

City of Mississauga
Corporate Report



<p>Date: February 20, 2025</p> <p>To: Chair and Members of General Committee</p>	<p>Originator's files:</p>
<p>From: Raj Sheth, P.Eng, Commissioner of Corporate Services</p>	<p>Meeting date: March 5, 2025</p>

Subject

Impacts of US Tariffs on City Procurements and Amendment to Procurement By-law 0013-2022

Recommendation

1. That the Corporate Report entitled "Impacts of US Tariffs on City Procurements and Amendment to Procurement By-law 0013-2022" from the Commissioner of Corporate Services, dated February 20, 2025 be approved.
2. That all necessary by-laws be enacted.

Executive Summary

- The City procured approximately \$927M in Goods and/or Services in 2023 and approximately \$730M in Goods and/or Services in 2024.
- On February 1, 2025, the United States (US) announced tariffs of 25% on Canadian goods (10% on energy products), with implementation starting February 4, 2025.
- A temporary 30-day pause was agreed upon after discussions between Prime Minister Trudeau and President Trump, but the outcome remains uncertain.
- Staff anticipate that if imposed, US and reciprocal Canadian tariffs could significantly increase the overall cost of procuring Goods and/or Services in Mississauga.
- The City's procurements are governed by the Canada Free Trade Agreement (CFTA) and Comprehensive Economic and Trade Agreement (CETA), which set thresholds for procurement and restrict certain strategies like "Buy Canada" for higher-value contracts.
- Staff recommend a variety of strategies to support Canadian businesses. This includes increasing the Medium Value Acquisition (MVA) and High Value Acquisition (HVA) thresholds in the Procurement By-law to align with the Canada Free Trade Agreement (CFTA).
- After Council approval, the amended by-law will become effective immediately and will be communicated to staff accordingly.

Background

On February 1, 2025, President Trump announced tariffs of 25% on all Canadian goods, except for energy products, which would face a 10% tariff, starting February 4, 2025. Following discussion between Prime Minister Trudeau and President Trump, a temporary pause on the tariffs was agreed to for a 30-day period. Despite the pause, significant uncertainty remains on whether the tariffs will proceed as proposed, be modified, or be canceled altogether.

If the US implements tariffs and Canada retaliates with its own tariffs, the cost of Goods and/or Services procured by the City will be significantly affected.

The purpose of this report is to provide an overview of the City's US-supplier base, including approximate spend, and to provide recommendations for promoting Canadian and other non-US suppliers in City procurements should tariffs be implemented. While the impact of tariffs on existing City contracts is touched upon, the primary focus of this report is on future procurements.

Public Procurement Trade Agreements

The City's procurements are governed by several trade agreements, notably the Canada Free Trade Agreement (CFTA) and the Comprehensive and Economic Trade Agreement (CETA). CFTA governs trade within Canada. CETA governs trade between Canada and member European states.

Table 1 outlines the current thresholds for applicability for each trade agreement, which are updated every 2 years, with the next update scheduled for January 1, 2026. This means that procurements that exceed the identified thresholds are required to follow the provisions within that trade agreement through open market competition.

Table 1 Trade Agreements

Trade Agreement	Procurement Type	Threshold
CFTA	Goods	\$133,800 CAD
	Services	\$133,800 CAD
	Construction	\$334,400 CAD
CETA	Goods	\$353,300 CAD
	Services	\$353,300 CAD
	Construction	\$8,800,000 CAD

The City, as a municipality, is not directly subject to the provisions of the Canada-United States - Mexico Agreement that is currently being affected with impending tariffs.

City's Procurement By-law

The City's Procurement By-law and subsequent policies are built on the framework of the trade agreements to ensure open, fair and barrier free trade. To place the City in a further position of readiness should tariffs be imposed, an amendment to the City's procurement thresholds is being recommended to increase the Medium Value Acquisition and High Value Acquisition thresholds to align with the Canada Free Trade Agreement.

City's Sustainable Procurement Policy

The City's Sustainable Procurement Policy provides benefit to the City by integrating environmental, social, and economic considerations into procurement processes, where possible.

The current situation faced by the City presents an opportunity to implement strategies such as diversifying the City's supplier base and by inviting bids from social enterprises. These efforts not only strengthen the local economy but also expand and help to support the City's Economic Development Office (EDO) Strategy.

