

**Town of Andes
LOCAL LAW # 4 OF 2015**

**A LOCAL LAW AUTHORIZING BEST VALUE COMPETITIVE BIDDING AND
PROCUREMENT**

BE IT ENACTED BY the Town Board of the Town of Andes, Delaware County, State of New York:

Section 1. Title

This Local Law shall be known as the "Town of Andes Local Law Authorizing Best Value Competitive Bidding and Procurement"

Section 2. Legislative Intent and Purpose

The intent of this law is to allow the Town Board the option to award certain purchase contracts (including contracts for services) subject to competitive bidding under Section 103 of the General Municipal Law on the basis of a low bid or "best value" as defined in Section 163 of the New York State Finance Law.

Section 3. Authority

This local law is enacted pursuant to New York State General Municipal Law § 103.

Section 4. Best Value Competitive Bidding

A. Authority and Purpose.

Section 103 of the New York General Municipal Law allows the Town to authorize, by local law, the award of certain purchase contracts (including services) subject to competitive bidding under General Municipal Law § 103 on the basis of "best value" as defined in Section 163 of the New York State Finance Law. The "best value" option may be used, for example, if it is more cost efficient over time to award the good or service to other than the lowest responsible bidder or offered if factors such as lower cost of maintenance, durability, high quality and longer product life can be documented.

B. Award Based on Best Value

The Town Board may award purchase contracts, including contracts for services, on the basis of "best value" as the term is defined in New York State Finance Law § 163. All contracts or purchase orders awarded based on value shall require Town Board approval.

C. Applicability

The provisions of this chapter apply to Town purchase contracts, including contracts for services, involving an expenditure of more than \$20,000, but excluding 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 § 103 are increased or decreased in the future by the State Legislature, the dollar thresholds set forth herein shall be deemed simultaneously amended to match the new General Municipal Law thresholds.

D. Standard for Best Value

1.) Goods and services procured and awarded on the basis of best value are those that the Town Board determines optimize quality, cost and efficiency, among responsive and responsible bidder or offerors.

2.) Where possible, the determination shall be based on an objective and quantifiable analysis of clearly described and document criteria as they apply to the rating of bids or offers.

3.) The criteria may include, but shall not be limited to, any or all of the following: cost of maintenance; proximity to the contractors; longer product life; product performance criteria; and quality of craftsmanship.

E. Documentation

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. Such documentation shall be filed with the Town Clerk. The filing of this documentation with the Town Clerk shall be a condition precedent to the lawful approval by the Town Board of any contract to be entered into under the provisions of this Local Law.

F. Piggybacking of purchases

Notwithstanding the provisions of this Local Law, the Town of Andes may, for the purposes of public purchases, utilize the provisions of General Municipal Law § 103 with regard to so-called "piggybacking" of purchases. Pursuant to General Municipal Law § 103, the Town of Andes may purchase through bids solicited by the United States government, New York State and/or any other political subdivision (counties, town, villages, school districts, etc.), provided those contracts clearly state that they are available for use by other governmental entities within the requirements of General Municipal Law § 103(16). Prior to such purchase, the Town of Andes will ensure that a piggyback purchase qualifies as follows:

1.) The contract involved must have been available for use by other governmental entities through the bid solicitation process. In such case, the Town of Andes should determine that there is contained within the bidding municipality's bid package a provision that the bid is open to and can be used by either the Town of Andes or other municipalities. This determination should be made on a case-by-case basis.

2.) The specific contract must have been issued in accordance with the provisions of General Municipal Law § 103.

G. Procurement Policy Superseded Where Inconsistent

Any inconsistent provision of the Town's procurement policy, as adopted prior to the effective date of this Local Law by resolution of the Town Board, or as amended thereafter, shall be deemed superseded by the provisions of this chapter.

Section 5. Severability

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by court of competent jurisdiction to be invalid or unconstitutional, such order or judgement shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgement or order shall be rendered.

Section 6. Effective Date

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State.