

**ERIENET LOCAL DEVELOPMENT
CORPORATION
REQUEST FOR PROPOSALS (RFP)
PROPOSALS FOR POLE MOUNTED
TELECOMMUNICATION CABINETS**

RFP #: 2023-020VF

**RFP DATE: FEBRUARY 23, 2023
DUE DATE: MARCH 17, 2023**

**ERIENET LDC
EDWARD A. RATH COUNTY OFFICE BUILDING
95 FRANKLIN STREET
BUFFALO, NEW YORK 14202
10TH FLOOR**

INQUIRIES AND PROPOSALS SHOULD BE DIRECTED TO:

COURTNEY ITALIA: ERIENETLDC@ERIE.GOV

1. GENERAL INFORMATION

ErieNET of Erie, New York (“County”) is seeking proposals from a qualified supplier of pole mounted outside plant telecommunications cabinets for a middle mile dark fiber optic network for use by Erie County governments, companies, internet service providers, and other stakeholders on a municipally-owned Open Access Network (“OAN”).

The project is being funded by ErieNET LDC, an Erie County local development corporation (LDC) charged with the construction, operation, sales, and marketing of the ErieNET network.

ErieNET was formed as a Local Development Corporation in the State of New York. The mission of ErieNET is to deliver affordable broadband access to unserved areas; improve services in underserved communities; and enable world-class broadband investment and deployment county-wide. Through the development of a state-of-the-art fiber optic network, ErieNET will enhance economic development opportunities, promote better quality of life for Erie County residents, and position Erie County as a globally competitive community.

2. GENERAL INFORMATION AND REQUIREMENTS

Erie County is seeking a single fiber optic cable supplier for approximately 400 miles of middle mile open access network.

- A. Firms are encouraged to include Certified Minority Owned and Women Owned Business Enterprises (MBE/WBE) in their teams in order to meet goals of 15% MBE and 5% WBE participation. Certified MBE/WBE proposers should include the Erie County certification letter with the proposal.

B. Schedule.

RFP Advertisement	Thursday, February 23, 2023
RFP Questions Due	Monday, March 6, 2023
RFP Questions Response Due	Thursday, March 9, 2023
RFP Due Date	Friday, March 17, 2023

Proposals must be submitted no later than 4:00 pm on March 17, 2023.

- C. **Inquiries.** Inquiries concerning this RFP should be mailed to:

Courtney Italia
ErieNET LDC
95 Franklin Street, 10th Floor
Buffalo, New York 14202

D. **Conditions of Proposal.** All costs incurred in the preparation of a proposal responding to this RFP will be the responsibility of the Offeror and will not be reimbursed by ErieNET.

E. **Instructions to Prospective Contractors/Submission of Proposals**

a. All firms wishing to participate in this process must register electronically to ErieNETLDC@erie.gov. All further information and contact from ErieNET will be sent electronically.

b. Your proposal should be addressed as follows:

Courtney Italia
ErieNET LDC
95 Franklin Street, 10th Floor
Buffalo, New York 14202

*****It is important that the Offeror's proposal be submitted in a sealed envelope clearly marked in the lower left-hand corner with the following information:***

Request for Proposal

[TIME] [DATE]

SEALED PROPOSAL for Pole Mounted Telecommunication Cabinets

***** Proposals may be emailed to ErieNETLDC@erie.gov with subject line reading "Request for Proposal for Pole Mounted Telecommunication Cabinets."*** Failure to do so may result in premature disclosure of your proposal. It is the responsibility of the Offeror to ensure that the proposal is received by ErieNET, by the date and time specified above. Late proposals will not be considered.

c. Proposals shall be emailed to ErieNETLDC@erie.gov, and are required to be submitted by 12:00 pm on **March 17, 2023**. There will not be a public opening of Vendor proposals.

d. Proposers **MUST** sign the Proposal Certification attached hereto as Schedule "A". Unsigned proposals will be rejected.

3. RESPONDENTS

A. **Right to Reject.** ErieNET reserves the right to reject any and all proposals received in response to this RFP. A contract for the accepted proposal will be drafted based upon the factors described in this RFP.

B. **Small and/or Minority-Owned Businesses.** Efforts will be made by ErieNET to utilize small businesses, women and/or minority owned businesses.

C. **Notification of Award.** It is expected that a decision selecting the successful

Firm will be made within four (3) weeks of the closing date for the receipt of proposals. Upon conclusion of final negotiations with the successful Offeror, all Offerors submitting proposals in response to this Request for Proposal will be informed, in writing, of the name of the successful consultant.

