$3 million.
7. A description of your firm's experience in performing fiduciary services to 457(b) plans and plan governing boards, as well as 401(k), 401(a) and 403(b) plans, defined benefit plans and others.
8. Demonstrate that the proposer is a “responsible proposer” by attesting that the proposer:
- a. Complies with all laws prerequisite to doing business in New York.
 - b. Complies with U.S. Equal Opportunity Employer provisions.
 - c. The proposer has no Erie County outstanding tax liability.
9. State whether the firm expects to utilize arbitration provisions in the event of a conflict with the Committee or Plan.

VII. RFP INQUIRIES

All communications concerning this RFP shall be directed to Brian Bray, Chairman, Erie County Deferred Compensation Committee, c/o Erie County Department of Personnel, 95 Franklin Street, Room 600, Buffalo, New York 14202. Also, please provide one electronic copy of the proposal to Dr. Bray at Brian.Bray@erie.gov. For any questions concerning this RFP, please contact Dr. Bray at Brian.Bray@erie.gov.

VIII. COMMITTEE RIGHTS

The Committee reserves the right to award the contract to the lowest and/or responsible proposer it deems best suited and qualified to meet the needs of the Committee and its constituents. The Committee assumes responsibility for determining if a specific proposer is responsible. The judgment of the Committee is final.