

**CITY OF MIDDLETOWN, NEW YORK
COMMON COUNCIL
RECORD OF VOTE**

THE FOLLOWING WAS PRESENTED

By Ald. Ramkissoon

Sec'd by Ald. Sommers

Date of Adoption: 06-03-14

Index No: Local Law # 2 of 2014

NAMES	AYES	NOES	ABSTAIN	ABSENT
Ald. Kleiner	X			
Ald. Witt	X			
Ald. Johnson	X			
Ald. Ramkissoon	X			
Ald. Sommers	X			
Ald. Jean-Francois	X			
Ald. Burr				X
Ald. Masi	X			
Pres. Rodrigues	X			
TOTAL	8			1

**A LOCAL LAW TO AMEND CHAPTER 104: PROCUREMENT POLICY OF THE CODE
OF THE CITY OF MIDDLETOWN**

BE IT ENACTED BY THE COMMON COUNCIL OF THE CITY OF MIDDLETOWN,
NEW YORK, AS FOLLOWS:

Section 1. Title

This Local Law shall be referred to as “A Local Law authorizing the use of a ‘best value’ procurement standard in the City of Middletown.”

Section 2. Purpose of this Enactment

The purpose of this enactment is to amend Chapter 104: Procurement Policy of the Code of the City of Middletown to reflect recent changes in New York State law. Prior to such changes, municipal contracts for public works in excess of \$35,000.00 and purchase contracts in excess of \$20,000.00 could only be awarded to the lowest responsible bidder after a municipality solicited sealed bids for the particular contract. Now, however, Section 103(1) of the New York General Municipal Law allows such contracts (with certain exceptions) to be awarded on the basis of “best value” as defined in Section 163 of the State Finance Law. The “best value” method optimizes quality, cost and efficiency among responsive and responsible offerors or bidders and only applies as restricted by state law. The intent of the “best value” option is to allow municipalities in the state the ability to purchase products and services that may not be the lowest in initial price, but due to factors such as product life or quality may provide a more cost

effective long term solution. This Local Law is designed to provide the City of Middletown with the “best value” option in awarding such contracts.

Section 3. Amendment of Existing Chapter 104 of the Code of the City of Middletown

Chapter 104: Procurement Policy of the Code of the City of Middletown is amended by adding Section 104-10 to the existing Chapter 104 of the Code of the City of Middletown to read in its entirety as follows:

§ 104-10 Contracts Awarded Based on a “Best Value” Analysis.

Notwithstanding anything else contained in this Chapter to the contrary, the Common Council, after approval of the Board of Estimate and Apportionment, may award purchase contracts and service contracts that have been procured pursuant to competitive bidding or otherwise under New York General Municipal Law Section 103(1) or this Chapter by either the lowest responsible bidder standard or the “best value” standard.

(A) “Best value” is defined in State Finance Law Section 163 to mean “the basis for awarding contracts for services 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 a quantitative factor for offerers that are small businesses or certified minority- or women-owned business enterprises as defined in subdivisions one, seven, fifteen and twenty of section three hundred ten of the [New York] Executive Law to be used in evaluation of offers for awarding of contracts for services.” For purposes of this § 104-10, the Common Council adopts the above definition of “best value,” as the same may be modified from time to time by the State Legislature.

(B) Pursuant to New York General Municipal Law Section 103(1), the “best value” standard may be used for purchase contracts, including contracts for service work, but it excludes and may not be used for any purchase contracts necessary for the completion of public works contracts pursuant to New York Labor Law Article 8.

(C) If the monetary thresholds of New York General Municipal Law Section 103 are increased or decreased in the future by the State Legislature, the monetary thresholds set forth herein will be deemed simultaneously amended to match the new General Municipal Law thresholds.

(D) Whenever any contract is awarded by the Common Council (after approval of the Board of Estimate and Apportionment) on the basis of “best value” instead of the lowest responsible bidder, the basis for determining “best value” will be thoroughly and accurately documented. Such documentation may include, but is not necessarily limited to, the cost of maintenance; durability; availability of replacement parts or maintenance contractors; longer product life; product performance criteria; quality of craftsmanship; or compatibility with existing City buildings or property.

Section 4. Severability of Provisions.

Should any section or provision of this Local Law be declared, ordered or adjudged null, void, voidable or invalid by a court of competent jurisdiction, such finding of invalidity shall not affect the validity of the remaining portions of this Local Law.

Section 5. Effective Date

This Local Law shall take effect immediately upon filing with the Secretary of State.