



ERIE COUNTY

REQUEST FOR PROPOSAL (RFP) TO PROVIDE AUDIT SERVICES FOR UTILITIES AND TELECOMMUNICATIONS

**RFP # 1429VF
August 4, 2014**

**MICHAEL BREEDEN
CHIEF INFORMATION OFFICER
DIVISION OF INFORMATION AND SUPPORT SERVICES
95 FRANKLIN STREET, SUITE 1500
BUFFALO, NEW YORK 14202**

**COUNTY OF ERIE, NEW YORK
REQUEST FOR PROPOSALS (“RFP”)
RFP# 1429VF
TO PROVIDE AUDIT SERVICES FOR UTILITIES AND
TELECOMMUNICATIONS**

I. INTRODUCTION

The County of Erie, New York (the “County”) is currently seeking Proposal Statements from qualified entities interested in providing audit services in connection with Utilities (electricity, natural gas, heating oil) and Telecommunications (telephone, mobile phone and data). Proposers interested in providing these services are invited to respond to this request.

The purpose of this Request for Proposals (“RFP”) is designed to secure audit services from a qualified entity that will analyze the County’s past invoices from vendors who provided utilities and telecommunications services to the County. The qualified entity will review invoices from electricity, natural gas, heating oil, and telecommunications vendors (telephone, mobile phone and data) that were previously paid by the County.

The County reserves the right to amend this RFP. The County reserves the right to reject any or all of the proposals, or any part thereof, submitted in response to this RFP, and reserves the right to waive formalities, if such action is deemed to be in the best interest of the County. The County reserves the right to request additional information from any proposer. The County reserves the right to award negotiated contracts to one or more proposers, although the County strongly desires to award a contract to a single entity for all of the requested services.

This RFP is not intended and shall not be construed to commit the County to pay any costs incurred in connection with any proposal or to procure or contract with any firm.

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, citizenship status or any other status protected by New York State and Federal laws.

II. PROPOSAL PROCEDURES

A. ANTICIPATED SCHEDULE OF PROPOSAL

The following schedule is for informational purpose only. The County reserves the right to amend this schedule at any time.

Issue RFP:	August 4 th 2014
Proposals Due:	September 15th
Selection Made:	Approximately November 1 st 2014
Contract Signed:	Following all necessary County approvals

B. GENERAL REQUIREMENTS

1. Each proposal shall be prepared simply and economically avoiding the use of elaborate promotional materials beyond what is sufficient to provide a complete, accurate and reliable presentation.
2. One (1) original and three (3) copies shall be submitted in addition to an electronic copy. Proposals MUST be signed. Unsigned proposals will be rejected.
3. Submission of the proposals shall be directed to:

Michael Breeden
Chief Information Officer
Division of Information and Support Services
95 Franklin Street, Suite 1500
Buffalo, New York 14202

All proposals must be delivered to the above office on or before September 15, 2014 at 4:00 P.M. Proposals received after the above date and time will not be considered. The County is under no obligation to return proposals.

4. Requests for clarification of this RFP must be written and submitted to Michael Breeden, Chief Information Officer, Division of Information and Support Services, 95 Franklin Street, Suite 1500, Buffalo, New York 14202 or Michael.Breeden@erie.gov no later than 12:00 noon on August 25, 2014. Formal written responses will be distributed by the County on or before September 5, 2014. NO COMMUNICATIONS OF ANY KIND WILL BE BINDING AGAINST THE COUNTY, EXCEPT FOR THE FORMAL WRITTEN RESPONSES TO ANY REQUEST FOR CLARIFICATION.
5. Proposal finalists may be required to give an oral presentation to the County to clarify or elaborate on the written proposal. Those proposers will be notified to arrange specific times.
6. 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.

C. COST/FEES

As compensation, the selected proposer will receive a percentage of the money refunded to Erie County. If no savings are realized, there will be no payment made to the selected proposer. Also, no fees will be paid on future savings; the County will not consider any proposal responses that include fees paid on future savings. No upfront fees will be paid. The only compensation for work performed shall be based on the percentage of any refund to Erie County if refunds are received. The proposer is only entitled to a percentage of the monies that it discovers on its own.

The proposer will not be entitled to money refunded solely through audits made internally, or audits made by the County, the County Comptroller, or the State Comptroller, or by any other entity besides the proposer.

All proposers shall submit the completed Cost Proposal Form attached hereto as Schedule "A"

III. SCOPE OF PROFESSIONAL SERVICES REQUIRED

A. QUESTIONS

Responses to this RFP should address the following questions:

1. **Experience.**
Please describe the proposer's history and experience with conducting audit services for/of utilities and telecommunications services, including for municipal governments.
2. **Personnel.**
Please provide an organizational chart by position of personnel who would be assigned to providing audit services, including information about their relevant experience and abilities. Please indicate the number of personnel assigned to the County.
3. **References.**
Identify three (3) active clients that the County can contact as references. In addition, identify one (1) former governmental client who departed from your services within the past 12 months. For each reference, include the name, title, address and phone number of the appropriate business contact.
4. **Conflicts.**
Please identify any actual or potential conflicts of interest which may present themselves in the event that the proposer is selected to provide services to the County. Further, please advise how such conflicts would be resolved.

