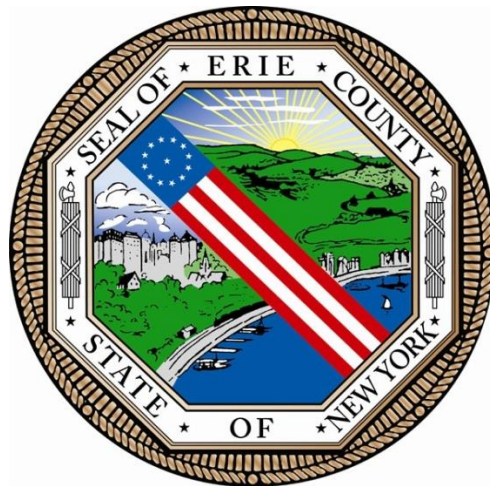


May 2018

A Report on Advertising Costs for Erie County



STEFAN I. MYCHAJLIW
ERIE COUNTY COMPTROLLER

HON. STEFAN I. MYCHAJLIW
ERIE COUNTY COMPTROLLER'S OFFICE
DIVISION OF AUDIT & CONTROL

**95 FRANKLIN STREET
BUFFALO, NEW YORK 14202**

May 4, 2018

Erie County Legislature
92 Franklin Street 4th Floor
Buffalo, New York 14202

Dear Honorable Members:

The Erie County Comptroller's Office has completed a report on advertising costs for Erie County.

Our objectives were to:

- Quantify the costs of publication of required notices.
- Understand the reasons for publication.
- Make recommendations as to how to reduce costs associated with publication of notices.

To accomplish these objectives, we reviewed spending for publication of required notices, the laws related to publication and trends in media usage. In pursuit of these objectives, we did not determine if publication of notices met the legal requirements for such notices. Such a determination would be more appropriate as the subject of a full audit.

As a result of our examination, we have made recommendations to reduce costs to Erie County taxpayers for publication of required notices.

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Notices Required for Publication

New York State law requires certain notices to be published in newspapers. Among these requirements affecting counties include local laws, notices and requests for proposals. However, there are many legal requirements for publication of notices.

According to New York State General Construction Law Section 60, for purposes of publication, a newspaper is “a paper of general circulation which is printed and distributed ordinarily no less frequently than once a week... which contains news, articles of opinion (as editorials), features, advertising, or other matter regarded as of current interest, [and] has a paid circulation....” The newspaper used for publication of county notices must be published, circulated, printed or distributed in the county.

According to County Law Section 214, the legislature shall annually designate at least two newspapers published within the county as official newspapers for the publication of all local laws, notices and other matters required by law to be published. In such designations consideration shall be given to those newspapers advocating the principles of the two major political parties into which the people of the state are divided and their general circulation throughout the county.”

Additionally, the legislature shall annually designate a newspaper to publish concurrent resolutions of the legislature. The members “representing respectively each of the two principal political parties into which the people of the state are divided, shall designate annually the newspaper published within the county to publish the concurrent resolutions of the legislature. Such designation shall be in writing and signed by a majority of the members representing each of said political parties. In making such a designation, consideration shall be given to the newspapers advocating the principles of such political party, the support of its nominees and the extent of the circulation in the county.”

New York State Election Law Section 4-120 directs that “[t]he board of elections shall publish once in each of the two weeks preceding a general election, or a special or village election conducted by the board of elections, a notice specifying the day of election, and the public officers to be voted for within such county, or any part thereof at such election. If constitutional amendments, or questions are to be submitted to the voters of the state, the notice shall state that fact and that a copy of each such amendment or question may be obtained at the board of elections, by any voter. Such publications shall be in two newspapers published within the county. If the county contains a city or cities, at least one of such newspapers shall be published in the city, or the largest city, if there be more than one.”

New York State Agriculture and Markets Law Section 303, concerning the creation of agricultural districts, directs that “notice shall be published in a newspaper having a general circulation within the proposed district and posted on the home page of the county’s website and shall be given in writing by first class mail to those municipalities whose territories encompasses the proposed district and any proposed modifications, owners of real property within such a

proposed district or any proposed modifications who are listed on the most recent assessment role, the commissioner and the advisory council on agriculture.”

The Erie County Tax Act Section 7-2.0 dictates that “[t]he commissioner of finance, upon receiving such rolls and warrants, shall cause to be published for not exceeding twenty insertions, in two or more daily newspapers published in the city of Buffalo, each having a daily average circulation of not less than fifty thousand, a notice that the tax rolls and warrants have been received by him and that all persons and corporations named therein are required to pay their taxes at his office on or before the fifteenth day of February next ensuing. Such notice shall incorporate the schedule of penalties herein provided.”

The Erie County Tax Act Section 7-2.0 further dictates that “[t]he commissioner of finance shall immediately after the first day in November in each year cause to be published twice each week for three successive weeks in two daily newspapers in the county of Erie printed in the English language and each having a daily circulation of over fifty thousand, a notice to the public and all persons interested, stating that on a day subsequent to the expiration of the said three weeks, and during the succeeding days, which dates shall be specified in such notice, he will sell tax certificates upon the real estate for which taxes are unpaid for the current year at his office in the city of Buffalo, to satisfy the taxes, fees, penalties, interest and charges which may be due thereon at the time of such sale, and that the tax rolls containing a description of all parcels so to be sold, together with the amount of taxes charged thereon, the name of the owner thereof if known, and if unknown, so marked “unknown,” will be open for inspection to any person applying therefore to the commissioner of finance.

