



Report

Subject: Response to US Tariffs – Procurement By-Law Amendment

Department: Corporate Services

Division: Finance

Report #: CPS-2025-055

Meeting Date: 2025-07-14

Recommendations

That report CPS-2025-055 Response to US Tariffs – Procurement By-Law Amendment be received; and,

That a by-law be enacted to amend Procurement By-law No. 2023-061, as proposed in Attachment 1.

Overview

The purpose of this report is to provide an overview of recent developments in international trade relations between Canada and the United States and recommend policy amendments as directed in the February 10, 2025 Notice of Motion. The policy amendments are designed to align with the recent Ontario government's Procurement Restriction Policy to further collective advocacy efforts and support Canadian businesses while ensuring the Town continues to respect applicable trade agreement obligations.

Since the Trump administration took office on January 20, 2025 there have been a number of announcements, pauses, and countermeasures undertaken. Currently, the US is imposing a 50% tariff on Canadian steel and aluminum, 25% tariff on automotive parts/automobiles and a 10% tariff on Canadian energy and potash products.

Canada initially imposed 25% retaliatory tariffs on \$30 billion and \$29.8 billion (CAD) worth of goods imported from the United States, effective March 4 and March 13, 2025 respectively. These tariffs were enacted at a federal level as direct countermeasures to U.S. tariffs on Canadian steel and aluminum. Canada's retaliatory tariffs apply to a wide range of U.S. origin products, including steel, aluminum, auto imports, and other goods as detailed in an official product lists. On April 2, Canada expanded the retaliatory tariffs to include another \$95 billion worth of goods.

On June 19, 2025, Canada announced it will adjust these counter-tariffs on July 21, 2025, to levels consistent with progress made in broader trade negotiations with the

United States. This could mean an increase in counter-tariffs if no agreement is reached.

Tariff countermeasures implemented by the Government of Canada will increase the cost of goods coming from the US. The countermeasure approach makes Canadian businesses involved in sectors that are subject to tariff more competitive in local markets. There could be situations where a product or good is only available from the US and to provide some relief, the Government of Canada has implemented a Remission Program. The program is applied for on a case-by-case basis and it needs to be demonstrated that a particular product or good can only be sourced from the US.

The Town procures and assets such as vehicles (fire trucks, buses, snow plows, street sweepers, and passenger vehicles), building materials (new construction and building repairs), and equipment (computers, radios, HVAC, traffic signals, and pumps) which could potentially have tariffs applied if originating from the US.

Staff have reviewed the federal and provincial policy response, and the response of other municipal counterparts, and recommend that the Town amend its procurement policy to:

- Provide preference to Canadian suppliers, products and services for purchases valued at \$120,000 or less; and,
- Exclude suppliers from designated countries or regions from its procurement processes, or give preference to suppliers that are not from such countries or regions, in alignment with federal or provincial restriction policies or directives.

Attachment 1 provides proposed amendments to Procurement By-law No. 2023-061.

Background

At the February 10, 2025 Council meeting, the following motion was passed:

THEREFORE BE IT RESOLVED THAT Council direct staff to review the Town of Orangeville's procurement policies and procedures to ensure that priority is given to Canadian companies and products, where feasible and compliant with trade agreements; and

BE IT FURTHER RESOLVED THAT Council direct staff to monitor and report back on the findings and recommendations of municipal partners, including the Association of Municipalities of Ontario (AMO), the Federation of Canadian Municipalities (FCM), Canoe Procurement Group, and other relevant organizations, to ensure alignment with best practices and advocacy efforts.

The Canada-United States-Mexico Agreement (CUSMA) is trade agreement between Canada, the United States, and Mexico that replaced the North American Free Trade Agreement (NAFTA) on July 1, 2020. Note: In the United States, the agreement is referred to as the United States-Mexico-Canada Agreement (USMCA).

