

**COUNTY OF ERIE
OFFICE OF COMPTROLLER**

**95 FRANKLIN STREET
BUFFALO, NY 14202**

REQUEST FOR PROPOSALS

**County of Erie, New York
External Quality Review – Division of Audit**

The Erie County Comptroller is seeking proposals from professional accounting or auditing firms to conduct an external quality review (“peer review”) of the County’s Division of Audit and Control. The RFP (#1215VF) can be found at: <http://www.erie.gov/comptroller/rfp.asp>.

All correspondence, communications and/or contact with the County in regard to any aspect of this proposal shall be made to Michael Szukala, Deputy Comptroller-Audit. Prospective respondents or their representatives shall not make contact with or communicate with any representatives of the County, including employees and consultants, other than the designated person in regard to any aspect of this proposal.

Final sealed proposals are due to the Erie County Comptroller at the same address by 3:00 pm (EDT) on July 13, 2012.

Erie County reserves the right to reject any and all proposals and waive any informality.

David Shenk
Erie County Comptroller



ERIE COUNTY COMPTROLLER'S OFFICE

REQUEST FOR PROPOSALS

EXTERNAL QUALITY REVIEW OF THE DIVISION OF AUDIT AND CONTROL

JUNE 01, 2012

**DAVID J. SHENK
ERIE COUNTY COMPTROLLER
EDWARD A. RATH COUNTY OFFICE BUILDING
95 FRANKLIN STREET
BUFFALO, NEW YORK 14202**

I. INTRODUCTION

The Erie County Comptroller's office is seeking proposals from professional accounting/auditing firms to conduct an external quality review of the Erie County Comptroller's Division of Audit and Control (the "Division.") The Division's last quality control review was completed in 2009 for the three-year period ended December 31, 2008. This RFP is for a review for the period January 1, 2009-December 31, 2011.

The review shall be completed in compliance with the Government Accountability Office's Government Auditing Standards – July 2007 Revision (Yellow Book) following the guidelines contained in the National Association of Local Government Auditors Quality Control Review Guide.

The review should be completed by December 1, 2012 with a final report issued no later than December 31, 2012. Attached is background information concerning the Division.

The County will only contract with firms that do not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability, marital status, sexual orientation or citizenship status.

II. PROPOSAL PROCEDURES

A. ANTICIPATED SCHEDULE OF PROPOSAL

Issue RFP:	June 01, 2012
Proposals Due:	July 13, 2012, 3 p.m. EDT
Selection Made:	As soon as possible following
Contract Signed:	Following All Necessary County Approvals

B. REQUIREMENTS

If you chose to respond, please submit three (3) copies of your proposal to the Erie County Comptroller's Office, 95 Franklin Street, 11th Floor, Buffalo, NY 14202 attention Comptroller David J. Shenk, by 3:00 pm (EDT) on July 13, 2012. Please clearly mark on your envelope "RFP – Peer Review."

If you have any questions concerning this RFP please contact Michael R. Szukala, Deputy Comptroller-Audit, via email at szukalam@erie.gov.

C. RIGHT OF REJECTION BY THE COUNTY

Notwithstanding any other provisions of this RFP, the County reserves the right to award this contract to the firm that best meets the requirements of the RFP and not necessarily, to the lowest bidder. Further, the County 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 County.

D. AWARD OF CONTRACT

Note: the most qualified firm may not be the firm with the lowest cost. The firm selected by the Comptroller's Office to be awarded this contract will be asked to enter into negotiations with Erie County, with the intentions of awarding the contract. Neither the selection of a firm nor the issuance of a Notice of Award shall constitute the County's acceptance of the proposal or a binding commitment on behalf of the County 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 County intends to enter into contract with the winning firm who shall be required to enter into a written agreement, in a form approved by legal counsel for the County. The winning respondent's proposal or any part thereof, may be incorporated into and made a part of the final contract(s).

F. LEGISLATIVE APPROVAL

The County reserves the right to require that acceptance of any proposal and the execution of the contract are and shall be expressly subject to the approval of the Erie County Legislature.

III. STATEMENT OF RIGHTS

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 Request for Proposals constitute merely a suggestion to negotiate with the County of Erie 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 County of Erie for the required services;
- by submitting a proposal, the proposer agrees and understands that the County of Erie is not obligated to respond to the proposal, nor is it legally bound in any manner whatsoever by submission of same;
- that any and all counter-proposals, negotiations or any communications received by a proposing entity, its officers, employees or agents from the County, its elected officials, officers,

employees or agents, shall not be binding against the County of Erie, its elected 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 by the Erie County Legislature, and if necessary, the Office of the Erie County Attorney.

In addition to the foregoing, by submitting a proposal, the proposer also understands and agrees that the County of Erie reserves the right, and may at its sole discretion exercise, the following rights and options with respect to this Request for Proposals:

- 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 evaluation 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 County and not necessarily on the basis of price or any other single factor;
- To interview the proposer(s);
- To request or obtain additional information the County 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, whatsoever, for reimbursement from the County for the expenses of preparation. The County assumes no responsibility or liability of any kind for costs incurred in the preparation or submission of any proposal;
- While this is a RFP and not a bid, the County reserves the right to apply the case law under General Municipal Law § 103 regarding bidder responsibility in determining whether a proposer is a responsible vendor for the purpose of this RFP process;
- The County is not responsible for any internal or external delivery delays which may cause any 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.

