



Administrative Report

To: Warden MacDonald and Members of Essex County Council

From: Melissa Ryan, CPA, Director, Financial Services/Treasurer

Date: Wednesday, May 7, 2025

Subject: Canada First Strategy

Report #: 2025-0507-FIN-R12-MR

Purpose

The purpose of this Administrative Report is to present County Council with potential updates to the County's Procurement Policy. This review stems from the notice of motion debated on February 19, 2025, which resulted in Council directing Administration to explore options for implementing a "Buy Canadian Procurement Strategy." The report also outlines additional options to support a broader Canada First Strategy.

Background

The County's Procurement Policy was last updated in February of 2024 to reflect best practices and legislative requirements. However, in light of recent economic and trade challenges—including tariffs imposed (or threatened to be imposed) by the U.S. on Canadian goods—there has been growing interest in strengthening local procurement policies to better support Canadian businesses and industries.

On February 19, 2025, County Council adopted the above-referenced motion directing staff to explore the viability of implementing a "Buy Canadian Procurement Strategy." To move forward, Administration believes a clear definition of Canadian content in procurement decisions, along with greater transparency and consistency in how the County prioritizes Canadian goods and services is required.

Across Canada, various municipalities and organizations have announced that they are exploring similar approaches to prioritize local and national suppliers, while remaining compliant with existing trade agreements. The

County is carefully assessing how such a strategy can be integrated into its Procurement Policy and related procurement procedures without violating legal obligations under trade agreements, and while continuing to uphold value-for-money principles.

In addition to procurement-based measures, there are other ways municipalities can support the Canadian economy which we have seen across municipalities in Ontario. These include promoting “Buy Local” and “Buy Canadian” campaigns, exploring targeted property tax deferral programs to provide short-term relief to Canadian businesses impacted by economic uncertainty, and working collaboratively with local economic development agencies to support Canadian suppliers and manufacturers. These complementary strategies can help reinforce the County’s commitment to supporting the national economy while also fostering local economic resilience.

Discussion

Defining “Made in Canada” and Canadian Content

A key aspect of the Buy Canadian Procurement Strategy is creating a simple and clear approach to defining “Made in Canada” or establishing the amount of “Canadian content” required to be considered “sufficiently Canadian” to be preferred in the procurement process. While various definitions exist, the goal is to make it easy for vendors to comply without requiring extensive definitions or complex assessments.

Some key considerations include:

- **Industry Canada Definition:** A product can be labeled “Product of Canada” or “Made in Canada”, with any necessary qualifications set out in the guidelines established by the Competition Bureau (non-food products) and the Canadian Food Inspection Agency (food products). A “Product of Canada” is held to a higher threshold than a product that is “Made in Canada”.
- **Canadian Content Certification:** Some industries use a percentage-based system where a certain proportion of raw materials, manufacturing, or value-added processes must occur in Canada to qualify.

- **Complexities in Ownership vs. Production:** A company may be foreign-owned but manufacture its products using primarily Canadian inputs. For example, Doritos is owned by an American company (PepsiCo), but all ingredients, packaging, and labour used in production are sourced from Canada. If its last substantial transformation occurred in Canada, it could be called a “Product of Canada” or “Made in Canada” depending on the amount of Canadian ingredients, processing, and labour used.
- **Sector-Specific Considerations:** Some industries have stricter or looser criteria. For example, government contracts for Department of Defence matters may have more stringent Canadian content rules compared to consumer goods.

Policy Alignment and Legislative Changes

Since the County’s initial direction to explore a Buy Canadian Procurement Strategy, additional provincial guidance has emerged that further informs our approach. Specifically, Administration reviewed the Province of Ontario’s recently issued Procurement Restriction Policy (the “Policy”), which restricts participation of certain U.S. businesses in provincial procurement. While this Policy applies directly to Ontario ministries and Broader Public Sector (“BPS”) organizations—including hospitals, school boards, and post-secondary institutions—it does not directly apply to municipalities.

That said, municipalities receiving provincial funding tied to specific procurement processes may be required to comply with the Policy as a condition of funding. To date, Administration is not aware of any municipalities that have voluntarily adopted the Policy in full. However, Administration’s review confirms that the Policy strikes an appropriate balance between promoting Canadian content and maintaining an efficient and accessible bidding process. Furthermore, adopting a strategy consistent with the provincial approach will promote consistency, simplify supplier expectations, and help ensure interoperability with broader public initiatives.