B. SPECIFICATIONS

The selected proposer to whom the contract is awarded shall enter into a contract with the County to perform the services described herein. These specifications shall be incorporated in and become a part of the final contract. These proposal specifications detail the minimum requirements for services sought. Any modifications, additions or enhancements to the program outlined should be clearly indicated and accompanied by a statement of explanation.

The following conditions apply to the contract as a whole:

1. The contract term shall be for 9 month term which is anticipated to commence December 1.
2. Payment for services shall be made monthly in arrears upon submission of a monthly invoice and upon the County's satisfactory receipt of revenue or reduced cost from the relevant utility or telecommunications providers. The contract will include a 90 day termination option with or without cause at the County's discretion. In addition, the contract may be cancelled by either party at the end of any contract year provided that

written notice of such cancellation is received by the other party no later than ninety (90) days prior to the end of such year.

The selected proposer shall:

1. Cooperate in any endeavor not only with County personnel but also with any designated representative duly appointed by the County.
2. Designate a senior employee or officer who shall be available to meet and consult with County representatives.
3. Defend, hold harmless, and indemnify the County of Erie against any and all liability, claims or damages resulting from any acts, negligence or malpractice of any person or persons who are officials, professionals, employees or persons affiliated with the selected proposer arising out of or from any services relating to this contract.
4. Procure insurance no later than fourteen (14) days after notice of award and maintain same, without interruption, for the duration of the contract, in the kinds and amounts specified at the time of award. Certificates of Insurance shall be furnished by the selected proposer.
5. The following executory clause shall be a part of any agreement entered into pursuant to this response:
 1. It is understood by the parties that this agreement shall be executory only to the extent of the monies available to the County of Erie and appropriated thereof, and no liability on account thereof shall be incurred by the County beyond the monies available and appropriated for the purpose thereof. It is understood that neither this contract nor any representation by any public employee or officer creates any legal or moral obligation to request, appropriate or make available monies for the purpose of the contract.
6. No assignment of any agreement pursuant to this response shall be made without prior approval in writing by the County Attorney.
7. In executing this response, the proposer affirms that all of the requirements of the specifications are understood and accepted by the proposer, and that the prices/data provided by the proposer include all required materials and services. The proposer has checked all of the response figures, and understands that the County will not be responsible for any errors or omissions on the part of the undersigned in preparing this response. Mistakes or errors in the estimates, calculations or preparation of the response shall not be grounds for the withdrawal or correction of the response.

TECHNICAL SPECIFICATION OF WORK TASKS

The following represents the Technical Specifications for the work required under each Work Task. Should a proposer wish to expand the scope of any Work Task, that additional scope of work should be noted in the response as an addendum. The Cost Proposal Form (Schedule "A") shall be submitted based on the following Technical Specifications.

1. UTILITIES (natural gas, electricity and heating fuel oil) AUDIT SERVICES:

Review recent billings from service providers to determine if the County was billed properly. This shall include a review of supply and delivery invoices. Factors to be considered shall include (but not be limited to): tariffs and/or rate classifications, contracts, demonstration of meter failures or erroneous meter readings, effecting limitations on undercharges related to time bar issues, improper billing due to failure to comply with Public Service Commission regulations,

failure to migrate rate or improper migration of rate related to power usage changes, improper application and calculations of gross receipts or other revenue surcharges, residential versus commercial rate interpretations.

Perform physical inventories as required.

Document and prepare the necessary evidence of claims. Include any interest fees that may be applicable.

Negotiate with the service provider for refunds and/or savings should funds be owed to the County. If necessary, the selected proposer will submit and present the case to the Public Service Commission.

Verify accuracy of the amount of the refund.

Confirm errors are corrected in future billings.

** The County receives heating services for certain downtown office buildings from the City of Buffalo through its "district heat" program. The proposer will audit and analyze the district heating invoices from the City of Buffalo and determine the appropriateness of the bills and charges. As necessary, the proposer will challenge and interact with the City of Buffalo on behalf of the County. **

2. TELECOMMUNICATIONS AUDIT SERVICES:

The selected proposer will audit, including but not limited to, the following types of services:

- service order charges
- installation charges
- monthly access line charges
- message unit charges
- toll charges
- local exchange carrier's discount packages
- operator surcharges and rates
- calling card surcharges and rates
- 800 service charges
- Data communication equipment
- WATS charges
- incorrectly charged local directory assistance charges
- incorrectly charged State and Federal taxes
- usage charges
- Data networks
- long distance directory assistance charges
- incorrectly charged State and Federal taxes
- all the tariff elements which make up monthly line charges
- maintenance associated with all elements that make up the monthly charges
- 911 surcharges collections
- PBXs
- cellular services

- air cards

Review recent billings from service and equipment providers to determine if the County was billed properly. Categories of network services to be considered shall include (but not limited to): switched voice services provided by local carriers and long distance companies, non-switched voice and data communication lines and circuits, maintenance services and leased and rented voice and data communications equipment.

