

**VILLAGE OF NEW PALTZ
LOCAL LAW NO. _____ OF 2017**

**A LOCAL LAW TO PERMIT THE VILLAGE OF NEW PALTZ TO EXERCISE ITS
LOCAL OPTION UNDER GENERAL MUNICIPAL LAW § 103 AND STATE FINANCE
LAW § 163 TO PERMIT PROCUREMENT AND AWARDS BASED UPON BEST
VALUE CRITERIA**

Be it enacted by the Board of Trustees of the Village of New Paltz, County of Ulster, State of New York as follows:

Section 1

Chapter ____ of the New Paltz Village is hereby created entitled “Best Value Pricing” as follows:

“Chapter ____ Best Value Pricing

§-1 Legislative Intent

New York State General Municipal Law §103 has been amended to provide local governments greater flexibility in awarding contracts by authorizing the award of purchase contracts, (including contracts for service work, but excluding any purchase contracts necessary for the completion of a public works contract pursuant to Article 8 of the Labor Law), on the basis of best value

With the increased complexity of the goods and services that the Village must obtain in order to serve taxpayers, it is critical to consider selection and evaluation criteria which measure factors other than cost in the strictest sense. Best value procurement links the procurement process directly to the Village’s performance requirements, including, but not limited to, selection factors such as useful lifespan, quality, and options and incentives for more timely performance and/or additional services. Best value procurement can provide much-needed flexibility in obtaining important goods and services at favorable prices, and can reduce the time to procure such goods and services.

§-2 Definitions

As used in this local law, the following terms shall have the following meanings:

- A. “Best Value” means the basis for awarding contracts for services to the offerer that optimizes quality, cost and efficiency, among responsive offerers. Such basis shall reflect, wherever possible, objective and quantifiable analysis. Such basis may also identify a quantitative factor for offerers that are small businesses or certified minority or women-owned business enterprises as defined in Executive Law §310 subdivisions 1, 7, 15 and 20 to be used in evaluation of offers for awarding of contracts for services. (New York State Finance Law §163 (1)(j))

- B. Factors which may be used to determine “best value” and to award a contract to other than the lowest bidder, are as follows:

1. Cost of maintenance;
 2. Product life;
 3. Warranties;
 4. Past performance, reliability, or durability, and current or past experience with the provision of similar goods/services;
 5. Organization, staffing (particular abilities and/or experience), and ability to undertake the type and complexity of the work;
 6. Financial capability;
 7. Record of compliance with all federal, state and local laws, rules, and licensing requirements; or
 8. Ability to meet Village needs in a timely and accountable fashion.
- C. “Lowest Price” means the basis for awarding contracts for commodities among responsive and responsible offerers. (New York State Finance Law §163 (1)(i))
- D. “Procurement Record” means documentation of the decisions made and the approach taken in the procurement process. (New York State Finance Law §163(1)(f))

§-3 Best Value Award Methodology Requirements

Where the basis for an award of a purchase contract will be the best value offer, the purchaser shall, in all instances:

- A. Document in the procurement record as a component of the competitive award process and in advance of the initial receipt of offers, the determination of the evaluation criteria, which, whenever possible, shall be quantifiable, and the process to be used in the determination of best value and the manner in which the evaluation process and selection shall be conducted.
- B. The solicitation shall prescribe the minimum specifications or requirements that must be met in order to be considered responsive and shall describe and disclose the general manner in which the evaluation and selection shall be conducted. Where appropriate, the solicitation shall identify the relative importance and/or weight of cost and the overall technical criterion to be considered by the Village in its determination of best value.
- C. Reasonable efforts shall be made to ensure that the private and not-for-profit sectors in New York State are apprised of procurement opportunities, including by specifying the elements of a responsive bid and disclosing the process for awarding contracts including, if applicable, the relative importance or weight of cost and the overall technical criterion for evaluating offers and ensuring the procurement is conducted accordingly.
- D. Select a formal competitive procurement process in accordance with New York State General Municipal Law and other state law and the guidelines established under the Village’s Purchasing Policy and document the determination in the procurement record. The process of selection shall include, but may not necessarily be limited to:
 1. a clear statement of need;
 2. a description of the required specifications governing performance and related factors;

3. a reasonable process for ensuring a competitive field;
 4. a fair and equal opportunity for offerers to submit responsive offers;
 5. a balanced and fair method of award.
- E. Where the basis for the award is best value, documentation in the procurement record shall, where practicable, include a quantification of the application of the criteria to the rating of proposals and the evaluation results, or, where not practicable, such other justification which demonstrates that best value will be achieved. The Village shall maintain and retain all documentation used in the award process.
- F. The determination to award a contract on the basis of best value shall be made by the Village Board. Such determination shall include the specific criteria applied in determining best value which shall reflect, wherever possible, objective and quantifiable analysis. The Village Board of Trustees should use a cost-benefit analysis or other similar process to demonstrate quantifiable value or savings from non-price factors that offset the price differential of lower price offers.
- G. In the event that no best value election is made, purchase contracts will continue to be awarded to the lowest responsible bidder furnishing required security.
- H. This local law does not apply to purchase contracts for the following:
- (i) Any purchase contract necessary for the completion of a public works contract pursuant to Article 8 of the New York State Labor Law; and
 - (ii) Any purchase or procurement of goods and/or services otherwise excluded by law from best value purchasing standards, whether now existing or hereafter arising.”

Section 2 Severability

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, effect or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law or in its application to the person, individual, corporation, firm, partnership, entity or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 3 Effective Date

This local law shall take effect immediately upon filing with the New York State Secretary of State.