According to General Municipal Law Section 103, “[a]dvertisement for bids and offer shall be published in the official newspaper or newspapers, if any, or otherwise in a newspaper or newspapers designated for such purpose and may be published in the procurement opportunities newsletter pursuant to article four-C of the economic development law. Such advertisement shall contain a statement of the time when and the place where all bids received pursuant to such notice will be publicly opened and read and where the identity of all offerers will be publicly disclosed, and the designation of the receiving device if the political subdivision or district has authorized the receipt of bids and offers in an electronic format.”

From the above citations, it is clear that there are many reasons county departments and offices publish notices in newspapers. The above citations are intended for inform of various requirements and is not an exhaustive list. The appropriate newspaper for publication is chosen at the time of required publication.

Examples of Notices

As outlined above, the required content for a published notice varies depending on the purpose and the legal requirements. The notices are printed in the classified sections of newspapers.

This is an example of a notice for a public hearing:

NOTICE OF PUBLIC HEARING
Please Take Notice that a meeting of the County Legislature of the County of Erie, New York, shall be held at Erie County Hall, 92 Franklin Street, 4th Floor, Buffalo, New York, in said County, on the 6th day of March, 2018, at 6 o'clock P.M., Prevailing Time, for the purpose of conducting a public hearing upon a proposed modification of plans for improvement of the facilities of Erie County Sewer District No. 8 in said County. The modification of plans for improvement of the facilities consists of upgrades to the filters, reactor tanks, piping, the physical plant, and energy improvements at the water resource recovery facility, collection system upgrades, and related engineering and administration costs, all as more fully described in the report and estimate of cost prepared by the County Engineers (Erie County Department of Environment and Planning) which has been filed with the County Legislature and which has been approved by the Erie County Sewer Agency, pursuant to a written report dated December 5, 2017.
Dated: Buffalo, New York,
February 15, 2018.
BY ORDER OF THE COUNTY
LEGISLATURE OF THE COUNTY
OF ERIE, NEW YORK
By: Robert M. Graber
Clerk, County Legislature

This is an example of a notice for a request for proposals:

**COUNTY OF ERIE
DEPARTMENT OF
SOCIAL SERVICES
95 FRANKLIN STREET
BUFFALO, NEW YORK**
County of Erie, New York
**RFP RELEASE
2018 SUMMER PRIMETIME
PROGRAMMING**
The Erie County Youth Bureau (ECYB) is pleased to announce its Request for Proposal (RFP) for 2018 funding of "Summer Primetime" programming on February 13th, 2018. Applications from eligible not-for-profit 501(c)(3) organizations & local youth bureaus will be accepted until March 13th at 5:00PM. Eligible programs promote positive youth development, addressing long-term juvenile delinquency prevention & summer learning loss within Erie County to youth ages 6-18 for a minimum of six weeks.
The application may be downloaded from the ECYB website or by contacting Ben Hillgas, Youth Bureau Director, at 716-923-4051 or benjamin.hillgas@erie.gov.
An open informational meeting will be held on February 27th, 2018 at 10:30AM at True Bethel Baptist Church, 907 E. Ferry St. Buffalo NY, 14211.
All correspondence, communications and/or contact with the County in regard to any aspect of this proposal shall be with the ECYB contact person listed on the specific RFP. Prospective proponents, 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.
Erie County reserves the right to reject any and all proposals and waive any informality.

This is an example of a notice to bidders:

LEGAL NOTICE

**COUNTY OF ERIE
NOTICE TO BIDDERS
2017 BRIDGE WASHING
VARIOUS BRIDGES
PROJ# FA-5761.31-17**

Department of Public Works, Division of Highways, seeking sealed bids for federal aid bridge washing construction services project. Sealed proposals must be received at the DPW, 95 Franklin St, Rm 1400, Buffalo, NY at 10 am EST, Thursday, November 30, 2017. Bid deposit of \$10,000.00 required. Minority Workforce goal, Apprenticeship & Davis Bacon Wage Rates required. Plans and additional bid submittal information on the Erie County website at: <http://www2.erie.gov/dpw> see On Line Bid Retrieval.

This is an example of a notice regarding a bond resolution:

LEGAL NOTICE Resolution No. 250

NOTICE

The resolution, a summary of which is published herewith, has been adopted by the County Legislature on the 7th day of December, 2017 and the validity of the obligations authorized by such resolution may be hereafter contested only if such obligations were authorized for an object or purpose for which the County of Erie, New York, is not authorized to expend money or if the provisions of law which should have been complied with as of the date of publication of this Notice were not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the publication of this Notice, or such obligations were authorized in violation of the provisions of the constitution.

