

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one.)

of Buffalo

FILED
STATE RECORDS

JAN 21 2020

DEPARTMENT OF STATE

Local Law No. 1 of the year 20 20

A local law amending the City of Buffalo Charter in relation to Article 22 Contracts
(Insert Title)

Be it enacted by the Common Council of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of Buffalo

as follows:

Section 1, that Article 22, of the Charter of the City of Buffalo, adopted pursuant to law is hereby amended to read as follows:

22-10. Contracts Awarded on the Basis of Best Value.

This section shall be known as the "City of Buffalo Best Value Procurement Law."

22-11. Statutory Intent.

Pursuant to New York State General Municipal Law §103(1), the intent of this local law is to authorize the use of "best value", as defined by the New York State Finance Law § 163, in the City of Buffalo's competitive bidding process for purchase contracts, including contracts for services governed under Article 9 of the Labor Law, but excluding those service contracts necessary for the completion of a public work that are governed under Article 8 of the Labor Law.

Taxpayers are not well served when a public procurement results in low unit costs at the outset, but ultimately engenders cost escalations due to factors such as inferior quality, poor reliability and difficulty of maintenance. Best

(If additional space is needed, attach pages the same size as this sheet, and number each.)

value procurement links the procurement process directly to the municipality's performance requirements, by incorporating selection factors such as useful lifespan, quality and options and incentives for more timely performance and/or additional services. As such, the City of Buffalo finds it to be in the best interest of its taxpayers to adopt "Best Value" as a basis for competitively bid contract awards.

22-12. Definitions:

"Best Value" means the basis for awarding contracts for services to the bidder or offeror who optimizes quality, cost and efficiency, among responsive and responsible bidder or offeror. Such basis shall reflect wherever possible, objective and quantifiable analysis. Such basis may also identify a quantitative factor for offerors that are small businesses or certified minority or women-owned business enterprises as defined by Executive Law §310 subdivisions 1, 7, 15, and 20.

Purchase: The purchases of apparatus, materials, equipment or supplies, or to contract for services related to the installation, maintenance or repair of apparatus, materials, equipment, and supplies, but excluding those contracts for services work governed by Article 8 of the Labor Law.

22-13. Applicability.

The provisions of this section apply to City purchase contracts, including contracts for services, involving an expenditure of more than \$20,000, but excluding contracts for service necessary for the completion of a public works contract pursuant to Article 8 of the 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 General Municipal Law §103 increases or decreased in the future pursuant to State Legislature, the dollar thresholds set forth herein shall be deemed simultaneously amended to match said threshold.

22-14. Cooperative Purchasing:

The City is authorized to cooperatively "piggyback" the purchase of apparatus, materials, equipment or supplies, and to contract for services related to the installation, maintenance or repair of apparatus, materials, equipment, and supplies, but excluding those contracts for services work governed by Article 8 of the Labor Law, through the use of contracts let by the United States or any agency thereof, any state or any other political subdivision of district therein if such contract was let to the lowest responsible bidder or on the basis of best value in a manner consistent with General Municipal Law §103 and made available for use by other governmental entities.

22-15. Local Preference and Minority and Women Owned Enterprise

It is important to the municipality to provide opportunities for the purchase of goods and services from (i) business enterprises located in the City of Buffalo and (ii) certified minority and/or women-owned business enterprises. To that end the City will utilize available lists of M/WBE firms certified by the County of Erie and/or New York State and will solicit bids and proposals from such businesses by notifying them of opportunities to submit proposals and bids for goods and services.

22-16. Award of Best Value Contracts.

The City may award purchase contracts, including contracts for services, on the basis of "best value," as that term is defined in New York State Finance Law § 163. 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 documented and maintained as part of the procurement record.

22-17. Process for Best Value Procurement.

