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## Purchasing By-law Updates – Putting Canada First

### Report Summary

This report provides information regarding the proposed amendments to the City of Greater Sudbury's By-law 2014-1 ("Purchasing By-law") in response to Member's Motion FA2025-08 Putting Canada First and the Greater Sudbury's Economic Strategy Amid U.S. Tariffs.

### Relationship to the Strategic Plan, Health Impact Assessment and Climate Action Plans

This report supports the City's Value "Foresight" – We act today in the interests of tomorrow.

Although the Policy contemplated within this report is temporary, it will support the City's strategy to build economic development initiatives to support existing businesses (2.1).

### Financial Implications

If the Purchasing By-law amendments are approved, limiting the competitive market can result in higher prices for goods and services. All procurements are still required to comply with current operating and capital budget policies. The proposed Policy contains exemptions should adherence cause significant budget implications.

### Background

The ongoing tariff dispute between the United States of America ("US") and Canada continues to evolve, with significant implications for trade policies, economic stability, and international relations. The imposition of tariffs will inevitably impact the City, though the full extent remains uncertain. Supply chains are complex, with goods crossing the border multiple times. As a result, even when procuring from Canadian suppliers, the indirect effects of tariffs may still be significant.

Last month, the City's Finance and Administration committee voted unanimously to pass a Motion in response to the ongoing tariff war with the United States, directing City of Greater Sudbury ("City") staff to:

- "continue to investigate alternative products, supplies and materials to current municipal purchasing from United States suppliers and take the necessary steps to develop a structured framework that enables the prioritization of products, supplies and materials from countries other than the United States"; and
- "present amendments to the City's Purchasing Bylaw at the April 22nd meeting of the Finance &

Administration Committee that will provide strategies to enable the City to prioritize procurement from Canadian and non-US entities while such tariffs are in effect or are still being threatened, wherever possible recognizing that certain Goods and Services may only be available in the United States”;

In addition, the Motion included requirements for staff to:

- “conduct a review of different CGS purchasing processes and their related thresholds to maximize the ability to purchase Goods and Services from Canadian sources”;
- “incorporate a definition of “Canadian or non-US Supplier” into its purchasing policy which includes requirements that will have the proposed work performed by a workforce of which at least 90% is Canadian or non-US based and has an office or production facility in Canada”;
- “use of the “Canadian or non-US Supplier” definition be used for higher value procurements to allow for a scoring advantage to be implemented for suppliers that meet such a definition”; and
- “strategies to be proposed herein be reviewed in accordance with the changes to imposed tariffs, on a regular basis with Committee with recommendations for changes to ensure their effectiveness”.

### **Existing Procurement Governance Framework for the City:**

The Municipal Act, 2001, S.O., Section 270 mandates that all municipalities and local boards must establish and maintain a policy for the procurement of goods and services through a By-law. The City's By-law 2014-1, known as the Purchasing By-law, governs procurement policies and procedures.

In addition to the Purchasing By-law, the City adheres to two domestic trade agreements: the Trade and Cooperation Agreement Between Ontario and Quebec (“TCAOQ”) and the Canadian Free Trade Agreement (“CFTA”), as well as one international trade agreement, the Comprehensive Economic and Trade Agreement (“CETA”), collectively known as “Applicable Trade Agreements”.

This procurement governance framework and applicable legislation, case law and our own policies and procedures guarantees that the City's procurement processes are competitive, objective, fair, and transparent.

Open competitive bidding is a key element of public procurement, ensuring compliance with Applicable Trade Agreements and achieving the best value. Although the City is not party to a trade agreement with the US, the City's Purchasing By-law does not prohibit US Suppliers from participating in open Bid Solicitations advertised through bids&tenders; therefore, contracts with a Total Acquisition Cost (TAC) of \$100,000 or greater that are procured through an open competitive process (Bid Solicitation) is open to all suppliers regardless of their country of origin.

Suppliers from provinces and countries under Applicable Trade Agreements must be granted open and non-discriminatory market access to procurement opportunities, except when the procurement is not applicable, or an exemption can be applied.