KAREN M. McCARTHY,
Clerk of the County Legislature

**RESOLUTION NO. 250 OF 2017
BOND RESOLUTION DATED
DECEMBER 7, 2017**

BOND RESOLUTION OF THE COUNTY OF ERIE, NEW YORK, AUTHORIZING THE ISSUANCE OF \$2,800,000 BONDS OF THE COUNTY, OR SO MUCH THEREOF AS MAY BE NECESSARY, TO FINANCE THE COST OF AN INCREASE AND IMPROVEMENT OF THE FACILITIES OF ERIE COUNTY SEWER DISTRICT NO. 2; STATING THE ESTIMATED MAXIMUM COST THEREOF IS \$2,800,000, STATING THE PLAN OF FINANCING; PROVIDING FOR A TAX TO PAY THE PRINCIPAL OF AND INTEREST ON SAID BONDS; AND PROVIDING FOR REIMBURSEMENT BY ERIE COUNTY SEWER DISTRICT NO. 2 TO SAID COUNTY.

object or purpose: increase and improvement of facilities of Erie County Sewer District No. 2, consisting of improvements to the Big Sister Creek Water Resource Recovery Facility, improvements to the Sweetland Road Pumping Station and other pumping stations, and improvements to various collection system components; all as more fully described in the report and estimate of cost approved by the Board of Managers of the District on July 11, 2017 and filed with the County Legislature pursuant to Section 288 of the County Law

period of probable usefulness:
forty (40) years
amount of obligations to be issued:
\$2,800,000

A complete copy of the Bond Resolution summarized above shall be available for public inspection during normal business hours at the office of the Clerk of the Erie County Legislature, in Buffalo, New York.

Dated: December 7, 2017
Buffalo, New York

Official Newspapers in Erie County

In 2018, the Legislature selected as its official newspapers for the publication of local laws, notices and other matters the Buffalo Challenger Newspaper and the Amherst Bee. The legislature selected the North Buffalo Rocket and the East Aurora Advertiser as the official newspapers for concurrent resolutions.

For the years 2014 - 2017, the Legislature selected as its official newspapers for the publication of local laws, notices and other matters the Buffalo Challenger Newspaper and the Amherst Bee. The legislature selected the North Buffalo Rocket and the Grand Island Dispatch as the official newspapers for concurrent resolutions.

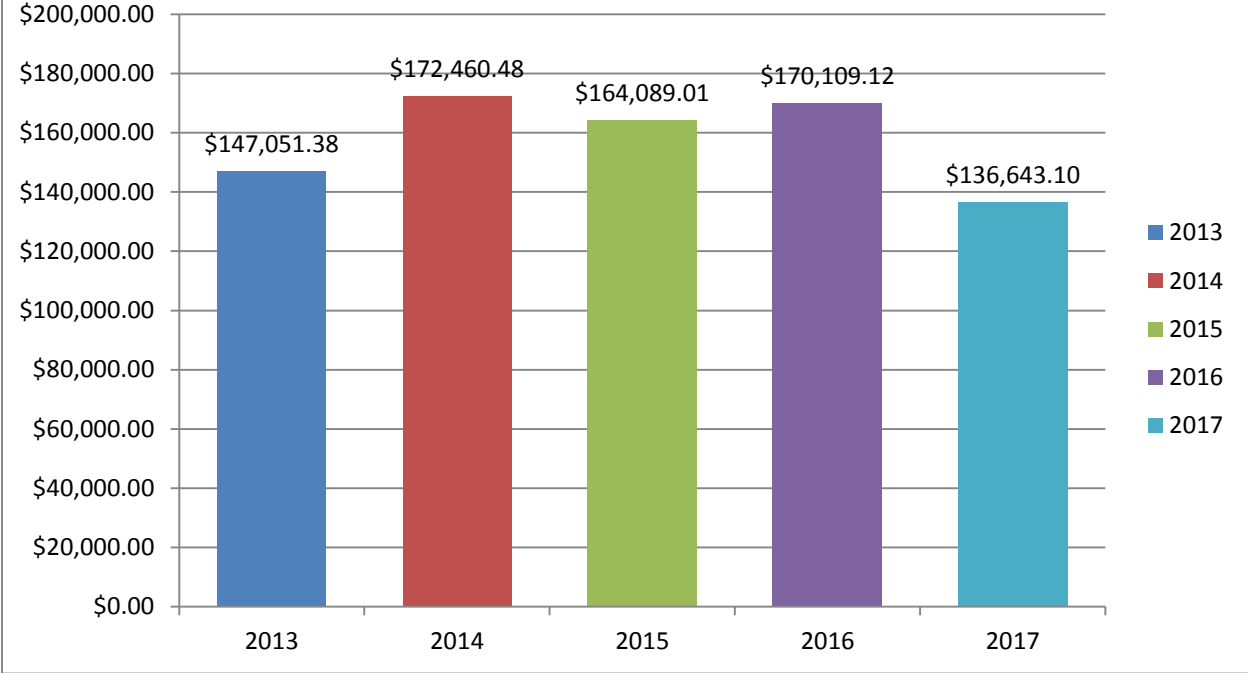
In 2013, the Legislature selected as its official newspapers for the publication of local laws, notices and other matters the Buffalo Challenger Newspaper and the Amherst Bee. The legislature selected the North Buffalo Rocket and the Orchard Park Bee as the official newspapers for concurrent resolutions.