Comments

The City currently has 1598 US-based suppliers in its database. There are approximately 171 active Purchase Orders (Pos) supplying Goods and/or Services to City departments with a current PO upset limit of approximately \$9.2M USD and \$26.8M CAD. While the City has 171 open POs with US suppliers, there are only 52 US suppliers being engaged because of these POs, primarily in the Information Technology (IT) realm, some of which have a Canadian presence through a domestic satellite office.

Considerations

The following factors have been considered in the development of the City's procurement plan to mitigate the impact of tariffs:

- The City cannot adopt a "Buy Canada" approach for procurements over the CETA thresholds, as that would discriminate against European businesses. Instead, for those procurements, the City can consider applying a "non-US" approach vs a "Buy Canada" approach.
- The City has more flexibility for adopting a "Buy Canada" approach for procurements below the CETA thresholds.

- Section 2 of the *Discriminatory Business Practices Act* (Ontario) “prevent[s] discrimination in Ontario on the ground of race, creed, colour, nationality, ancestry, place of origin, sex or geographical location of persons employed in or engaging in business” [emphasis added]. Under normal circumstances, this would prevent the City from showing preferential treatment to local or Canadian suppliers. However, there is an exemption where the discriminatory business practice is in accordance with federal or provincial policy. Based on media reports, in the event of US tariffs, it appears the Canadian and Ontario governments will engage in a policy to promote Canadian business, thereby allowing the City to engage in a corresponding policy.
- It would be difficult, or impossible, to enforce compliance with a “Buy Canada” procurement policy in the downstream supply chain, particularly for complex projects such as construction where a myriad of products and suppliers are used. Finished goods costs will still be a concern even when applying a “Buy Canada” approach. While Canada may have the raw material, it is often exported to the US to complete the finished good and then re-imported to Canada for sale (for example, chassis for fire trucks). The City can position itself to support “Buy Canada”, but it does not mean that the supply chain does not include US suppliers. We would have no reasonable way to control the downstream supply chain to ensure all components are made in Canada.
- The City could promote the purchase of Canadian products in simpler transactions. To maintain a fair approach to “Buy Canada”, the City would need to set a standard in which it determines a good to be “Made in Canada”. Competition Bureau Guidelines contain a distinction between “Product of Canada” and “Made in Canada” claims. “Product of Canada” claims are subject to a higher threshold of Canadian content (98%), while “Made in Canada” claims are subject to a 51% threshold of Canadian content. Taking this approach would rely heavily on suppliers to disclose information to the City to meet this standard as Canada does not currently require that the country of origin of a product be identified.
- Some goods and/or services can only be provided by US suppliers (i.e. IT systems), so the City must make provisions for these types of goods and/or services to maintain business continuity.

The *Building Ontario Business Initiatives Act* (BOBI) defines an “Ontario Business” as:

1. *The business is a supplier, manufacturer or distributor of any business structure that conduct 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.*

In determining whether a business is considered to be an Ontario business for the purposes of the Act, a public sector entity may rely on a representation by the business that it meets the requirements of subsection (1).

The City can consider utilizing a similar definition when determining whether a supplier is Canadian or not.

Recommended Procurement Plan

Staff recommend the following be undertaken to address the impending US tariffs:

Action 1: Amend Procurement By-law 0013-2022

Currently, the City's MVA threshold is between \$25,000 to \$100,000. All procurements within this value range are done so invitatively by acquiring 3 quotations.

The City's HVA threshold is more than \$100,000 and requires open competition through the City's e-bidding website.

Staff recommend amending Schedule B of the Procurement By-law 0013-2022 and corresponding definitions to increase the MVA, and subsequently HVA, threshold and separate the 'construction' and 'non-construction' procurements to align with the thresholds in CFTA. Table 2 outlines the current and recommended thresholds.

Table 2 MVA Thresholds

Commodity	Current Threshold	Recommended Threshold
MVA Construction	\$25,000 to \$100,000	\$25,000 to \$325,000
MVA Non-Construction	\$25,000 to \$100,000	\$25,000 to \$125,000
HVA Construction	More than \$100,000	More than \$325,000
HVA Non-Construction	More than \$100,000	More than \$125,000

MVA procurements offer a key opportunity to advance the City's sustainability initiatives and strengthen the domestic economy. While local preference is not permitted, MVAs allow City staff to invite specific suppliers to bid on procurements within the by-law-prescribed threshold. This creates an avenue to develop a supplier diversity program, incorporate Indigenous and women/minority-owned businesses, and engage small and medium enterprises in City projects.