CUSMA maintains the key aspects of the trade relationship between Canada, United States, and Mexico. It also incorporates new provisions to address current trade challenges and continuing to promote opportunities for North Americans. There are exceptions within this free trade agreement that allow for tariffs to be applied in emergency situations.

The 2025 tariffs are officially justified by the U.S. administration as necessary to protect national security, curb the opioid crisis, reduce the trade deficit, and promote American industry, while also serving as leverage in ongoing negotiations with Canada.

- **What is a Tariff?**

A tariff, also known as a duty or levy, is a tax imposed by a receiving nation on imported goods and is paid by the company who has imported the goods. The tariff is typically calculated as a percentage of a good's value, during the customs clearance process, and is applied according to the country of origin of the good.

Complexities arise when a product is assembled from parts that cross multiple borders. Goods that cross borders are given numeric codes under a standardized classification called the "international harmonized system." Tariffs can be assigned to specific product codes relating to, for example, a truck chassis, or to broad categories, such as computers.

A government may impose tariffs to generate revenue, protect domestic industries, control the production of specific goods for national security or to achieve political objectives.

- **Who Pays a Tariff and What are the Implications?**

Customs agencies collect tariffs on behalf of governments. Tariffs are paid by the importer, or an intermediary acting on the importer's behalf, and these costs are typically passed down the supply chain to end users. For this reason, tariffs can spark price increases/ inflationary pressures, particularly if there are no immediate alternative sources of supply.

Economists suggest that the practical effect of a tariff can be similar to 'taxing your own domestic businesses and consumers'. Detrimental implications often occur to the nation who has imposed the tariffs, and the shift from an open market free trading relationship to protectionism may trigger retaliatory tariffs.

The US administration believes that the foreign or Canadian exporters whose products are subject to tariff will need to respond by lowering prices, as a concession to remain market competitive, and therefore the majority of the tariff cost will ultimately be paid by the foreign exporter.

In the longer term, foreign companies could be motivated to move manufacturing to the US to avoid the tariffs, and therefore investment and employment gains will be

achieved. This referred to as 'onshoring' of the US manufacturing base and in practical terms it typically takes three to four years to build new production facilities. In times of heightened economic uncertainty, US companies may be unwilling to make significant investments particularly if they feel the US administration will eventually reduce or eliminate the tariffs.

Analysis/Current Situation

- **Federal Canadian Response**

Federal Canadian counter measures in the form of retaliatory tariffs may offset some of the economic benefits garnered by US companies through US tariffs. However, a prolonged 'trade war' historically harms both trading partners. While unpredictable trade policies such as tariffs may enhance negotiating leverage, ahead of re-negotiating existing trade agreements, Canadian business investment and the supply of valuable commodities may be re-directed to more stable trading partners.

A protracted trade war will likely evoke the need for more significant structural reform to diversify Canada's trading partnerships to create other markets for Canadian exports. The removal of inter-provincial trade barriers has also been widely discussed to generate internal economic activity.

Additionally, Canada has announced, that effective June 30, the government will begin implementation of reciprocal procurement policies. While the details of such federal policies have not been made public, reports indicate that they will limit access to federal procurements. Canadian suppliers, and suppliers who originate from reliable trading nations that provide reciprocal access to Canadian suppliers, will be given preference.

- **Provincial Response**

The Ontario Ministry of Public and Business Service Delivery and Procurement (MPBSDP) has implemented a Procurement Restriction Policy that prohibits Ontario public sector entities, including ministries, provincial agencies, and designated broader public sector (BPS) organizations, from awarding new contracts to U.S. businesses, with limited exceptions.

This policy is a direct response to the imposition of U.S. tariffs on Canadian goods and services and took effect on March 4, 2025. Should tariffs be lifted, this Procurement Restriction Policy would be re-assessed and may be adjusted or rescinded.

