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# HALDIMAND COUNTY

## Report LSS-14-2025 Procurement Policy Amendments – Strengthening Procurement Strategies in Response to U.S. Tariff Challenges

For Consideration by Council in Committee on April 29, 2025

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### Objective:

To mitigate the impacts of U.S. imposed tariffs on Canadian goods purchased by Haldimand County, by strengthening Haldimand's procurement practices through updates to Procurement Policy 2023-02, revisions to bid documentation, and continuing to utilize strategic purchasing that prioritizes Canadian suppliers in compliance with applicable trade agreements and legislation.

### Recommendations:

1. THAT Report LSS-14-2025 Procurement Policy Amendments – Strengthening Procurement Strategies in Response to U.S. Tariff Challenges be received;
2. AND THAT Council approve the proposed procurement strategy as outlined in Report LSS-14-2025, authorizing staff to proceed with the necessary updates to Procurement Policy 2023-02, along with all related documentation and processes, to support implementation of the strategy by no later than June 1, 2025.

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**Approved:** Mark Merritt, CPA, CA, Acting Chief Administrative Officer

### Executive Summary:

In response to the ongoing U.S. imposed tariffs on Canadian goods, staff continue to assess the impacts and risks these tariffs pose to Haldimand County's purchasing activities. To mitigate these challenges, a comprehensive review was undertaken, encompassing relevant trade agreements, procurement legislation, and Procurement Policy 2023-02 (Policy).

In addition, staff participated in several facilitated sessions to exchange strategies for managing the effects of tariffs. Based on these findings, staff are recommending updates to the Policy, revisions to terms and conditions of bid documents, and the implementation of strategic purchasing practices that prioritize Canadian suppliers, where feasible and allowable.

### Background:

At the March 18, 2025 CIC meeting, memorandum FDS-M02-2025 Strengthening Local Procurement Strategies in Response to U.S. Tariff Challenges, included a recommendation that staff continue to assess tariff impacts and explore ways to minimize exposure through a corporate procurement strategy.

Developing a corporate procurement strategy requires careful consideration of multiple factors, including review of trade agreements, legislation, Haldimand's Procurement Policy 2023-02 and reviewing other proposed and implemented changes of other municipalities.

- Trade Agreements – Canadian Free Trade Agreement (CFTA) and the Comprehensive Economic and Trade Agreement (CETA). Each outlines the requirements that municipal governments must comply with based upon dollar thresholds for goods, services and construction.
- Legislation Applicable to Municipal Procurement – This includes the Discriminatory Business Practices Act, R.S.O. 1990, c. D12 and the Competition Act, R.S. C. 1985, c. C34. These legislations prohibit discriminatory practices while ensuring fair, transparent and competitive processes in procurement activity within Ontario.
- Legislation Specific to Academic, Institutions, Schools and Hospitals (AISH) Procurement – Specifically, this includes the Building Ontario Business Initiatives Act, 2022 (BOBI), which applies to the AISH sector. Municipalities are not explicitly covered, but may choose to incorporate elements of this Act into its own procurement policies, such as supporting sourcing locally (within Ontario).
- Review of Procurement Policy 2023-02 and Related Impacts – Subject to the analysis of the above, the Policy needs to be assessed to determine what amendments can be made to facilitate sourcing from Canadian suppliers while ensuring continued compliance with applicable legislation and trade agreements.
- Municipal Government Trends – Many municipalities across Ontario and Canada have been working to adopt procurement strategies with the purpose of strengthening local economies while maintaining compliance with trade agreements and legislation in response to the fluid tariff challenges. Many of these communication exchanges have been facilitated through networking organizations including the Association of Municipalities of Ontario (AMO) and the Ontario Public Buyers Association (OPBA). Reviewing these approaches provides valuable insights into best practices, innovative policy adjustments, risk assessments and potential challenges. Examining procurement models from other municipalities can help identify strategies that balance local supplier support with regulatory obligations, ensuring Haldimand County remains competitive, mitigates risk for local residents/visitors and aligned with industry standards.

## **Analysis:**

### **Trade Agreements**

**CFTA** - is a trade agreement among all provinces and territories in Canada. Chapter 5 – Procurement focuses on ensuring that government purchasing is fair, open and competitive. The agreement is designed to prevent discrimination against suppliers based on their location within Canada and to promote transparency in public procurement.