The thresholds for Applicable Trade Agreements are as follows:

Trade Agreement	Party	Thresholds		
		Goods	Services	Construction
<b>TCAOQ</b>	Quebec	\$134,400	\$134,400	\$134,400
<b>CFTA</b>	Canada	\$133,800	\$133,800	\$334,400
<b>CETA</b>	European Union	\$353,300	\$353,300	\$8,800,000

### **Proposed Strategies:**

Staff propose the following procurement strategy, as it best fulfills Council's objectives and requirements, while complying with Applicable Trade Agreements:

1. New Procurement Policy - Putting Canada First ("Policy") to be included in the City's Purchasing By-law.

The draft Policy is included as Appendix "A". This is a Policy that will remain in effect while US tariffs or the threat of tariffs on Canadian goods persist, which are not in accordance with the Canada-United States-Mexico Agreement.

The Policy is designed to support and strengthen the Canadian economy by prioritizing the procurement of Canadian Goods and Services through Canadian Suppliers wherever feasible and permissible. By embedding a preference for domestic sources into the City's purchasing decisions, the Policy supports local businesses, promotes economic resilience, and contributes to a broader national trade and economic development strategy. This approach not only helps to retain and create jobs within Canada, but also encourages innovation, investment, and sustainable supply chains.

The Policy includes a definition for "Canadian Service," as outlined in the CFTA: *"...considered Canadian if a minimum of 70 percent of the total price for the Service is provided by natural persons based in Canada."*

In this definition, the workforce requirement is expressed as a percentage of the total price for the Service, rather than the number of employees. In most cases, applying this definition should result in a workforce composition that exceeds the 90 percent requirement specified in the Motion.

2. Amendment to the open-competitive procurement threshold.

The proposed Purchasing By-law changes include an increase to the open-competitive procurement threshold from \$100,000 to \$133,800.

Rationale:

- The Purchasing By-law has not been adjusted for inflation, unlike Applicable Trade Agreements, which include mechanisms for such adjustments. This threshold complies with both the TCAOQ and the CFTA.
- The amendment will provide staff with greater flexibility to target certain suppliers for procurements with a total acquisition cost under \$133,800.
- Many municipalities have moved in this direction.

**Impact and Analysis:**

The Policy will have broader positive impacts on the Canadian Economy over the short and long term, in addition to supporting local job market to ensure economic stability for the City of greater Sudbury and beyond.

*Supply Chain:*

Currently, less than one percent of the City's awarded Contracts are with Suppliers whose primary place of business is in the US. Most of the City's active Suppliers are Canadian businesses with a registered Canadian mailing address. However, Canadian Suppliers sell or use Goods imported from the US, some of which cannot be substituted or delays that could jeopardize the delivery of essential services. The proposed Policy contains exemptions should adherence cause supply chain risks.

*Contract Price Increases:*

If approved, limiting the competitive market can result in higher prices for goods and services. All procurements are still required to comply with current operating and capital budget policies. The proposed Policy contains exemptions should adherence cause significant budget implications.

#### *Legal Compliance:*

Applicable Trade Agreements: The Policy has been drafted to comply with Applicable Trade Agreements and applicable law.

#### *Capacity:*

Ensuring compliance with this Policy requires dedicated time and specialized expertise to research and analyze Suppliers, Goods, and Services. A thorough assessment must be conducted prior to issuing Bid Solicitations to identify potential exemptions and to develop effective procurement strategies. This process may lead to delays in procurement timelines; however, with proper training, planning and coordination, compliance can be achieved while supporting successful procurement outcomes.

#### *Retaliatory:*

There is a risk that if the City adopts a policy perceived as discriminatory toward the US, it could prompt reciprocal actions. Given that the City relies on several US-based suppliers for specialized Goods and Services critical to maintaining municipal operations, any retaliatory measures could negatively impact service delivery, increase costs, or disrupt supply chains. City staff will continue to closely monitor this risk, engage with stakeholders as needed, and assess mitigation strategies to ensure continuity of essential services.

#### **Next Steps**

A bylaw to amend the City's Purchasing Bylaw appears on the agenda to give effect to the changes referenced in this report.