Ontario has legislation that operates to exclude suppliers from US jurisdictions from provincial procurement opportunities. The Ontario Fairness in Procurement Act, 2018 provides the legal framework and authority for the Ontario government to impose procurement restrictions in response to discriminatory practices by American jurisdictions, such as "Buy America" policies. The Act allows the government to designate specific American jurisdictions as "offending" and to implement regulations

that restrict suppliers from those jurisdictions in Ontario's public procurement processes. To date only one jurisdiction (New York) has been impacted by this legislation.

The 2025 Procurement Restriction Policy—which excludes U.S. businesses from participating in new Ontario public sector procurements—was formally issued under the authority of the Management Board of Cabinet Act and the Broader Public Sector Accountability Act, 2010.

The Management Board of Cabinet Act grants the Management Board of Cabinet broad authority to issue directives and policies regarding government procurement and administration. The Broader Public Sector Accountability Act, 2010, which does not apply to Ontario municipalities, applies to a wide range of public sector organizations and enables the government to issue procurement policies that these organizations must follow. The Acts provide the legal framework and authority for the 2025 Procurement Restriction Policy, which restricts U.S. businesses from accessing public sector procurements in Ontario.

The policy does not apply when public sector entities use existing Vendor of Record arrangements (VORs) or other arrangements available to public entities.

While the Procurement Restriction Policy does not directly apply to municipalities, Ontario's Premier has publicly called for a coordinated response and encouraged municipalities to support federal and provincial policy efforts.

- **Response from Advocacy Groups/Municipal Partners**

The key responses from the Federation of Canadian Municipalities (FCM) have focussed on national awareness, procurement adaptation acknowledgement, and advocacy for federal/provincial support to offset municipal cost increases and project delays.

The Association of Municipalities of Ontario (AMO) has advocated to federal/provincial leaders, called for infrastructure and housing investment, procurement policy review, and acknowledged the need to mitigate municipal budget impacts. AMO as requested further action to mitigate cost escalations on municipal capital projects and to initiate new investment of \$1.5 billion in 2025/2026 and 2026/2027 to support new capital development and the rehabilitation of existing infrastructure.

Should a protracted economic downturn occur, these investments aim to protect jobs in the construction sector and protect broader provincial prosperity recognizing the economic contribution of the construction sector. Ontario municipalities spend over \$22 billion annually and some are passing resolutions to support buy-Canadian initiatives and provide preferences to Canadian suppliers.

Canoe Procurement Group of Canada, a not-for-profit group procurement organization, has emphasizes its Canadian ownership and operation, and highlighting that every contract it holds includes Canadian content—whether through dealers, distribution

networks, or Canadian business operations. Canoe intends to provide stability and reliability for members during this period of uncertainty yet has not implemented a blanket ban on US vendors.

The Town of Orangeville and Dufferin County collaborate on cooperative procurements to realize administrative efficiencies. Note that the \$120,000 or less threshold level the Town is recommending for preferences to Canadian suppliers, vendors and products coincides with the Town's three-quotation invitational requirement. The County has used \$99,999 or less to coincide with their similar procurement threshold level.

Furthermore, Dufferin County has enacted a procurement policy amendment, for amounts over \$100,000, whereby bids submitted by suppliers from countries not acting in good faith of trade treaties may not be considered.

Joint procurement initiatives between Dufferin County and the Town have historically been larger scale capital projects or multi year contracts valued well above either the \$99,999 or \$120,000 threshold which triggers open competitive bidding obligations. A similar procurement policy amendment by the Town will allow the two municipal organizations to continue to collaborate effectively during supplier evaluation and award processes.

Many municipalities have independently amended their procurement by-laws to prioritize Canadian suppliers and restrict U.S. suppliers, especially for contracts below certain thresholds. These municipal measures have been locally enacted to further federal and provincial advocacy objectives.

Town of Orangeville

In order to achieve the desired economic and advocacy objectives, while avoiding unintended consequences, a thoughtful and precise procurement policy amendment is recommended.