Municipalities can prefer Canadian suppliers under CFTA (referred to as “value-added”) and permits limiting its tendering (allowing for non-competitive purchases), provided that the intent is not to avoid competition or discriminate, and the purchasing activity complies with its other legislative obligations. The CFTA defines a “Canadian Supplier” as “a supplier that has a place of business in Canada”, meaning that foreign-owned companies - such as a U.S. owned company with a presence in Canada, has the same access to procurement opportunities as Canadian-owned businesses.

The Canadian value-added preference allows up to 10% Premium for bids that include more Canadian content. However, many public entities are cautious about using it due to unclear rules and the risk of legal challenges.

**CETA** - is a trade agreement between Canada and the European Union (EU), which includes 27 European countries. Chapter 19 – Procurement focuses on public procurement, mirroring the same intentions as CFTA, but applied between Canada and the EU. The U.S. is not a party to this agreement.

While both trade agreements share similar principals, they prohibit preferential treatment based upon supplier location. CFTA prohibits policies that favour local supplier over suppliers from other Canadian provinces or territories. Whereas, CETA prohibits policies that favour a Canadian supplier over a EU supplier – a restriction that applies reciprocally.

Each trade agreement establishes specific dollar thresholds that determine when a procurement must comply with the agreement's requirements. When these thresholds are met, the procurement process must be conducted in accordance with the provisions of the agreement, including the requirement for open competition through posting publicly as outlined in Table 1: Procurement Thresholds further below in this report (i.e. any request for purchasing process - RFx).

The agreements outline procedural requirements such as mandatory timelines for bid submissions, transparent supplier communications, and specific evaluation criteria. Additionally, municipalities cannot impose unnecessary barriers such as a condition that, in order for a supplier to participate in a procurement, the supplier has been previously awarded one or more contracts by the municipality.

### **Strategy Takeaway:**

- Requires municipalities to follow fair, open, transparent procurement processes that prohibit location-based preferences for suppliers.
- CFTA allows for Canadian value-added preferences under specific conditions, but there is no established legal precedent clarifying how this can be applied in practice.
- The greatest flexibility to apply a buy Canadian approach for procurement is within or below CFTA thresholds including incorporating value-added preferences into RFx.

### **Legislation Applicable to Municipal Procurement**

The Discriminatory Business Practices Act, R.S.O. 1990, c. D12 specifically applies to municipal procurement in Ontario and prohibits discriminatory practices based on factors such as race, nationality, religion and geographical location – meaning that a municipality cannot favour a local supplier solely based upon their geographical location (e.g. within Haldimand County).

The Act requires that suppliers must be considered based on merit, qualifications and their ability to meet the requirements of the RFx.

The Competition Act, R.S.C., 1985, c. C-34 includes the prevention of anti-competitive practices such as price-fixing, collusion and market allocation (suppliers dividing markets to avoid competition). This Act supports maintaining fair and transparent procurement processes, ensuring suppliers are not unfairly excluded or favoured for non-merit factors, such as geography.

### **Strategy Takeaway:**

- Requires municipal procurement remain fair, open, transparent procurement and free from discriminatory or anti-competitive practices.
- Assessment of qualifications and supplier merit can be completed without preferential treatment based on location or other non-merit factors.
- Evaluation criteria can be tailored to the specific to the procurement need. For example, if the requirement includes on-site response time that necessitates a qualified repair technician within a defined timeframe, this is a valid evaluation criterion which could limit where a supplier is geographically located. Typically, this type of situation would arise where mechanical failure downtime could significantly result in a negative impact to safety or security or public health.

**Legislation Specific to Academic, Institutions, Schools and Hospitals (AISH)  
Procurement**

The Building Ontario Business Initiatives Act, 2022 (BOBI), which came into effect on April 1, 2024 and applies to the AISH sector. The purpose of BOBI is to support Ontario businesses by providing them with greater opportunities to compete for public sector contacts, ultimately promoting local (provincial) economic growth. An Ontario business is defined under Ontario Regulation 422/23 as:

1. “The business is a supplier, manufacturer or distributor of any business structure that conducts its activities on a permanent basis in Ontario.
2. The business either: i.) has its headquarters or main office in Ontario, OR ii.) has at least 250 full-time employees in Ontario at the time of the applicable procurement process.”