The increased MVA threshold will be accompanied by a dedicated policy to guide the process and prioritize local and domestic suppliers. This approach not only helps mitigate upcoming tariff concerns but also aligns with the City's EDO Strategy by expanding opportunities for smaller

businesses through a more streamlined process. Additionally, it reinforces the City's Sustainable Procurement Policy by promoting participation from underrepresented suppliers.

The by-law amendment will also include housekeeping updates to definitions to better align with procurement best practices, unrelated to increasing the MVA and HVA thresholds.

Staff will submit a separate report in the future with additional amendments to the Procurement By-law, unrelated to the foregoing matters.

Action 2: Define US Bidder

Establish a definition for a "US Bidder" for inclusion in procurement bid documents where appropriate. For example,

"US Bidder" means a bidder that:

- (a) is a service provider, supplier, manufacturer or distributor of any business structure that conducts its activities on a permanent basis in the United States; and*
- (b) employs more than 65% of its full-time employees inside the United States on the closing date of the bid request.*

A "Non-US Bidder" means a bidder that does not meet the criteria of a "US Bidder". In determining whether a bidder is a US Bidder or Non-US Bidder for the purposes of this bid request, the City may rely on a representation by the bidder that it meets the criteria of those definitions.

The City can avoid or reduce doing business with "US Bidders" where possible. Staff will continue to monitor Provincial and Federal directives for alignment, where necessary.

Action 3: Award Methodology

Include language in City bid documents, where appropriate and possible, to favour Canadian and other non-US suppliers. For example:

If the lowest compliant bid (or highest ranked bid) is from a US Bidder, and if the lowest compliant bid (or highest ranked bid) from a Non-US Bidder is within 20% of the price of such US Bidder, the City reserves the right to award the contract to the Non-US Bidder. The City shall be entitled to exercise or not exercise such right in its sole discretion and without liability, cost or penalty to any bidder or other person.

This ensures the City is being fiscally responsible while supporting domestic businesses and adhering to CETA

Action 4: 2025 Annual Procurement Plan Review

Procurement Services will meet with the individual Business Units to review their 2025 procurement plans with the lens of:

- Down stream supply chain impacts (i.e., raw materials); and
- Competition pool availability (i.e., new IT solutions)

and defer projects that will be heavily impacted by tariffs if they are not mission critical.

Action 5: Cooperative Procurement Opportunities

Continue leveraging cooperative procurement opportunities, with an emphasis on avoiding US suppliers that have been awarded the cooperative agreement.

Action 6: Encourage “Buy Canada” in Low Value Acquisitions (LVA)

Direct City Contract Managers to engage Canadian suppliers and buy “Made in Canada” products as much as possible when procuring Goods and/or Services under the City’s LVA threshold.

Action 7: Collaborate with EDO

Procurement Services will continue to collaborate with EDO and provide support for local and domestic businesses to educate and reduce barriers related to procuring from the City.

Current City Contracts

As with any instance of a supply chain disruption, Procurement Services anticipates many questions from suppliers regarding the City’s position on tariffs and their implication on increased costs. Any request for price adjustments in existing contracts will need to be determined based on the terms of the contract.

Disruptions in global supply chains driven by shifting trade policies, reciprocal US - China tariffs, and other recently announced US measures could delay the delivery of essential equipment, components, and parts, potentially impacting Mississauga’s service levels. Any policy changes should apply on a go-forward basis and the City should not try to amend or breach existing contracts and open procurements.

Financial Impact

Restrictions on the supplier pool could result in higher bid prices in City projects.

Conclusion

The possibility of tariffs remains a fluid and sensitive issue. In this period of uncertainty, staff are taking a strategic and measured approach, evaluating procurement opportunities, options, and risks based on the latest available information. Ongoing discussions with municipal counterparts aim to establish a unified approach to navigating these challenges. Staff will continue exploring options and developing strategies to minimize Mississauga's exposure to potential tariffs.

Attachments

Not Applicable.



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