In addition to the newspapers selected by the legislature, other newspapers are used for the publication of requests for proposals and other notices. The selection criteria depends on the enabling legislation requiring the publication of notice. In fact, the newspaper used most frequently for notices published by an office or department other than the legislature is the Buffalo News.

Cost of Publication of Notices

Erie County spends significant sums on publication of notices. For the years 2013 through 2017, the total amount spent on print media totaled \$790,353. This averages to \$158,071 per year.

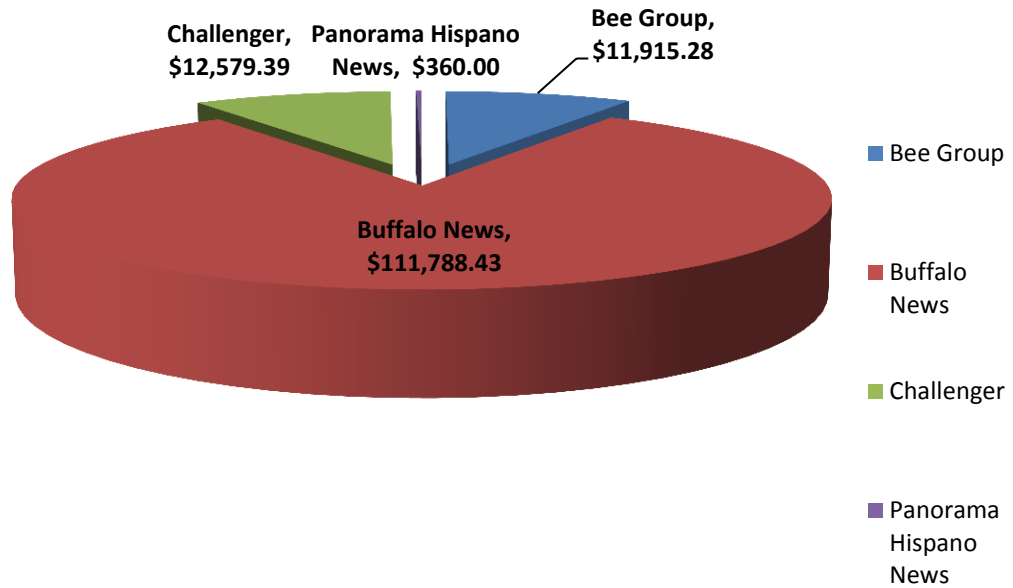
Total Annual Expenditure



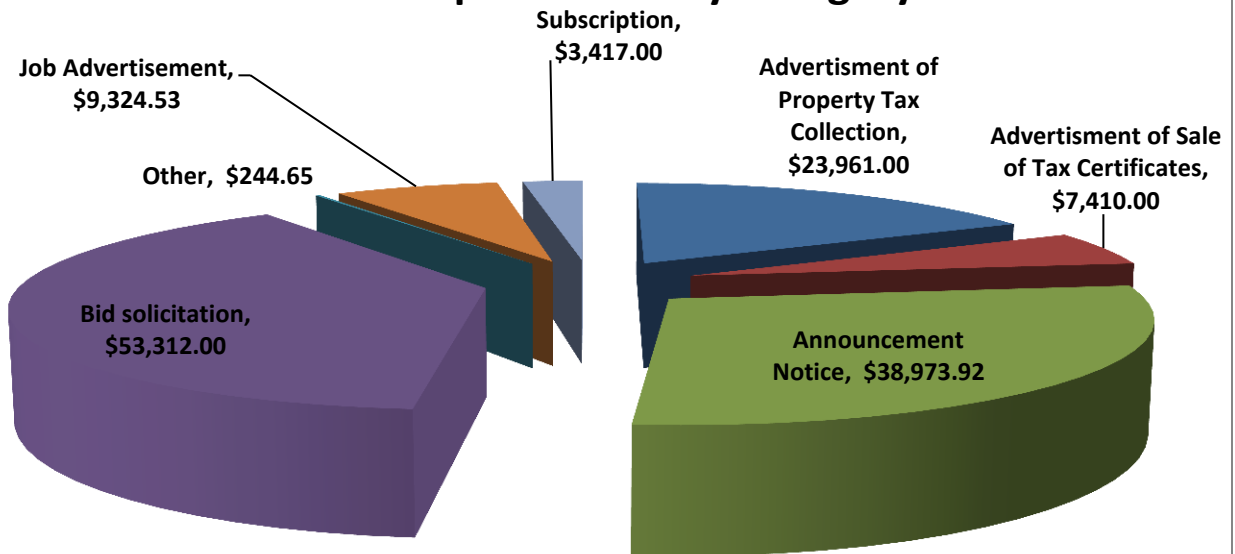
Most of this money is spent on advertisement of bid solicitations, property tax collection or other legally required announcements. About five percent of these funds are spent advertising job opportunities. About three percent of these funds are spent on subscriptions to publications where these notices are printed. These notices are typically printed in the classified section of the printed media.