Within this Regulation, preference may be allotted to an Ontario business by limiting eligibility to participate in the procurement process to one more Ontario businesses or by allocating a 10% evaluation advantage to Ontario businesses that participate in the RFx process.

Although municipalities are not explicitly required to comply with BOBI, they may choose to incorporate elements of the Act into their own procurement policies, such as prioritizing Ontario-based suppliers. Application of BOBI is only permitted for procurement below the CFTA and CETA thresholds.

**Strategy Takeaway:**

- Under the Regulation, the County may be able to source from Ontario businesses through restricted eligibility (invited to bid instead of open competition) and the application of a 10% preference where applicable, subject to remaining compliant with trade agreements.
- Include definition of Ontario business within RFx, where able.

**Review of Haldimand County’s Procurement Policy 2023-02 and Related Impacts**

Procurement Policy 2023-02 (the Policy) underwent a major rewrite in 2023 as part of a cross-divisional committee initiative to ensure alignment with legislation, case law, best practices, and corporate needs while enhancing efficiencies for staff, suppliers, and Council. Based on this review, several improvements were made to support public procurement through open, fair, and transparent processes while streamlining efficiencies and maintaining maximum flexibility. As a result, procurement thresholds were updated to reflect these needs, incorporating best practices at the time. Table 1 below compares the Policy thresholds to those established under CFTA and CETA.

**Table 1: Procurement Thresholds – Trade Agreements compared to Procurement Policy for Publicly Posted RFx**

Category	Policy Threshold	CFTA Threshold	CETA Threshold
Goods	\$100,000	\$133,800	\$353,300
Service	\$100,000	\$133,800	\$353,300
Construction	\$100,000	\$334,400	\$8,800,000

While the Policy is scheduled to be reviewed and updated every five years, the CFTA and CETA adjust their values every two years, based on inflation and other economic factors, with the next update scheduled for January 1, 2026.

**Strategy Takeaway:**

- The 2023 Policy update did not account for the potential impacts of current tariff changes and ongoing economic uncertainty currently being experienced.

- There is an opportunity to align procurement thresholds with the trade agreements, to obtain maximum flexibility to enable a buy-Canadian strategy. This allows us to explore alternatives to U.S. goods and services where feasible to minimize tariff exposure, while still ensuring procurement activities remain strategic, cost-effective, and compliant with trade obligation.

## Municipal Government Trends

Staff have participated in various sessions, discussions and meetings with other public sector agencies, including those facilitated by the AMO and the OPBA. Three key themes have emerged: reviewing procurement policies and applicable legislation to determine if there is flexibility available to support a “Buy Canadian” approach; addressing increase costs related to tariffs; and managing new contracts to align with a “Buy Canadian” strategy.

### Strategy Takeaway:

- Haldimand’s review and recommended procurement strategy is aligned with the reviews and activities being completed by other municipalities.
- Review existing contracts to determine if tariffs could increase costs. If yes, take necessary steps to validate and/or minimize negative fiscal impacts, when possible. For example, construction contracts allow for price changes. If a contractor asks for a price adjustment, staff will verify when the product was purchase, if it was actually used on the Haldimand project, and review all documents and market information to confirm the impact of the tariff.
- New contracts are to be developed with the consideration of potential tariff impacts, balanced with the desire to have competitive pricing, with the inclusion of terms and conditions included within the contract to mitigate future additional expenses. For example, clarifying if the price is inclusive of tariffs and if future price variations as a result of tariffs will be considered and validated.

## Proposed Procurement Strategy

As a result of staff analysis, outlined above, the following four strategies are being recommended.

1. **Policy Update** - The proposed strategy includes the following changes to the Procurement Policy:
  - Including the definition of goods, services and construction to enable the greatest flexibility to align with the procurement spend thresholds in the trade agreements.
  - Increase the procurement thresholds while ensuring compliance with the trade agreements to leverage purchasing from Canadian suppliers. This would enable divisions to select which suppliers are invited to bid on a RFx up to the new proposed threshold.