- D. No proposal will be accepted from, nor any agreement awarded to any proposer that is in arrears related to any debt or in default of any obligation owed to the LDC or Erie County. Additionally, no agreement will be awarded to any proposer that has failed to satisfactorily perform pursuant to any prior agreement with the LDC or Erie County.
- E. ErieNET 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.
- F. ErieNET reserves the right to amend this RFP. ErieNET reserves the right to reject any or all 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 ErieNET. ErieNET reserves the right to request additional information from any proposer.

4. SCOPE OF SERVICES

This Scope of Work has been prepared as a proposal guideline. It is the respondent's responsibility to propose a scope that the respondent feels would be necessary to complete the project.

The following is a description of the Services to be performed and completed by the successful Proposer:

A. Scope (*Tasks include, but are not limited to*):

The material to be supplied under the Contract, in accordance with the Contract Documents, consists of supplying and delivering all materials, equipment, labor and incidentals necessary or convenient for the procurement of outside plant pole mounted telecommunication cabinets and carry out all of the duties and obligations imposed upon the Contractor by the RFP, and RFP Specifications.

The main features of the work shall include, but not be limited to the following:

1. Provide labor, materials, equipment, and services as specified.
2. All equipment shall be new and UL listed.
3. All materials furnished and all work performed shall comply with all State, County and Local Codes and ErieNET LDC contract terms and conditions.
4. All equipment and work shall comply with FCC regulations.

5. All material will be shipped and delivered to ErieNET designated storage facilities.

B. Special Project Schedule/Phasing

Cabinet quantities will be ordered according to the Owner's construction schedule. Initial orders to be released Q1 2023 with delivery by June 30, 2023. Subsequent orders and quantities shall be dictated by construction progress with the last of cabinet orders issued by Q2 2024 with final delivery by Q4 2024. Shipment and delivery will be Free On Board (FOB) to sites designated within Erie County, NY.

C. Delivery of Materials

The Contractor shall deliver materials and equipment to site(s) designated by the Owner. Storage and security for stored materials shall be the responsibility of the Owner.

5. GENERAL PROPOSAL REQUIREMENTS

1. **Manufacturer:**

American Products, or equivalent manufacturer.

2. **Product:**

AP Mini Fort or equivalent product

Quantity (22) - 46"X24"X18" 24RU Enclosure,

Enclosure is 46" tall x 24" wide x 18" deep, 24RU of equipment rack space.

Standard powder coating is light texture beige.

Enclosure includes factory installed items below:

- Designed to NEMA 3R standards
- UL Listed
- RoHS Compliant
- (2) Pole Mount Brackets
- Adjustable 19" rack rails (1 set)
- 5-position aluminum grounding terminal
- (1) S/S ¼ turn latch that is pad lockable
- Base has (4) 1.0" dia knockouts for cable entrance
- Enclosure utilizes all S/S hardware
- Includes door latch tool

The (22) enclosures come in (4) configurations:

- 1) Quantity (1): 288-288-288 Config: 864 SC-APC connectors with 100-ft 864-fiber armored pigtail(s)
- 2) Quantity (8): 288-288-144 Config: 720 SC-APC connectors with 100-ft 720-fiber armored pigtail(s)

- 3) Quantity (1): 288-144-144 Config: 576 SC-APC connectors with 100-ft 576-fiber armored pigtail(s)
- 4) Quantity (12): 144-144-144 Config: 432 SC-APC connectors with 100-ft 432-fiber armored pigtail(s)

Quantities are estimated, with actual quantities determined upon individual orders.

6. PROCUREMENT EVALUATION & SELECTION PROCESS

This contract will be awarded in accordance with the Competitive Proposal procurement methods per ErieNET's Procurement Policy. The intent of this RFP is to award a contract to the responsible firms that qualifications and other factors considered, are most advantageous to ErieNET, based on the opinion of ErieNET's Board members. Only ErieNET is in the position to determine its own best interest; therefore, ErieNET shall be the sole and final judge in determining the quality and appropriateness of candidates.

All suppliers and vendors should understand that ErieNET is committed to an open, fair, and transparent selection process. All RFP submissions will be reviewed, objectively scored, and ranked. Short listed companies may be interviewed prior to recommendation for selection.