## **Resources Cited**

#### City of Greater Sudbury:

- [By-law 2014-1 A By-law Governing Procurement Policies and Procedures](#)
- [CC2025-51 Request to Establish Policies to Guide the Acquisition of Products, Supplies and Materials from Suppliers in the United States \(February 18, 2025\)](#)
- [FA2025-08 Putting Canada First: Greater Sudbury's Economic Strategy Amid U.S. Tariffs \(March 18, 2025\)](#)

#### Applicable Trade Agreements:

- [Canadian Free Trade Agreement](#)
- [Comprehensive Economic and Trade Agreement](#)
- [Trade and Cooperation Agreement Between Ontario and Quebec](#)

#### Government of Ontario Legislation and Policies:

- [Building Ontario Businesses Initiative Act, 2022 \(BOBIA\)](#)
- [Discriminatory Business Practices Act](#)
- [Procurement Restriction Policy](#)

## Appendix “A”



### Schedule “C” to By-law 2014-1 Procurement Policy - Putting Canada First

**EFFECTIVE DATE:** TBD – Upon approval of City Council

**EXPIRY DATE:** Refer to Section 8

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#### 1. PURPOSE

In response to the imposition of tariffs by the United States of America (“US”) on Canadian good imports, this Procurement Policy – Putting Canada First (“Policy”) serves as an addendum to the existing Purchasing By-law and will supersede any procurement and contract management related policies and procedures while in effect.

The intent of this Policy is to create a structured framework that enables the City of Greater Sudbury (“City”) to adopt strategies that:

- ✓ **Support for the Canadian Economy:** Where possible, procurement decisions will consider the economic benefit to the Canadian economies to offset the harm imposed by US based tariffs.
- ✓ **Leverage Buying Power:** Aligned with any federal or provincial legislation or direction to municipalities to support a unified, cross-Canada approach that effectively leverages the considerable buying power of Canadian municipalities and other public sector organizations to support a broader trade and economic strategy.

#### 2. APPLICATION AND SCOPE

This Policy applies to the City of Greater Sudbury and the local boards and corporations listed within Section 5. (4) of the Purchasing By-law.

This Policy applies to all new procurements of Goods, Services and Construction.

#### 3. GUIDING PRINCIPLES

This Policy shall be governed by the following principles:

- ✓ **Fair, Open, and Transparent Procurement:** The City of Greater Sudbury remains committed to competitive bidding and adherence to Applicable Trade Agreements.
- ✓ **Flexibility:** The implementation of this Policy will be complex and will introduce both unique opportunities and challenges. As a result, a flexible and adaptive approach is essential to effectively navigate evolving market conditions, supply chain constraints, and trade dynamics. This flexibility will ensure that procurement decisions remain aligned with the City's strategic objectives while allowing for adjustments as needed to achieve best value and maintain service delivery to the public.
- ✓ **Best Value and Budget Compliance:** Procurement decisions must prioritize obtaining the best value for the City while ensuring all expenditures comply with Budget Policies and remain within the Council Approved Budgets.

## 4. DEFINITIONS

Capitalized terms contained within this Policy have the definition set-out in the Purchasing By-law or below:

**“Canadian Goods”** means a Good which more than half of the total direct costs (at least 51 percent) must be incurred in Canada. Additionally, the Good must have undergone its last substantial transformation in Canada.

**“Canadian Service”** means a service provided by a natural person based in Canada (includes Construction):

- If a requirement consists of only one Service, which is being provided by more than one natural person, the Service will be considered to be Canadian if a minimum of 70 percent of the total price for the Service is provided by natural persons based in Canada; or
- If a requirement consists of two or more Services and the requirement will be certified on an aggregate basis, the Service will be considered to be Canadian if a minimum of 70 percent of the total price for the Service is provided by natural persons based in Canada.

**“Canadian Supplier”** means a Supplier that has a Place of Business (i.e. office or production facility) in Canada.

**“Non-US Goods”** means a Good which more than half of the total direct costs (at least 51 percent) must be incurred in a country other than the US. Additionally, the Good must have undergone its last substantial transformation in a country other than the US.

**“Non-US Services”** means a Service provided by a natural person not based in the US (includes Construction):

- If a requirement consists of only one Service, which is being provided by more than one natural person, the Service will be considered to be non-US if a minimum of 70 percent of the total price for the Service is provided by natural person not based in the United States of America; or
- If a requirement consists of two or more Services and the requirement will be certified on an aggregate basis, the Service will be considered to be non-US if a minimum of 70 percent of the total price for the Service is provided by natural person not based in the US.