It is recommended that the Town enact a preference to Canadian suppliers, products and services, under our \$120,000 procurement policy threshold, to support the domestic economy. This is subject to the marketplace availability, meeting the Town's requirements and offering good public value.

Additionally, above the \$120,000 procurement policy threshold, where consistent with federal or provincial restriction policies or directives, it is recommended that the Town chose to exclude suppliers from designated countries or regions from its procurement processes or may give preference to suppliers that are not from such countries or regions. This is viewed as reasonable countermeasure.

Several municipal peers of varying sizes have adopted similar approaches, although the potential for legal challenges must be acknowledged, and limited case law is available.

The Town's procurement policy requires a public competitive bidding process for procurements over \$120,000. Over this threshold amount, it is desirable to continue to allow suppliers originating from other countries to participate in the competitive bidding process rather than explicitly prefer Canadian suppliers. This will ensure the Town is complying with applicable trade agreements.

It worth noting that the Town's 2025 operating and capital budget is approximately \$74 million and \$72 million respectively. US vendors are directly awarded a very small percentage of our contracts, generally for heavy equipment/vehicles, select building materials, and technology categories, where Canadian equivalents are not always available.

- **Definition of a U.S. Business**

For the purposes of administering the procurement by-law amendment, the following definition of a US business, which is consistent with the definition used by Ontario, is proposed:

A U.S. business means a supplier, manufacturer or distributor of any business structure (including a sole proprietorship, partnership, corporation or other business structure) that:

1. has its headquarters or main office located in the U.S., and
2. has fewer than 250 full-time employees in Canada at the time of the applicable procurement process.

If a bidder or vendor is a subsidiary of another corporation, part 1 of the definition above is met if that bidder or vendor is controlled by a corporation that has its headquarters or main office located in the U.S.

- **Existing Agreements**

Most multi-year agreements that the Town has with its suppliers include terms and conditions that allow for annual increases to reflect cost escalation. The impact of tariffs on these provisions in existing agreements is not known at this time. Staff will monitor requests to amend agreements due to tariff impacts and will address these requests on a case-by-case basis.

Corporate Implications

The full impact of US tariffs on Canadian exporters and Canadian counter-tariffs on Canadian consumers is extremely difficult to determine. The US Administration and the Canadian Federal Government continue to have tariff negotiations and make announcements.

It is anticipated that the costs for some municipal goods will increase should they have a US component that is subject to Canadian counter-tariff. In the event it can be demonstrated that the only source for a particular good is from the US and the good is subject to Canadian counter-tariff, a Canadian importer can apply for relief under a newly announced Remission Program. If there are Canadian alternatives, it is likely that the Canadian supplier will be the lower cost alternative, although costs may be higher than previously anticipated and potentially budgeted for.

The Association of Municipalities of Ontario (AMO) commissioned Oxford Economics to assess the direct impact of Canadian retaliatory tariffs on Ontario municipalities' capital expenditure programs for fiscal years 2025–26 and 2026–27. The report concludes that, overall, tariffs could increase total municipal capital expenditure by approximately 2.0% over a 2-year period. The Town of Orangeville's exposure to counter-tariffs is not quantifiable at this time.

Conclusion

Subject to Council approval, the Procurement By-law and related Policy will be amended as outlined in this report. Staff will also monitor costs in an attempt to track tariff impacts and report on these as part of the periodic financial reporting process.

Strategic Alignment

Strategic Plan

Strategic Goal: Economic Resilience

Objective: 10. Ecosystem – Retain local business, 11. Competitiveness – Attract new business activity and employment

Sustainable Neighbourhood Action Plan

Theme: Economic Development and Culture

Strategy: Preserve Orangeville's small-town appeal while supporting robust business and tourism opportunities.

Notice Provisions

N/A

Respectfully submitted,

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Attachment(s): Attachment 1 – Procurement By-law No. 2023-061 Amendment
Attachment 2 - Summary of US and Canadian Tariffs