The breakdown of expenditures by year are:

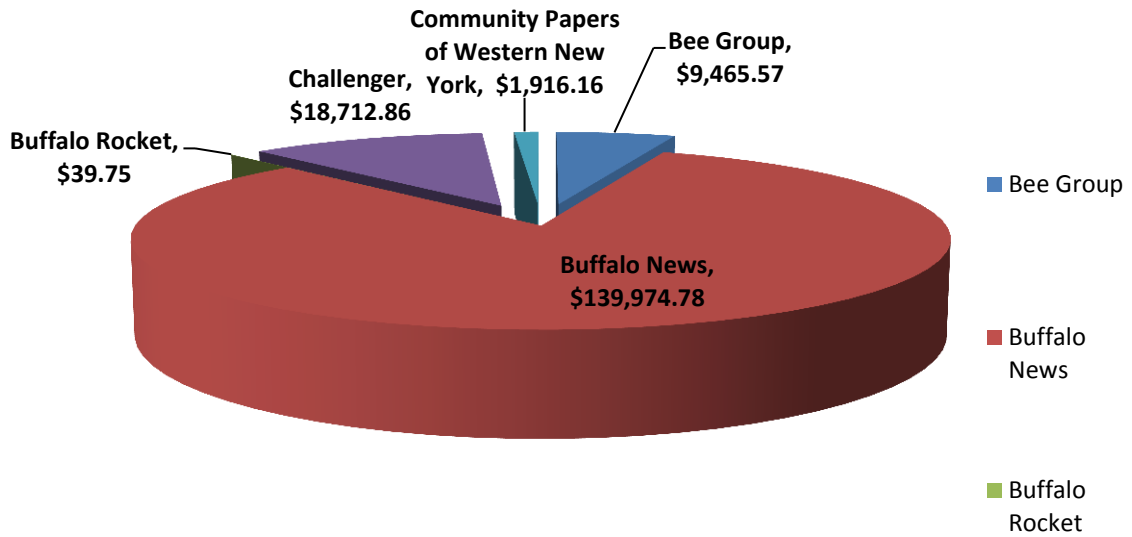
Expenditure by Vendor 2017



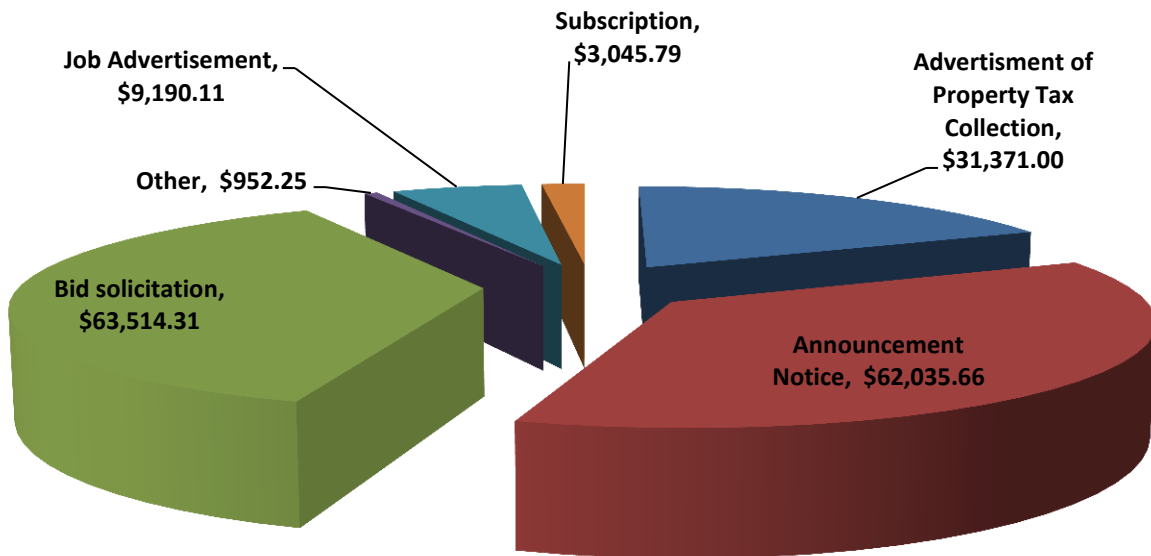
2017 Expenditures by Category



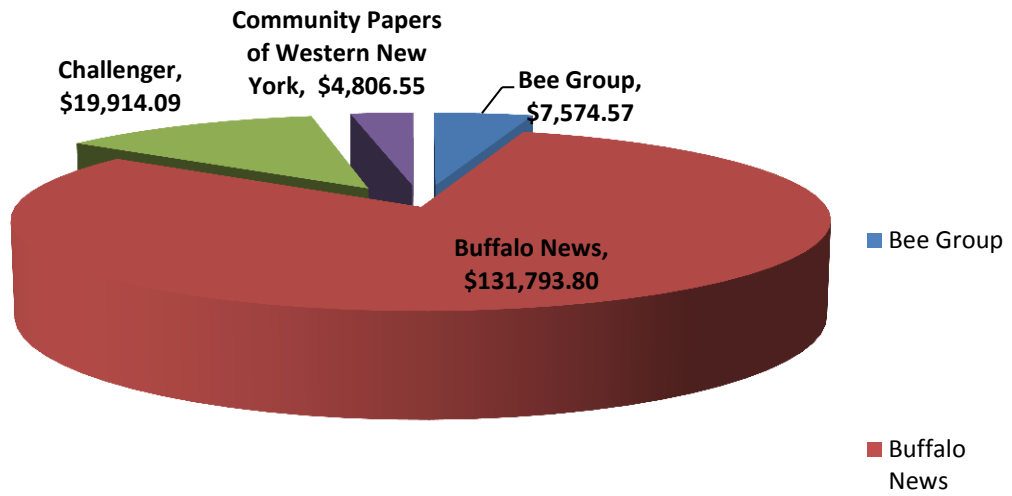
Expenditure by Vendor 2016



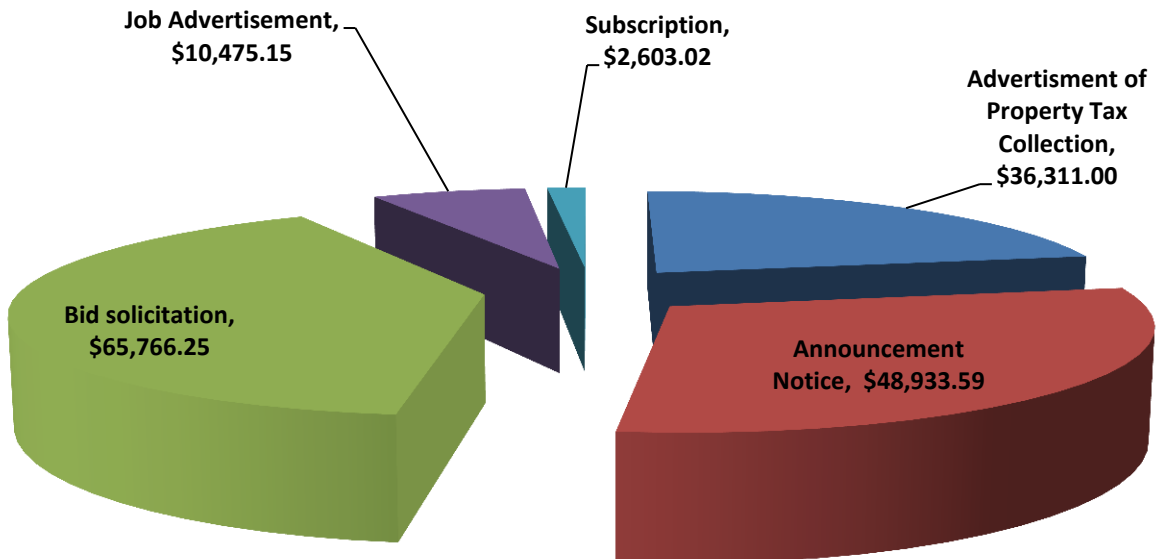
2016 Expenditures by Category



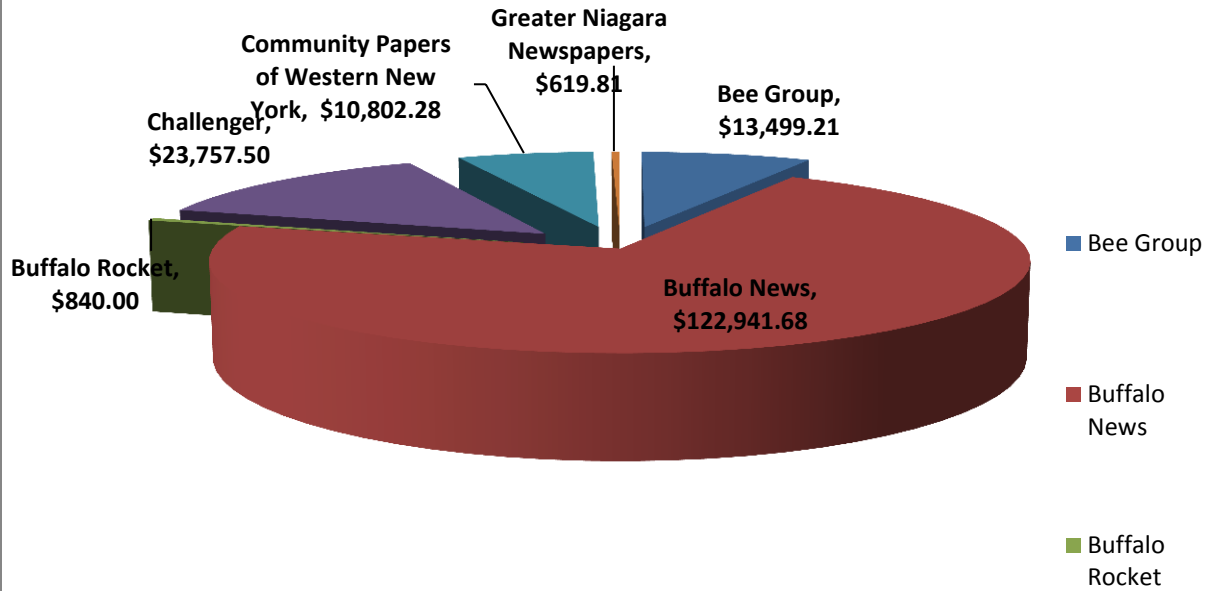
Expenditure by Vendor 2015



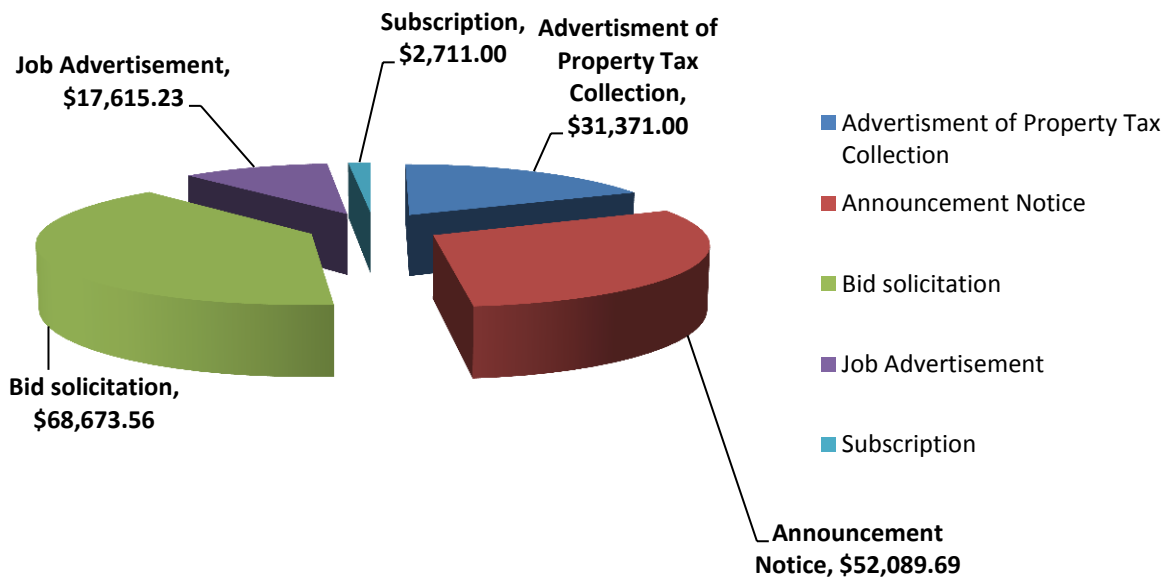
2015 Expenditures by Category



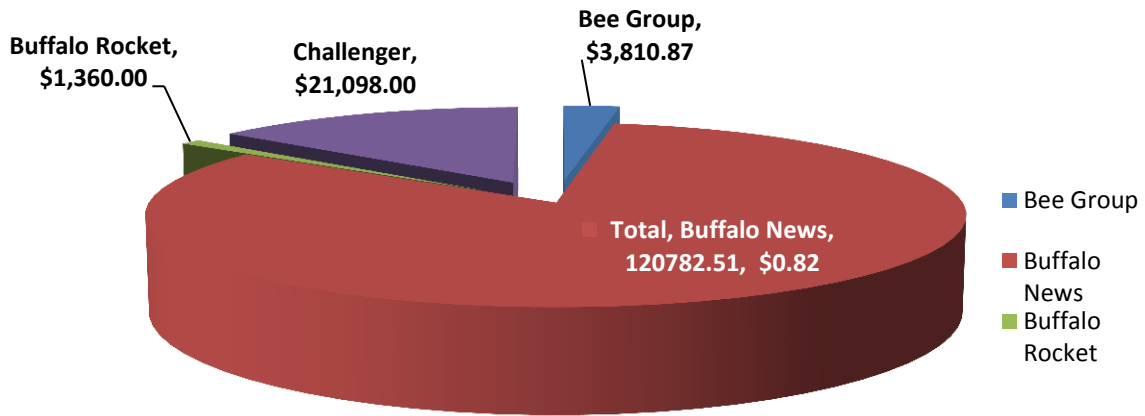
Expenditure by Vendor 2014



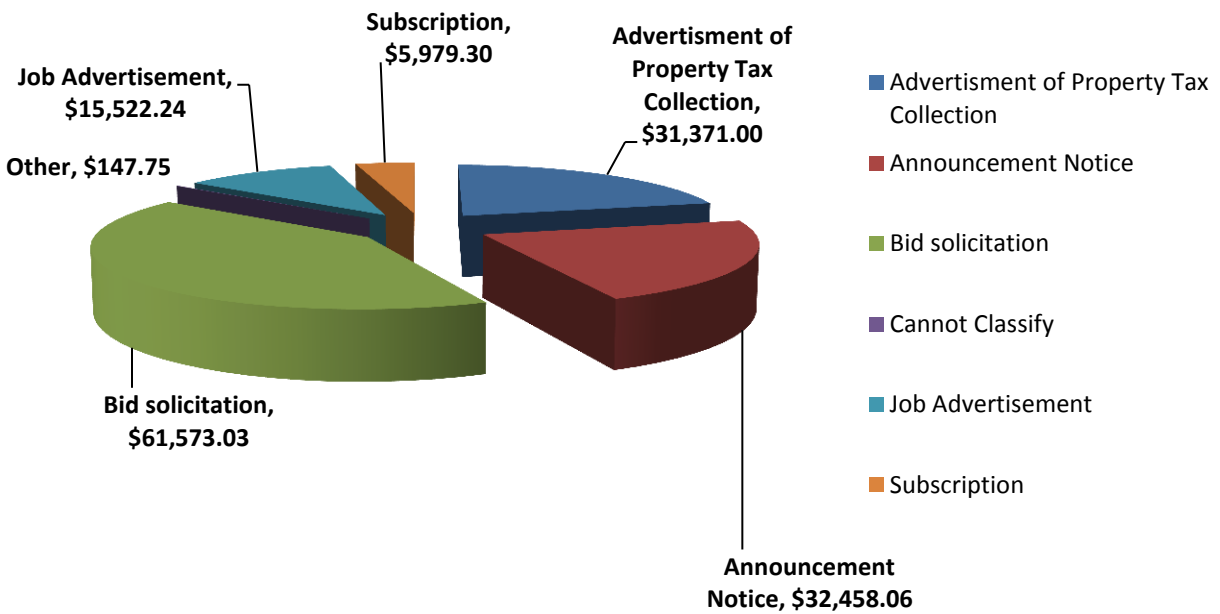
2014 Expenditure by Category



Expenditure by Vendor 2013



2013 Expenditure by Category



Newspaper Usage

In February, Berkshire Hathaway reported that year-over-year circulation at many of its newspapers, including the Buffalo News, has declined. This continues a trend in circulation decline, which has continued for over a decade.

The use of social media amongst all demographics has increased since 2005. The Pew Research Center began tracking social media adoption in 2005. Social media platforms studied include Facebook, Instagram, LinkedIn and Twitter. That year, they found that 5% of American adults used at least one social media platform. That number rose to about half of all Americans in 2011 and about 69% today. As such, social media has the ability to reach a