The methodology for conducting telecommunications billing audits should include the following summary steps:

- Acquire and review all customer service records (CSRs) and other invoices to ensure their compliance with tariffs on file with appropriate State Public Utility/Service Commissions
- Review all current monthly charges rendered by vendors and carriers to identify discrepancies
- Review previously billed recurring and non-recurring charges rendered by the local regulated utility
- Conduct a physical inventory of all desired County of Erie sites specified in its agreement with the selected proposer to verify the validity of the billing of all voice and data facilities, such as leased telephone instruments, devices or ancillary equipment, telephone lines, private lines, data circuits and equipment, and leased equipment not in use

The selected proposer shall determine the amount of any over-billing or under-billing and confirm that all erroneous charges are removed from future billing.

Document and prepare the necessary evidence of claims. Include any interest fees that may be applicable.

Negotiate with the service provider for refunds and/or savings should funds be owed to the County.

Verify accuracy of the amount of the refund.

Confirm errors are corrected in future billings

Create and provide an inventory of network equipment and services. The inventory will be collected as a database and the database will be provided to Erie County at the end of each audit.

IV. 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, the Erie County Fiscal Stability Authority, and 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 an 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

- Evaluation criteria are not necessarily listed in order of importance. The County reserves the right to weigh its evaluation criteria in any manner it deems appropriate.

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 the Proposal Certification attached hereto. 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 negotiated by the County of Erie and the successful Contractor and will not be binding until signed by both parties and, if necessary, approved by the Erie County Legislature, the Erie County Fiscal Stability Authority 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.

The term of the contract shall be for a 9 month period which is anticipated to commence December 1, 2014.

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 Contractor agrees:

(a) that except for the amount, if any, of damage contributed to, caused by or resulting from the negligence of the County, the Contractor 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 Contractor or third parties under the direction or control of the Contractor; 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 that it has applicable insurance coverages in the types and amounts as described in Schedule “B”, with the exception of professional liability insurance coverage in which the successful proposer will be required to provide proof of coverage in an amount no less than three million (\$3,000,000) dollars per occurrence and aggregate.

Insurance coverage in amount and form shall not be deemed acceptable until approved by the County Attorney.

RECORDS

All records compiled by the proposer 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 proposer 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 proposer 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.

PROPOSER CERTIFICATION

The undersigned agrees and understands that this proposal and all attachments, additional information, etc. submitted herewith constitute merely an offer to negotiate with the County of Erie and is NOT A BID. Submission of this proposal, attachments, and additional information shall not obligate or entitle the proposing entity to enter into a service agreement with the County of Erie for the required services. The undersigned agrees and understands that the County of Erie is not obligated to respond to this proposal nor is it legally bound in any manner whatsoever by the submission of same. Further, the undersigned agrees and understands that any and all proposals and negotiations shall not be binding or valid against the County of Erie, its directors, officers, employees or agents unless an agreement is signed by a duly authorized officer of the County of Erie and, if necessary, approved by the Erie County Legislature and Erie County Fiscal Stability Authority and the Office of the County Attorney.

It is understood and agreed that the County of Erie reserves the right to reject consideration of any and all proposals including, but not limited to, proposals which are conditional or incomplete. It is further understood and agreed that the County of Erie reserves all rights specified in the Request for Proposals.

It is represented and warranted by those submitting this proposal that except as disclosed in the proposal, no officer or employee of the County of Erie is directly or indirectly a party to or in any other manner interested in this proposal or any subsequent service agreement that may be entered into.

Proposer Name

By: _____
Name and Title

SCHEDULE "A"
COST PROPOSAL FORM

UTILITIES (natural gas, electricity and heating fuel oil) AUDIT SERVICES:

- % of monetary refunds realized per fiscal year up to \$10,000**
- % of monetary refunds realized per fiscal year from \$10,001 to \$20,000**
- % of monetary refunds realized per fiscal year up to \$20,001 to \$30,000**
- % of monetary refunds realized per fiscal year up to \$30,001 to \$40,000**
- % of monetary refunds realized per fiscal year up to \$40,001 to \$50,000**
- % of monetary refunds realized per fiscal year up to \$50,001 to \$100,000**
- % of monetary refunds realized per fiscal year over \$100,000**

TELECOMMUNICATIONS AUDIT SERVICES:

- % of monetary refunds realized per fiscal year up to \$10,000**
- % of monetary refunds realized per fiscal year from \$10,001 to \$20,000**
- % of monetary refunds realized per fiscal year up to \$20,001 to \$30,000**
- % of monetary refunds realized per fiscal year up to \$30,001 to \$40,000**
- % of monetary refunds realized per fiscal year up to \$40,001 to \$50,000**
- % of monetary refunds realized per fiscal year up to \$50,001 to \$100,000**
- % of monetary refunds realized per fiscal year over \$100,000**

SCHEDULE "B"

STANDARD INSURANCE PROVISIONS