**“Non-US Supplier”** means a supplier that has a Place of Business (i.e. office or production facility) in a country other than the US.

**“Place of Business”** means an establishment where a Supplier conducts activities on a permanent basis that is clearly identified by name and accessible during normal business hours.

## 5. POLICY

It is policy that:

- a) Procurement of Goods and Services with an estimated Total Acquisition Cost up to \$353,300 that are covered by TCAOQ and CFTA be awarded to only Canadian Suppliers that will utilize only Canadian Services and only permit the supply or use of Canadian Goods.
- b) Procurement of Construction with an estimated Total Acquisition Cost up to \$8,800,000 that are covered by TCAOQ and CFTA, be awarded to only Canadian Suppliers that will utilize only Canadian Services and only permit the supply or use of Canadian Goods.
- c) Procurement of Goods and Services with an estimated Total Acquisition Cost of \$353,300 or greater and Construction with an estimated Total Acquisition Cost of \$8,800,000 that are covered by TCAOQ, CFTA, and CETA be awarded to only Non-US Suppliers that will utilize only Non-US Services and only permit the supply or use of Non-US Goods.

- d) Procurement of transit vehicles: The City, when procuring transit vehicles, may, in accordance with the terms of CETA require that the Supplier contracts up to 25 percent of the contract value in Canada.
- e) Chief Administrative Officer (CAO) be authorized to release funding sources required to address any additional budget requirements as a result of tariffs.

## **6. POLICY EXEMPTIONS**

Exemptions to this Policy will be permitted if adherence:

- is not feasible due to the lack of viable substitutions;
- would cause significant delay;
- would result in negative impacts on Canadian suppliers; or
- is not in the best interest of the City.

Provided that:

- Canadian, and/or Non-U.S. Suppliers, Services, and/or Goods receive preference through value-added evaluation criteria, where feasible and permissible under Applicable Trade Agreements;
- The Agent has been consulted;
- Authorization is obtained from the ELT Member as per applicable procedures. (Authorized Persons may obtain a blanket exemption for specific Suppliers, Goods, Services, or Construction.); and
- A copy of the exemption authorization has been provided to Purchasing prior to the Contract Award.

The following exceptions are not subject to ELT Member approval and may be approved by the Authorized Person:

- The removal of the requirement of Canadian Goods from Section 4. A and b), if replaced with Non-US Goods.

## **7. ROLES AND RESPONSIBILITIES**

Executive Leadership Team:

- Monitor the trade relationship between Canada and the US and provide strategic direction.
- Authorize Policy exemption requests.

Chief Financial Officer/Treasurer:

- Financial and Budget advice and guidance.
- Coordinate the release of funding sources required to address any additional budget requirements because of tariffs.

Chief Procurement Officer (Agent):

- Monitor the trade relationship between Canada and the US and recommend policy amendments in response to significant changes.
- Provide related procedures and guides.
- Provide Policy and Applicable Trade Agreement advice and guidance.
- Ensure compliance with the Policy.
- Provide mechanism to limit competition to Canadian Suppliers under Applicable Trade Agreement thresholds and other sourcing strategies.
- Research and analysis of Suppliers, Services and Goods.

Authorized Persons:

- Monitor the trade relationship between Canada and the US and mitigate risk to Department operations accordingly.
- Research and analysis of Suppliers, Services and Goods.

## **8. REVIEW AND EXPIRY**

This Policy will remain in effect while US tariffs or the threat of tariffs on Canadian goods persist, which are not in accordance with the Canada-United States-Mexico Agreement.

At the direction and discretion of the CAO, this Policy shall be implemented and/or paused given the pauses and changes in the Canadian and US trading environment.

The Policy will be reviewed regularly to ensure alignment with municipal needs, Applicable Trade Agreements and economic conditions.

## **9. APPROVAL AND IMPLEMENTATION**

This Policy shall take effect upon approval by City Council and will be implemented in conjunction with the City's existing Purchasing By-law.

## **10. REFERENCED DOCUMENTATION:**

- [By-law 2014-1 A By-law Governing Procurement Policies and Procedures](#)
- Procedures and Guides for the Procurement Policy - Putting Canada First (Refer to CityLinks or contact the Purchasing Section)