large number of individuals and, in fact, a large number of people use these platforms for information. Erie County and its departments have the ability to utilize social media. In fact, many departments do use social media, in coordination with websites, to distribute information to the public.

Regardless of actual readership of printed newspapers, the internet and social media have created a low cost and highly utilized opportunity to distribute information to the public that did not exist when the laws regarding publication were originally drafted.

Newspapers where notices are published are available by subscribing to the publications. For those individuals who are unable or unwilling to subscribe to the publication where notice is printed, copies of the publication may or may not be available at a local library. The Buffalo News is generally available at all branches of the Buffalo and Erie County Public Library. It is also available online to individuals possessing a library card. However, classified ads are not available using the library's website. Classified ads may be accessed at the central library via microfilm.

Inquiries to branch libraries found that the local Bee Group newspaper was available in the town in which the library was situated. For example, the Amherst Bee was available in libraries in Amherst, but not in libraries in Orchard Park or Hamburg. However, the classified section for each of the Bee Group newspapers appears to be the same content distributed in each of the local papers. The Challenger was available in the central library, but not in Orchard Park or Amherst. As such, papers where certain notices may be published may not be available in all community libraries.

That said, the Bee Group newspapers and their classified ads are available online. The same is true for the Challenger. The online content for the classified ads are searchable in the Bee Group newspapers within the classified section. The classified ads in the Challenger are not searchable.

Opportunity to Reduce Advertising Costs

Requirements to advertise certain items in newspapers are governed by New York State law and Erie County law mimicking New York State law. These laws largely predate the internet and the creation and explosion of social media usage. Statistics indicate that there are more users of social media than newspapers.

Given that the purpose of advertised notices are to make the public aware of certain information regarding activities of its government, it may be more effective to focus on publishing notices electronically on publically available websites with links to social media accounts than to continue to rely on printed advertisements. In fact, in Erie County, many departments already publish such notices on their websites and link to social media accounts.

Utilizing established trends in media usage presents an opportunity to increase transparency of government operations to the public. Eliminating costly publication requirements that currently exist would save Erie County taxpayers over \$150,000 per year. Such changes would also help taxpayers at other levels of government, such as towns, villages and school boards.

Such steps cannot be taken at the county level alone. Steps to eliminate newspaper publication requirements must be taken at the state level. Erie County has demonstrated some success in the past by working with the local New York State delegation to achieve changes to benefit taxpayers. The Erie County legislature may again wish to work with the delegation to make changes to save local taxpayers significant amounts of money annually.

WE RECOMMEND that the Erie County Legislature examine the issue of publication in newspapers to determine if the goals of publication, which is notifying the public of certain issues, can be more effectively and efficiently by alternative methods.

Further, WE RECOMMEND that if it is determined that the goals of publication can indeed be met more effectively and efficiently by alternative methods, the Erie County Legislature take steps toward implementation of these methods.