The Director of Purchase or department head shall select a formal competitive procurement process and document its determination in the procurement record. For purchase contracts including contracts for services eligible for "best value" procurement, the Director of Purchase or department head shall determine before the solicitation is publicly published, that the contract shall be evaluated and awarded on the basis of best value. The solicitation shall include, but is not limited to, a clear statement of need; a description of the required specifications governing performance and related factors; a reasonable process for ensuring a competitive field; a fair and equal opportunity for offerors to submit responsive offers; and a balance and fair method of award. If the City department elects not to evaluate and award on the basis of "best value," the contract shall be evaluated and awarded on the basis of lowest responsible bidder. All offers for bids shall be publicly advertised not less than five (5) business days prior to the official acceptance of bids, at which time, all bids shall be opened and read at the time and place so specified, and the identity of all bidders or offerors publicly disclosed.

Except as provided under section 22-14, Cooperative Purchasing, the contract letting process for goods and services to be evaluated and awarded on the basis of best value shall include the public solicitation of bids and submission of sealed bids as required under General Municipal Law §103. The bid specifications shall include the minimum requirements and specifications that must be met in order for the bidder or offeror to be deemed responsive and responsible. The specifications shall also contain a general description of the manner in which the evaluation of the offers and awards of the contract will be conducted. Where appropriate, the solicitation shall identify the relative importance and/or weight of cost and the overall technical criterion to be considered by the City in its determination of best value.

In addition, the advertisement inviting bids for awarding any purchase contract on the basis of "best value" shall, among other things, state that the bidder or offeror must submit prior to the awarding of a contract, a statement indicating that the bidder or offeror will work towards the women and minority workforce goals as set forth Article II, Section 96-13(F) of the City of Buffalo Code.

22-18. Scoring of Contracts Evaluated On the Basis of Best Value.

The evaluation criteria utilized shall be based upon objective and quantifiable factors. Whenever possible and applicable, factors including, but not limited to, quality, reliability, durability, maintenance, useful lifespan and performance shall be evaluated.

A minimum of 15% of the total score shall be based on the bidder's or offeror's minority workforce development, community involvement and vendor policies. An additional 5% of the total score shall be based on the bidder's or offeror's women workforce development community development and vendor policies.

The M/WBE factors to be considered include, but are not limited to, the following:

- a) **Workforce:** Bidders or offerors should describe any programs or actions they undertake to attract, train, retain and promote minority and female employees, partners and associates and current representation of minorities and women.
- b) **Community Involvement:** Bidders or offerors should describe any programs or initiatives they sponsor or support that further the development of minority or women-owned business enterprises in the City of Buffalo.

- c) Vendor Policies: Bidders or offeror should describe any procurement policies or practices they have adopted that provide M/WBE suppliers or services business opportunities.

22-19. Award and Approval:

It shall be the responsibility of the Director of Purchase or department and/or their designee to review each proposed non-New York procurement to determine, on advice of the Corporation Counsel, whether the proposed procurement has been let to the lowest responsible bidder or on the basis of "best value," in a manner consistent with General Municipal Law §103.

All contracts awarded on the basis or best value or procured by cooperative purchasing shall be subject to the approval as to form by the Corporation Counsel and approved by a majority vote of the Buffalo Common Council.

Section 2: This Local Law shall take effect immediately upon its filing with the New York Secretary of State.

Section 3: This Local Law is not subject to mandatory referendum because the subject matter is not enumerated in the Municipal Home Rule Law as a category requiring a referendum.

Section 4: IT IS HEREBY CERTIFIED, pursuant to Section 3-17 of the Charter of the City of Buffalo, that the immediate passage of this Local Law is necessary.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 20 20 of the (County)(City)(Town)(Village) of Buffalo was duly passed by the Common Council on December 10 20 19, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the Mayor and was deemed duly adopted *(Elective Chief Executive Officer*)* on January 7 20 20, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. *(Elective Chief Executive Officer*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ above.

Teresa M. Mat

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 1/15/2020

(Seal)