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

- a) Proposer's demonstrated capability to provide the material and services.
- b) Proposer's experience to perform the proposed services.
- c) Proposer's commitment to including Certified Minority and Women Owned Business Enterprises (MBE/WBE) in their teams in order to meet Erie County's goals of 15% MBE and 5% WBE participation. Certified MBE/WBE proposers should include the Erie County certification letter with the proposal.
- d) Proposer's financial ability to provide the services.
- e) Evaluation of the proposer's cost proposal and unit pricing. It should be noted that while price is not the only consideration, it is an important one.
- f) A determination that the proposer has submitted a complete and responsive proposal as required by this RFP.
- g) An evaluation of the proposer's submit product specifications and supporting information meets the RFP technical specifications and delivery schedule.
- h) The proposer's presentation at and the overall results of any interview conducted with the proposer.
- i) Proposers must be concise as possible with their responses.

ErieNET may develop a short list of proposals, and interviews/presentations may be required. Scoring and ranking will include the following factors:

- A. VALUE (40%)
1. Equipment Costs and Unit Pricing
 2. Contractor Warranty
 3. Manufacturer Warranty
- B. PERFORMANCE (20%)
1. Completeness and compliance with the RFP documents, including all required submittal information and proposal forms.
 2. References with contact information for projects of similar scope and solution completed within last 3 years
 3. Ability to meet or exceed specifications
 4. Distinguishing features of proposed solution
 5. Ability to demonstrate vendor financial viability.
- C. Shipping & Delivery Schedule (20%)
- D. MWBE GOALS (20%)

The highest-ranking firm after scoring and interviews will be recommended to the ErieNET Board of Director for authorization to enter into contract. Scores and ranking of all firms will be provided to the ErieNET LDC for a final award determination.

7. 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 ErieNET LDC, 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 ErieNET for the required services;
- by submitting a proposal, the proposer agrees and understands that ErieNET 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 ErieNET, its officers, employees or agents, shall not be binding against ErieNET, its 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 ErieNET LDC Board.

- In addition to the foregoing, by submitting a proposal, the proposer also understands and agrees that ErieNET 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 ErieNET and not necessarily on the basis of price or any other single factor;
 - To interview the proposer(s);
 - To request or obtain additional information ErieNET deems necessary to determine the ability of the proposer; and
 - 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 ErieNET for the expenses of preparation. ErieNET 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, ErieNET 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.
- ErieNET 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.

CONTRACT

After selection of the successful proposer, a formal written contract will be prepared by ErieNET and will not be binding until signed by both parties and, if necessary, approved by the ErieNET LDC Board. NO RIGHTS SHALL ACCRUE TO ANY PROPOSER BY THE FACT THAT A PROPOSAL HAS BEEN SELECTED BY ERIENET FOR SUBMISSION TO THE ERIENET LDC BOARD FOR APPROVAL. THE APPROVAL OF SAID LDC BOARD MAY BE NECESSARY BEFORE A VALID AND BINDING CONTRACT MAY BE EXECUTED BY ERIENET.

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 ErieNET:

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

- (a) that except for the amount, if any, of damage contributed to, caused by or resulting from the negligence of ErieNET, the Vendor shall indemnify and hold harmless ErieNET, 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 Vendor or third parties under the direction or control of the Vendor; 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 ErieNET, the proposer will be required to provide proof of the insurance coverage described in Schedule “B”.

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

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 ErieNET LDC, 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 ErieNET 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 ErieNET or County of Erie. Further, all proposers must disclose the name of any ErieNET or 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 ErieNET. 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 ErieNET considers proper under the law. If ErieNET enters into an agreement with this proposer, ErieNET 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.”

ErieNET assumes no liability for disclosure of information so identified, provided that ErieNET 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 ErieNET, 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 ErieNET have to accept or reject the proposal under the terms proposed). Such period shall not be less than 180 days from the proposal date.

SCHEDULE "A"

PROPOSER CERTIFICATION

UNIT PRICE FORM

- A. For materials to be supplied, the following unit prices will be established as the limitations for such items, and the unit prices shall minimally include profit, overhead costs, material, incidental materials and hardware, labor, and services of each and every action or component necessary or required to complete the delivery of material in accordance with the project specifications requirements for material, quality, and function.
- B. PROVIDE pole mounted telecommunication cabinets. Unit Pricing on the table below.
Provide Pole Mounted Cabinet Enclosures.

