

Proposed Local Law 15-2021

A local law adding a new Chapter 42 (Procurement Policy) to the Village of Ossining Code.

BE IT ENACTED by the Board of Trustees of the Village of Ossining as follows:

Section 1. Chapter 42 (Procurement Policy) is added to the Village of Ossining Code with new matter underlined.

Article 1 Best Value Procurement

42-1 Legislative purpose

- A. The Village of Ossining Board of Trustees (Board of Trustees) seeks to exercise the option to award certain purchase contracts subject to competitive bidding under General Municipal Law section 103 on the basis of either lowest responsible bidder or “best value” as defined in section 163 of the New York State Finance Law.
- B. The Board of Trustees finds that contracts for certain purchase contracts should be procured in a manner so as to assure the prudent and economical use of public monies, in the best interest of tax payers, to facilitate the acquisition of goods and services of maximum quality at the lowest possible price possible under the circumstances, and to guard against favoritism, extravagance, fraud and corruption.
- C. With the increased complexity of the goods and services that the Village must obtain in order to serve residents and businesses, 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.
- D. Even if the initial expenditure is higher, considering the total value over the life of the procurement may result in 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 customer service. Fostering healthy competition ensures that bidders will continue to strive for excellence in identifying and meeting the Village’s needs, including such important goals as 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 much needed flexibility in obtaining important goods and services at favorable process, and will reduce the time to procure such goods and services.

42-2 Definitions

As used in this chapter, the following definitions shall apply:

BEST VALUE

The basis for awarding certain purchase contracts to offerors that optimizes quality, cost and efficiency among responsive offerors. Such basis shall reflect, whenever

possible, objective and quantifiable analysis. Such basis may also identify a quantitative factor for offerors that are small business of certified minority- or women-owned business enterprises as defined in Executive Law section 310, Subdivisions 1, 7, 15 and 20 to be used in evaluation of offers for awarding contracts for services.

FACTORS

Factors which may be used to determine Best Value and to award a contract to other than the lowest bidder are as follows:

- A. Cost of maintenance;
- B. Product life;
- C. Warranties;
- D. Past performance, reliability or durability, and current or past experience with the provision of similar goods/services.
- E. Organization, staffing (particular abilities and/or experience), and the ability to undertake the type and complexity of the work;
- F. Financial capability;
- G. Record of compliance with all federal, state and local laws, rules and licensing requirements;
- H. Ability to meet the village's needs in a timely and accountable manner;
- I. Storage, maintenance and other operational costs;
- J. Product or service environmental considerations;
- K. Product energy usage;
- L. Contractor's record of safety; and
- M. The need for the costlier option as compared with all lower bids, supported by specific facts.

PROCUREMENT RECORD

Documentation of the decisions made and the approach taken in the procurement process. (New York State Finance Law section 163(1) (f)).

42-3 Award based on best value.

- A. The provisions of this chapter apply to Village purchase contracts involving an expenditure of more than \$20,000 and Village contracts for services involving an expenditure of more than \$35,000, but exclude purchase contracts necessary for the completion of a public works contract pursuant to Article 8 of the New York Labor Law and any other contract that may in the future be excluded under state law from the best value option. If the dollar thresholds of New York General Municipal law section 103 are increased or decreased in the future, the dollar thresholds set forth herein shall be deemed as simultaneously amended to match the new General Municipal Law section 103 thresholds.
- B. If the product or service has previously been purchased by the Village through a competitive bid, awarded to the lowest responsible bidder, it shall continue to be

purchased in that manner unless issues regarding quality, efficiency or the ability to attract a sufficient number of bidders has been documented from previous purchases by the Village Manager and Department head.

- C. Contracts shall be awarded on the basis of lowest responsible bidder unless the applicable Village department head and the Village Manager prepare written specifications, prior to the publication of a request for proposals, providing to the Board of Trustees reasons why it is in the best interest of the Village of Ossining to make a contract award on the basis of best value. The use of best value shall be authorized by the Board of Trustees.
- D. Where the basis for the award is best value, the Village Manager and the applicable department head shall document in the procurement record 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. Where appropriate, the solicitation shall identify the relative importance and/or weight of cost and overall technical criterion to be considered by the Village in its determination of best value. 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.
- E. Whenever any contract is awarded on the basis of best value instead of lowest responsible bidder, the basis for determining best value shall be thoroughly and accurately documented. This shall include a cost-benefit analysis showing the quantifiable value or savings from non-price factors that offset the price differential of the lower price offers. Only criteria set forth in the solicitation for offers may be used in the evaluation process. Additionally, a statement shall be included in the bid award explaining how the award is expected to result in savings for the Village over time.
- F. The decision to award a contract on the basis of best value shall be made by the Board of Trustees. In the event that no such decision is made, contracts will continue to be awarded to the lowest responsible bidder furnishing any required security.
- G. Any inconsistent provision of the Village's Procurement Policy, as adopted prior to the effective date of this chapter by resolution of the Board of Trustees, or as amended thereafter, shall be deemed superseded by this chapter.

42-4 Receipt of offers.

- A. Offers are to be packaged, sealed and submitted to the location stated in the specifications. Offerors are solely responsible for timely delivery of their offers to the location set forth in the specification.
- B. If authorized by the offer specification, offers may be submitted in an electronic format. Submission in an electronic format may not, however, be required as the sole method of submission of offers, with the exception of offers and proposals for technology contracts only. Receiving devices will be identified in the offer specification and such devices:

1. Document the time and date of each offer received electronically;
 2. Authenticate the identity of the sender;
 3. Ensure the security of the information transmitted; and
 4. Ensure confidentiality of the offer until the time and date established for opening of the offers.
- C. The timely submission of an electronic offer in compliance with instructions provided for such submission in the specifications shall be the responsibility of the offeror or prospective offeror. The Village shall not incur any liability from delays of or interruptions in the receiving device designated for the submission and receipt of electronic offers.

42-5 "Piggybacking" permitted.

- A. Pursuant to General Municipal Law section 103, the Village of Ossining is authorized to make purchases of apparatus, materials, equipment or supplies or to contract for such services related to the installation, maintenance, or repair of apparatus, materials, equipment or supplies through the use of a contract let by the United State of America or any agency thereof, any state or any other political subdivision or district therein.
- B. The Village shall be permitted to "piggyback" on a previous order for the procurement of apparatus, materials, equipment and supplies and related installations, maintenance or repair services when the following requirements are met:
- (1) The contract must have been let by the United States or any agency thereof, any state or any other political subdivision or district therein.
 - (2) The contract must have been made available for use by other governmental entities, and this must be clearly stated in the contract let by the other entity that extends the terms and conditions of the contract to other governmental entities; and
 - (3) The contract must have been let to the lowest responsible bidder or on the basis of best value in a manner consistent with Village Code Chapter 42 and the General Municipal Law.
- C. Upon meeting the aforementioned requirements, the Village may utilize a previously used procurement order from a recognized and previously mentioned political subdivision and not be required to utilize and comply with competitive bidding requirements for the purchase of apparatus, materials, equipment and supplies and to contract for services related to the installation, maintenance or repair of those items.

42-6 Severability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter and the application of such provisions to other persons and circumstances shall not be rendered invalid thereby.

Section 2. **Effective date.**

This local law shall become effective upon filing with the Secretary of State pursuant to the Municipal Home Rule Law.