EVALUATION

The following criteria, not necessarily listed in order of importance, will be used to review the proposals. The County 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 services.
- Proposer's experience to perform the proposed services.

- Proposer's financial ability to provide the services.
- Evaluation of the proposer's fee submission. It should be noted that while price is not the only consideration, it is an important one.
- A determination that the proposer has submitted a complete and responsive proposal as required by this RFP.
- An evaluation of the proposer's projected approach and plans to meet the requirements of this RFP.
- The proposer's presentation at and the overall results of any interview conducted with the proposer.
- Proposers **MUST** sign their Proposal. Unsigned proposals will be rejected.
- Proposers may be required to give an oral presentation to the County to clarify or elaborate on the written proposal.
- No proposal will be accepted from nor any agreement awarded to any proposer that is in arrears upon any debt or in default of any obligation owed to the County. Additionally, no agreement will be awarded to any proposer that has failed to satisfactorily perform pursuant to any prior agreement with the County.

CONTRACT

After selection of the successful proposer, a formal written contract will be prepared by the County of Erie and will not be binding until signed by both parties and, if necessary, approved by the Erie County Legislature, and the Office of the County Attorney. **NO RIGHTS SHALL ACCRUE TO ANY PROPOSER BY THE FACT THAT A PROPOSAL HAS BEEN SELECTED BY THE COUNTY FOR SUBMISSION TO THE ERIE COUNTY LEGISLATURE AND/OR THE ERIE COUNTY FISCAL STABILITY AUTHORITY FOR APPROVAL. THE APPROVAL OF SAID LEGISLATURE AND/OR AUTHORITY MAY BE NECESSARY BEFORE A VALID AND BINDING CONTRACT MAY BE EXECUTED BY THE COUNTY.**

INDEMNIFICATION AND INSURANCE

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

“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 County, the Consultant shall indemnify and hold harmless the County, its officers, employees and agents 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 thereto.

Upon execution of any contract between the proposer and the County, 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 County Attorney's Office.

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 County:

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 County all right, title and interest (including ownership of copyright) in such deliverables and such assignment allows the County to obtain in its name copyrights, registrations and similar protections which may be available. The Consultant agrees to assist the County, if required, in perfecting these rights. The Consultant shall provide the County with at least one copy of each deliverable.

The Consultant agrees to indemnify and hold harmless the County 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 County's continued use of the deliverable, or to modify or replace it. If the County 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 County. The Consultant may retain copies of such records for its own use.]

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 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 County employee, officer or official.

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 County of Erie. Further, all proposers must disclose the name of any County 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 County. The existence of a conflict shall be grounds for termination of a contract.

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.

CONTENTS OF PROPOSAL

The New York State Freedom of Information Law as set forth in Public Officers Law, Article 6, Sections 84 et seq., mandates public access to government records. However, proposals submitted in response to this RFP may contain technical, financial background or other data, public disclosure of which could cause substantial injury to the proposer's competitive position or constitute a trade secret. Proposers who have a good faith belief that information submitted in their proposals is protected from disclosure under the New York Freedom of Information Law shall:

a) insert the following notice in the front of its proposal:

“NOTICE

The data on pages ___ of this proposal identified by an asterisk (*) contains technical or financial information constituting trade secrets or information the disclosure of which would result in substantial injury to the proposer’s competitive position. The proposer requests that such information be used only for the evaluation of the proposal, but understands that any disclosure will be limited to the extent that the County considers proper under the law. If the County enters into an agreement with this proposer, the County shall have the right to use or disclose such information as provided in the agreement, unless otherwise obligated by law.”

and

b) clearly identify the pages of the proposals containing such information by typing in bold face on the top of each page **" * THE PROPOSER BELIEVES THAT THIS INFORMATION IS PROTECTED FROM DISCLOSURE UNDER THE STATE FREEDOM OF INFORMATION LAW."**

The County assumes no liability for disclosure of information so identified, provided that the County has made a good faith legal determination that the information is not protected from disclosure under applicable law or where disclosure is required to comply with an order or judgment of a court of competent jurisdiction. The contents of the proposal which is accepted by the County, except portions "Protected from Disclosure", may become part of any agreement resulting from this RFP.

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 County 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

Chief Auditing Officer: Comptroller David J. Shenk

Audit Director: Deputy Comptroller - Audit, Michael R. Szukala, MBA, CIA

Number of Audit Staff: Six staff including the Deputy Comptroller

Number of Reports Issued Annually: There were 8 audits issued within the period January 1, 2009 through December 31, 2011. The Division also conducts reviews which are not audits and not subject to this "peer review."

Types of Audit Conducted: Performance 100%

The Audit Division certified no financial statements for the period of this peer review.

Reports issued to: Erie County Legislature

Copies of the last two peer reviews conducted for the County will be provided upon request. Copies of all of the Comptroller's audits since 2006 are available online at http://www.erie.gov/comptroller/county_audits.asp.

The RFP (#1215VF) should be included in any proposal.