

THE TOWN OF LANSING BEST VALUE BIDDING AUTHORIZATION LOCAL LAW

LOCAL LAW NO. 2 OF THE YEAR 2015

A LOCAL LAW TO PERMIT THE TOWN OF LANSING 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

By Resolution dated March 18, 2015, the Town Board of the Town of Lansing hereby adopts the following local law and, accordingly, be it enacted by the Town Board of the Town of Lansing as follows:

Section 1. General Provisions, Purposes and Authority.

A. This local law provides for the Lansing Town Board to exercise its local option under General Municipal Law ("GML") § 103(1), as amended by Chapter 608 of the Laws of 2011 and Chapter 2 of the Laws of 2012. These amendments authorize the Town of Lansing ("Town") to award purchase and service contracts subject to competitive bidding under General Municipal Law § 103 based on either lowest responsible bidder or the "best value," as defined in § 163 of the New York State Finance Law. Accordingly, a quote or proposal received pursuant to standard bidding procedures, including both purchase contracts and those contracts for service work, may be awarded on either a best value or lowest responsible bidder standard, so long as the requirements of this local law have been met.

B. "Best Value" shall mean and refer to a basis for awarding contracts for services to the offerer which optimizes quality, cost and efficiency, among responsive and responsible offers. Such basis shall reflect, wherever possible, objective and quantifiable analysis. Such basis may also identify a quantitative factor for offers that are small businesses or certified minority- or women-owned business enterprises as defined in Executive Law §§ 310(1), (7), (15) and (20) to be used in the evaluation of offers for awarding of contracts for services. Goods and services procured and awarded on the basis of best value are those that the Town Board determines will be of the highest quality while being the most cost efficient.

C. This "best value" option may be, but is not required to be, used to award an applicable purchase contract to optimize quality, cost, and efficiency among responsive and responsible offers instead of the lowest responsible bidder. Best value procurement links the procurement process directly to the Town's performance requirements, incorporating selection factors such as useful lifespan, quality, options, and incentives for more timely performance and additional services. Even if the initial expenditure is higher, considering the total value over the life of the procurement may result in a better value and long-term investment of public funds. Best value procurement also encourages competition and, in turn, often results in better pricing, quality, and service. Fostering healthy competition ensures that bidders will continue to strive for excellence in identifying and meeting Town needs, including the participation of small, minority, and women-owned businesses, and the development of environmentally-preferable goods and service delivery methods. Best value procurement will provide needed flexibility in obtaining important goods and services at favorable prices, and will reduce the time to procure such goods and services.

Section 2. Basis for award; Documentation and Requirements.

A. All awards based on best value shall require Town Board approval. When awarding a contract based upon best value the requirements of State Finance Law § 163 and the following criteria and procedures shall apply and be observed:

1. The Town Board shall document in the procurement record and in advance of the initial receipt of offers a clearly articulated procedure and a clear statement of product specifications, requirements or work to be performed; a documentable process for soliciting bids, proposals or other offers; a balanced and fair method, established in advance of the receipt of offers, for evaluating offers and awarding contracts; contract terms and conditions that protect the Town's interests and promote fairness in contracting with the business community; and a regular monitoring of vendor performance.
2. 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.
3. Guidelines and specifications for procurements and best value determinations shall reasonably address performance and shall prescribe the minimum specifications or requirements that must be met in order for an offer to be considered responsive, a process for ensuring a competitive field, a fair and equal opportunity for interested bidders to submit responsive offers, and a balanced and fair method of award. Such criteria may include, but are not limited to: the cost of maintenance; the proximity to the end user if distance or response time is a significant term; durability; availability of replacement parts or maintenance contractors; longer product life; product performance criteria; or quality of craftsmanship.
4. In the event that no best value election is made purchase contracts will continue to be awarded to the lowest responsible bidder furnishing any required security.
5. All information gathered in the course of the bidding procedures of this local law shall be filed with the documentation supporting the subsequent purchase or public works contract. When a contract is awarded on the basis of best value rather than a lowest responsible bidder, the basis for determining best value shall be properly documented.

B. The Town shall adopt procurement policies that, in conjunction with this local law, help develop procedures for governing awards on the basis of best value. These policies may be adopted by Resolution and shall be periodically reviewed and updated by the Town Board.

Section 3. Applicable Contracts.

A. This local law applies only to purchase contracts involving an expenditure of more than \$20,000 including contracts for service work (i.e., building services under Article 9 of the Labor Law and utility services). Such number is based upon current procurement levels set in GML § 103. If the dollar thresholds of GML § 103 are increased or decreased in the future by proper amendment to law, then

the dollar thresholds as set forth herein shall be deemed simultaneously amended to match the then stated updated thresholds.

B. 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 services otherwise excluded by law from best value purchasing standards, whether now existing or hereafter arising.

Section 4. Procurement Policy; Savings; Construction.

Any inconsistent provision of the Town's procurement policy, as adopted or amended prior to the effective date of this local law, shall be deemed superseded and supplemented by the provisions of this local law so as to incorporate this local law therein. If any part or provision of this local law or the application hereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law or the application thereof to other persons or circumstances, and the Town Board of the Town of Lansing hereby declares that it would have passed this local law or the remainder hereof had such invalid application or invalid provision been apparent or omitted. Any reference to a state statute or code shall include the future amendment or recodification of such statute or code and the references herein are for convenience and construction purposes only.

Section 5. Supersession and Effective Date.

All ordinances, local laws, and parts thereof inconsistent with this local law are hereby superseded only to the extent necessary to give effect to the provisions of this local law. This local law shall take effect immediately.