

By Legislators Johns and Smith

Intro. No. ____

MOTION NO. ____ OF 2023

**PROVIDING THAT LOCAL LAW (INTRO. NO. 199 OF 2023), ENTITLED
“AMENDING THE MONROE COUNTY PURCHASING LAW TO ALLOW
PROCUREMENT ON THE BASIS OF BEST VALUE”, BE LIFTED FROM THE TABLE**

BE IT MOVED, that Local Law (Intro. No. 199 of 2023) entitled “AMENDING THE
MONROE COUNTY PURCHASING LAW TO ALLOW PROCUREMENT ON THE BASIS OF
BEST VALUE” be lifted from the table.

File No. 23-0171.LL

ADOPTION: Date: _____

Vote: _____



Office of the County Executive

Monroe County, New York

Adam J. Bello
County Executive

May 5, 2023

OFFICIAL FILE COPY
No. <u>230171</u>
Not to be removed from the Office of the Legislature Of Monroe County
Committee Assignment
AGENDA/CHARTER-L
WAYS & MEANS

To The Honorable
Monroe County Legislature
407 County Office Building
Rochester, New York 14614

Subject: Enact a Local Law Amending the Monroe County Purchasing Law to Allow Procurement on the Basis of Best Value

Honorable Legislators:

I recommend that Your Honorable Body enact a local law amending Chapter 25 of the Administrative Code known as the "Monroe County Purchasing Law" to allow for the use of "best value" procurement for the County's purchase contracts.

New York State General Municipal Law Section 103(1) provides that purchase contracts for materials, supplies, equipment, apparatus or services, but excluding contracts necessary for public works, may be awarded on the basis of best value to a responsive and responsible bidder. Section 163 of the State Finance Law defines best value as the basis for awarding contracts "which optimizes quality, cost and efficiency, among responsive and responsible offerers." Under the State Finance Law, such basis should reflect, wherever possible, objective and quantifiable analysis. Best value may also include quantitative factors for offerers, such as small businesses and certified minority or women-owned business enterprises.

The best materials, supplies, equipment, apparatus and services required are not always the lowest cost. In addition to price, the proposed Local Law will allow the County to consider factors such as product and service quality and efficiency, small businesses, certified minority or women-owned business enterprises, certified service-disabled veteran-owned business enterprises, and State-approved green specifications when evaluating responsive and responsible bidders. The proposed Local Law will also permit the County to purchase materials, supplies, equipment, apparatus or services on the basis of best value from contracts let by the Federal Government or another state, political subdivision, or district.

The specific legislative actions required are:

1. Schedule and hold a public hearing on the proposed Local Law.
2. Enact a Local Law to amend the Chapter 25 of the Administrative Code known as the "Monroe County Purchasing Law" to allow for the use of "best value" procurement for purchase contracts.

This is a Type II Action pursuant to 6 NYCRR Section 6217.5(c)(26) (“routine continuing agency administration and management not including new programs or major reordering of priorities that may affect the environment”) and (33) (“adoption of regulations, policies, procedures and local legislative decisions in connection with any action on this list”) and is not subject to further review under the New York State Environmental Quality Review Act.

Enactment of this local law will have no impact on the revenues or expenditures of the current Monroe County budget.

I recommend that this matter be referred to the appropriate committee(s) for favorable action by Your Honorable Body.

Sincerely,


Adam J. Bello
Monroe County Executive

By Legislators _____ and _____

Intro No. _____

LOCAL LAW NO. _____ OF 2023

ENACTING A LOCAL LAW AMENDING CHAPTER 25 OF THE MONROE COUNTY ADMINISTRATIVE CODE TO ALLOW PROCUREMENT ON THE BASIS OF BEST VALUE

BE IT ENACTED BY THE LEGISLATURE OF THE COUNTY OF MONROE, as follows:

Section 1. Section 25-2(B)(1) of the Monroe County Administrative Code is amended to read as follows:

(1) Act to procure for the county the highest quality supplies and services at the least expense or on the basis of best value to the county.

Section 2. Section 25-2(E) of the Monroe County Administrative Code is amended to read as follows:

E. Award of ~~purchase contracts and~~ public works contracts which result from public bids shall be made, and purchase contracts which result from public bids may be made, to the lowest responsive and responsible bidder in accordance with the requirements of the General Municipal Law. In cases where two or more responsible bidders submit identical bids as to price, and all other terms and conditions are identical, preference may be given to a bidder whose place of business is within Monroe County. Otherwise, award may be made by drawing lots, or by whatever other method is deemed appropriate by the Purchasing Manager, or all bids may be rejected and new bids sought by readvertisement.