Category	Current Policy Threshold	Proposed New to Match CFTA
Goods	\$100,000	\$133,800
Service	\$100,000	\$133,800
Construction	\$100,000	\$334,400

2. **RFx Template Updates** - The Policy already has a provision that provides the authority to award a RFx subject to the parameters outlined in the RFx. Noting this, the RFx templates can be updated to include a definition of “Canadian Supplier” and “Ontario Business” to enable utilization of the 10% evaluation preference under defined terms for all bid competitions that fall within or below the CFTA procurement thresholds (see Table 1) and under BOBI where is applicable.
3. **Strategic Purchasing Guidelines Implemented** - Staff have access to procurement tools and guidelines that ensure compliance with policies and trade agreements. Building on this foundation, new guidelines can be introduced to help respond to U.S. tariff impacts and strengthen our approach. Specific goals include:

- Prioritize strategic sourcing from Canadian and Ontario businesses when legally permissible.
- Opt for shorter-term contracts for more flexibility in a changing market.
- Highlight best practices, including:
  - secure fixed prices where possible to protect from price surges;
  - support diversification of suppliers to reduce exposure from market volatility;
  - assess if there are more opportune times to issue RFX to secure better pricing; and
  - review opportunities for cooperative purchasing activities to benefit from volume-based purchasing power.

#### 4. On-Going Monitoring

As the municipality takes its direction from federal and provincial legislation or regulations, staff will continue to closely monitor any announced changes to identify potential opportunities to support a buy-Canadian approach.

#### Considerations, Risks and Mitigation

While the recommended strategies are intended to support smarter, more resilient, and cost-effective procurement, staff have identified some associated risks, along with and opportunities to minimize these risks and minimize potential negative impacts.

- Some goods or services are exclusively provided from U.S. suppliers.
  - **Risk:** Certain products or services may only be available from U.S. based suppliers, limiting a buy-Canadian approach.
  - **Mitigation:** Staff will continue to monitor the marketplace for changes, recognizing that alternative suppliers may become available over time.
- Increasing procurement thresholds could reduce the ability for local businesses to respond to bids or provide goods and services.
  - **Risk:** Raising the dollar thresholds for open competition may limit opportunities for local businesses, as fewer procurements would require public posting by Haldimand County or other municipalities.
  - **Mitigation:** To address this, procurement staff will emphasize the importance of strategic sourcing and ensure that local, provincial, and Canadian suppliers are included in invitational procurement processes wherever possible. Additionally, local suppliers will be encouraged to register on Bids + Tenders, a Canada-wide procurement website used by various public sector agencies to connect suppliers with procurement opportunities. Registration on the website allows businesses to receive automatic notifications and access bid documents, enhancing their visibility and exposure. With many municipalities adopting similar procurement strategies, this platform will offer local suppliers the opportunity to promote their goods and services by commodity categories.
- Sourcing Canadian suppliers may not always guarantee the lowest price.
  - **Risk:** While prioritizing Canadian suppliers supports local and national economies, it may not always result in the most cost-effective solutions.
  - **Mitigation:** Ensure that all sourcing decisions are made based on a balance of price, quality, and strategic value, and continue to assess options through a comprehensive procurement process. Where possible, develop the RFX to enable negotiation of pricing to offset negative fiscal impacts.

Staff are recommending that if the proposed procurement strategy be approved by Council, that the changes be implemented no later than June 1, 2025. Time is required to implement the changes to the Procurement Policy, update procedures, RFX templates, tools and reference guides for staff to become aware of the changes to support the strategy.

## **Financial/Legal Implications:**

Given the uncertainty and fluid nature of this situation, the U.S. imposed tariffs will have an undetermined impact on Haldimand County, which has resulted in a change in procurement strategy to buy Canadian where possible to reduce the potential fiscal impact, where possible.

Haldimand staff will continue to monitor the risk and financial impacts of tariffs and mitigate these risks whenever possible.

## **Stakeholder Impacts:**

As the Procurement Policy and RFX are updated, communication and information updates will be provided to staff to encourage the buy Canadian focus where possible.

## **Report Impacts:**

Agreement: No

By-law: No

Budget Amendment: No

Policy: Yes

## **References:**

1. [Procurement Policy 2023-02](#)
2. [FDS-M02-2025 Strengthening Local Procurement Strategies in Response to U.S. Tariff Challenges](#)
3. [Canadian Free Trade Agreement](#)
4. [Comprehensive Economic and Trade Agreement](#)
5. [Discriminatory Business Practices Act, R.S.O. 1990, c. D12](#)
6. [Competition Act, R.S. C. 1985, c. C34](#)
7. [Building Ontario Business Initiatives Act, 2022](#)

## **Attachments:**

None.