

By Legislators Johns and Milne

Intro No. 199

LOCAL LAW NO. 9 OF 2023
(As Amended by Motion No. 36 of 2023)

ENACTING A LOCAL LAW ENTITLED "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 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.

H. 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.

I. 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.

J. 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.

K. 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.

L. The Purchasing Manager shall submit reports to the Clerk of the Legislature noting how many public bids were awarded each month, on what basis each public bid was awarded, and, if such basis was best value, what criteria was used to rate proposals and evaluation results.

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 public works under Article 8 of the New York Labor Law.

PURCHASE CONTRACT

Pertains to purchases of materials, supplies, equipment or apparatus and 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.

Agenda/Charter Committee; May 22, 2023 – CV: 5-0
Ways and Means Committee; May 23, 2023 – CV: 11-0
File No. 23-0171.LL

Added language is underlined.
Deleted language is stricken.

ADOPTION: Date: July 11, 2023 Vote: 26-2
(Legislators DiFlorio and Keller Voted in the Negative.)

ACTION BY THE COUNTY EXECUTIVE

APPROVED: _____ VETOED: _____
SIGNATURE: *Cedric Bellis* DATE: *7/28/2023*
EFFECTIVE DATE OF LOCAL LAW: *7/28/2023*