Section 3. Section 25-2 of the Monroe County Administrative Code is amended to read as follows:

F. Award of purchase contracts (including contracts for service work, but excluding any purchase contracts necessary for the completion of public works contracts) which result from public bids may also be awarded by the Purchasing Manager to responsive and responsible bidders on the basis of best value.

G. Best value procurement shall be subject to the following requirements:

- (1) The County Purchasing Manager shall determine when best value shall be the basis of an award. The County Purchasing Manager shall document the criteria used to rate proposals and evaluation results, or if not practicable, such other justification which demonstrates how best value was achieved for the County.
- (2) Whenever practicable, the evaluation of best value shall be based upon objective and quantifiable factors which optimize quality, cost, and efficiency, but shall not be based solely on cost, in accordance with New York State Finance Law § 163.
- (3) The evaluation criteria and process for awarding procurements based upon best value shall be identified in the County's procurement policy.

- (4) The County's solicitation documents shall prescribe the minimum specifications or requirements that must be met in order for bidders and offerors to be considered responsive, and describe the general manner in which the evaluation and selection shall be conducted.
- (5) In accordance with Article 8 of the Labor Law, best value may not be used for purchase contracts necessary for the completion of public works contracts.

FH. In the absence of public bidding requirements, all purchase contracts and public works contracts shall, wherever feasible and cost effective, be based on at least three competitive quotations and shall be awarded to the lowest responsive and responsible bidder. The Purchasing Manager may solicit quotations by such method or methods, including direct mail and telephone, as he/she shall deem suitable.

GI. In the case of a public emergency arising out of an accident or other unforeseen occurrence or condition whereby circumstances affecting public buildings, public property or the life, health, safety or property of the inhabitants of the county require immediate action which cannot await competitive bidding, purchase contracts or public works contracts may be let without such competitive bidding upon certification by the county official requesting the emergency purchase or public work contract using procedures promulgated by the Purchasing Manager and approved by the County Attorney.

HJ. In accordance with the General Municipal Law, the Purchasing Manager may enter into a purchase contract with a single supplier without carrying out public bidding procedures if the supplier receives designation as a sole source vendor under procedures promulgated by the Purchasing Manager and approved by the County Attorney.

IK. In accordance with § 408-a of the County Law, the Purchasing Manager is authorized to include a provision in any county contract which permits purchases under such contract by any political subdivision, fire company or district located in whole or in part in Monroe County; provided, however, that the political subdivision, fire company or district accepts sole responsibility for any payment to the vendor.

Section 4. Section 25-5 of the Monroe County Administrative Code is amended to read as follows:

§ 25-5 Definitions; applicability.

A. As used in this chapter, the following terms shall have the meanings indicated:

BEST VALUE

Means the basis for awarding contracts for materials, supplies, equipment, apparatus, or services, except public works under Article 8 of the New York Labor Law, to the offerer which optimizes quality, cost, and efficiency, among responsive and responsible offerers. Such basis shall reflect, wherever possible, objective and quantifiable analysis. Such basis may also identify quantitative factors to be used for awarding purchase contracts and service, including but not limited to: small businesses; certified minority- or women-owned business enterprises as defined in subdivisions one, seven, fifteen and twenty of section three hundred ten of the Executive Law; a minority- or women-owned business enterprise certified by Monroe County in accordance with Section 26-5 of the Monroe County Code; certified service-disabled veteran-owned business

enterprises as defined in subdivision one of section forty of the Veterans' Services Law; and/or or green procurement specifications approved by New York State.

PUBLIC WORK CONTRACT

Encompasses a contract for ~~services, labor or construction~~ public works under Article 8 of the New York Labor Law.

PURCHASE CONTRACT

Pertains to purchases of materials, supplies, equipment or apparatus and ~~related~~ services, except any contract necessary for the completion of public works pursuant to Article 8 of the New York Labor Law.

Section 5. If any clause, sentence, paragraph, section or article of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such determination shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or article thereof directly involved in the proceeding in which such adjudication shall have been rendered.

Section 6. This local law shall take effect upon filing with the Secretary of State pursuant to Section 27 of the New York Municipal Home Rule Law and the Monroe County Charter.

_____ Committee; _____ – CV: _____

_____ Committee; _____ – CV: _____

File No. 23-____.LL

ADOPTION: Date: _____

Vote: _____

ACTION BY THE COUNTY EXECUTIVE

APPROVED: _____ VETOED: _____

SIGNATURE: _____ DATE: _____

EFFECTIVE DATE OF LOCAL LAW: _____