ITEM	DESCRIPTION	UNIT	UNIT PRICE
A-1	46"X24"X18" 24RU ENCLOSURE	22	\$
	(4) ENCLOSURE CONFIGURATIONS		
B-1	288-288-288 Config: 864 SC-APC connectors with 100-ft 864-fiber armored pigtail(s)	1	\$
B-2	288-288-144 Config: 720 SC-APC connectors with 100-ft 720-fiber armored pigtail(s)	8	\$
B-3	288-144-144 Config: 576 SC-APC connectors with 100-ft 576-fiber armored pigtail(s)	1	\$
B-4	144-144-144 Config: 432 SC-APC connectors with 100-ft 432-fiber armored pigtail(s)	12	\$

The undersigned agrees and understands that this proposal and all attachments, additional information, etc. submitted herewith constitute merely an offer to negotiate with ErieNET 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 ErieNET for the required services. The undersigned agrees and understands that ErieNET 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 ErieNET, its directors, officers, employees or agents unless an agreement is signed by a duly authorized officer of ErieNET and, if necessary, approved by the ErieNET LDC Board.

It is understood and agreed that ErieNET 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 ErieNET 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 ErieNET 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 "B"

STANDARD INSURANCE PROVISIONS

INSTRUCTIONS FOR ERIENET LDC STANDARD INSURANCE CERTIFICATE

- I. Insurance shall be procured and certificates delivered before commencement of work or delivery of merchandise or equipment.
- II. **CERTIFICATES OF INSURANCE**
 A. Shall be made to the "ErieNET LDC, 95 Franklin St, Buffalo NY, 14202"
 B. Coverage must comply with all specifications of the contract.
 C. Must be executed by an insurance company, agency or broker, which is licensed by the Insurance Department of the State of New York. If executed by a broker, notarized copy of authorization to bind or certify coverage must be attached.
- III. Forward the completed certificate to: ErieNET LDC, responsible for entering into the agreement for construction, purchase, lease or service.
- IV. Minimum coverage with limits are as follows:

Vendor Classification	A Construction and Maintenance	B Purchase or Lease of Merchandise or Equipment	C Professional Services	D Property Leased To Others Or Use Of Facilities Or Grounds	E Concessionaires Services	F Livery Services	G All Purposes Public Entity Contracts
Commercial Gen. Liab.	\$1,000,000 per occ.	\$1,000,000 CSL	\$1,000,000 CSL	\$1,000,000	\$1,000,000 CSL	\$1,000,000	\$1,000,000 CSL
General Aggregate	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000
Products Completed Operations Liability	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000
Blanket Broad Form Contractual Liability	INCLUDE						
Contractual Liability		INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUDE
Broad Form P.D.	INCLUDE						
X.C.U. (explosion, collapse, Underground)	INCLUDE						
Liquor Law				INCLUDE	INCLUDE		

Auto Liab.	\$1,000,000 CSL		\$1,000,000 CSL	\$1,000,000 CSL	\$1,000,000 CSL	\$1,000,000 CSL	\$1,000,000 CSL
Owned	INCLUDE		INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUDE
Hired	INCLUDE		INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUDE
Non-Owned	INCLUDE		INCLUDE	INCLUDE	INCLUDE	INCLUDE	INCLUDE
Excess/Umbrella Liab.	\$5,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$5,000,000	\$1,000,000
Worker's Compensation & Employer's Liability	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTORY
Disability Benefits	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTORY	STATUTORY
Professional Liability			\$5,000,000				
ErieNET, To Be Named Additional Insured	Gen. Liab., Auto Liab., & Excess	Broad Form Vendors May Be Required	Gen. Liab., Auto Liab., & Excess	Gen. Liab., Auto Liab., & Excess	Gen. Liab., Auto Liab., & Excess	Gen. Liab., Auto Liab., & Excess	Gen. Liab., Auto Liab., & Excess

- V. Construction contracts require excess Umbrella Liability limits of \$5,000,000.
- VI. Coverage must be provided on a primary-noncontributory bases
- VII. Designated Construction Project General Aggregate Limit Per Project Endorsement CG 25 03 is required.
- VIII. In the event the concessionaire is required to have a N.Y.S. license to dispense alcoholic beverages an endorsement for liquor liability is required.
- IX. Waiver of Subrogation: Required on all lines unless noted.
- X. Transportation of people in buses, vans or station wagons requires \$5,000,000 excess liability.
- XI. Workers Compensation: State Workers' Compensation/Disability Benefits Law.

Use Applicable Certificates Below:

Workers Compensation Forms

CE-200	Exemption
C105.2	Commercial Insurer
SI-12	Self-Insurer
GSI-105.2	Group Self Insured
U-26.3	New York State Insurance Fund

DBL (Disability Benefits Law) Forms

CE-200	Exemption
DB-120.1	Insurers
DB-155	Self-Insured

- XII. The "ACORD" form certificate may be used in place of ErieNET Standard Insurance Certificate, provided that all of the above referenced requirements are incorporated into the "ACORD" form certificate.

