

DRAFT
LOCAL LAW SUBJECT TO PERMISSIVE REFERENDUM MHRL §24(2)(b)

DRAFT
VILLAGE OF UPPER NYACK
Local Law # ___ of 2023

Be it enacted by the Board of Trustees of the Village of Upper Nyack as follows:

ARTICLE 1. TITLE

A Local Law to allow for the use of best value procurement within the Village of Upper Nyack. This law shall be known and may be cited as the “Village of Upper Nyack Best Value Procurement Law.”

ARTICLE 2. PURPOSE

The purpose of this Local Law is to authorize the Board of Trustees of the Village of Upper Nyack to award certain purchase contracts on the basis of best value, as defined in State Finance Law §163, to a responsive and responsible bidder or offerer.

ARTICLE 3. AUTHORITY

This Local Law is enacted pursuant to General Municipal Law §103.

ARTICLE 4. AUTHORIZATION TO USE BEST VALUE PROCUREMENT STANDARDS

4.1 Authorization. The Village of Upper Nyack Board of Trustees is hereby authorized to award purchase contracts involving expenditures of more than twenty thousand dollars (\$20,000.00) (including contracts for service work, but excluding any purchase contracts necessary for the completion of a public works contract pursuant to New York State Labor Law Article 8) on the basis of “best value” as that term is defined in State Finance Law §163, rather than on the basis of lowest responsible bidder, upon approval of the Board of Trustees.

4.2 Applicability. This Local Law shall apply to Village purchase contracts of more than twenty thousand dollars (\$20,000.00) (excluding any purchase contracts necessary for the completion of a public works contract pursuant to New York State Labor Law Article 8). If the dollar thresholds of New York General Municipal Law §103 is increased or decreased in the future, the dollar threshold set forth herein shall be deemed simultaneously amended to be equal to the General Municipal Law threshold.

ARTICLE 5. STANDARDS FOR BEST VALUE

5.1 Goods and services procured and awarded based on best value are those that the Village Board of Trustees determines optimize quality, cost and efficiency, among responsive and responsible bidders or offerers.

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5.2 The determination of whether to award a qualifying contract to a responsive and responsible bidder, rather than the lowest responsible bidder, shall be based on an objective and quantifiable analysis of clearly described and documented criteria as they apply to the rating of bids of offers.

5.3 The criteria may include, but shall not be limited to, any or all of the following: cost of maintenance; duration of product life; durability; proximity to contractors; experience of a service provider; availability and cost of replacement parts or maintenance contractors; product performance criteria; or quality of craftsmanship.

5.4 The basis may also identify a quantitative factor for offerers that are small businesses, certified minority- or women-owned business enterprises as defined in New York State Executive Law §310 (1), (7), (15), and (20) or service-disabled veteran-owned business enterprises as defined in New York Veterans' Services Law §40(1) to be used in evaluation of offers for awarding of contracts for services.

5.5 Whenever a contract is awarded to a responsive and responsible bidder based on best value standards rather than the lowest responsible bidder, the basis for such determination shall be documented in writing (which may include, but which shall not be limited to, being documented in the minutes of the meeting at which the contract is awarded).

ARTICLE 6. SEPARABILITY

Should any section, sentence or provision of this Local Law be determined by any court of competent jurisdiction to be unconstitutional or invalid in any way, such determination shall not affect the validity of this Local Law as a whole or any part thereof other than the part expressly so determined to be unconstitutional or invalid.

ARTICLE 7. REPEALER AND EFFECT ON OTHER LAWS

Nothing in this Local Law shall be construed to vary or modify the provisions of any other general or Local Law or to authorize the violation thereof. Where there is a conflict between this Local Law and any other applicable law the more restrictive law shall control.

ARTICLE 8. EFFECTIVE DATE

This Local Law shall take effect immediately upon filing in the Office of the Secretary of State.