Definition of “U.S. Business”

The Policy defines a “U.S. business” as one that:

- Has its headquarters or main office in the United States, and
- Has fewer than 250 full-time employees in Canada at the time of the procurement.

Where both conditions are met, the business is prohibited from bidding on applicable procurements. Importantly, the Policy permits reliance on a company's own representations about whether it meets this definition, making operational implementation straightforward.

Exceptions and Flexibility

Notably, the Policy provides for several exceptions, including:

- Situations where no viable alternative suppliers exist and procurement cannot be delayed;
- Cases where the procurement is conducted under existing vendor-of-record arrangements (including those accessible to municipalities); and
- An overarching commitment to comply with trade agreements and other legal obligations.

The provincial direction has shifted slightly from a strict Canada First strategy. Instead, it recognizes that while prioritizing Canadian goods and services is important, there may be circumstances where Canadian options are unavailable. In such cases, sourcing from allied international trade partners is considered acceptable.

By aligning with this approach, particularly for procurements that fall below trade agreement thresholds, the County can adopt a similar strategy that balances flexibility with responsible procurement practices, supporting Canadian suppliers where possible, while minimizing risk and maintaining access to a broader supplier base when needed.

Current Status in Other Municipalities

Several municipalities in Ontario have introduced policies that indirectly support Canadian suppliers while maintaining trade agreement compliance, some include:

- **City of Mississauga:** Proposed defining a "U.S. Bidder" and allowing preference for non-U.S. bidders within a 20% price margin.
- **City of Vaughan:** Suggested a definition of Canadian suppliers based on workforce location and spending.
- **City of Toronto & City of Ottawa:** Adopted economic benefit scoring to favour Canadian suppliers in procurement evaluations. The City of

Toronto also implemented a targeted application-based Tax Deferral Program.

- **Township of Archipelago:** Adopted a formal resolution supporting Canadian businesses in response to trade challenges.

These cases provide valuable insights into potential approaches the County could take, helping us align with best practices and avoid common challenges.

Efforts by Other Agencies

To align the County's approach with provincial and municipal efforts, staff have reviewed initiatives from the Windsor-Essex Economic Tariff Task Force, Border Mayors Alliance, the Association of Municipalities of Ontario (AMO), the Western Ontario Wardens' Caucus (WOWC), and the Windsor Construction Association (WCA).

By leveraging existing research, the County can collaborate with the above-named agencies to enhance its Buy Canadian Procurement Strategy and to ensure that we are in alignment with best practices in both our region and across the Province.

WindsorEssex Economic Tariff Task Force: The task force promotes Canadian-made goods through resources like the Canada Made directory, Ontario Made program, Source WindsorEssex B2B database, and TrilliumGIS tool. The County can use these to connect local suppliers and support the procurement of Canadian goods and services.

Border Mayors Alliance: The Border Mayors Alliance, which includes mayors from Canadian border towns, was formed to support communities affected by U.S. tariffs and trade uncertainties. With border economies heavily reliant on the movement of people and goods, mayors have voiced concerns about the impact on local businesses and duty-free stores. The County's participation in this initiative will allow it to stay informed on evolving trade issues and ensure its procurement strategy accounts for cross-border economic challenges. To support this effort, the County is covering the cost of members of its County Council (Local Municipalities Mayors) to participate in the alliance.

Association of Municipalities of Ontario (AMO): AMO advocates for municipal involvement in procurement to support local businesses and has engaged with leaders on trade issues. The County can align its policies with

AMO's efforts to strengthen Ontario's economy and benefit from AMO's advocacy on tariffs and infrastructure costs.

Western Ontario Wardens' Caucus (WOWC): WOWC focuses on the economic impact of tariffs on sectors like manufacturing and agriculture. The County can use WOWC's analysis to create a procurement strategy that supports Canadian suppliers while considering the broader economic effects of trade policies.

Windsor Construction Association (WCA): The Windsor Construction Association recommends that public sector organizations, including municipalities, take responsibility for managing tariff-related risks in construction contracts. Since contractors cannot control tariff increases, placing this burden on them may result in inflated bid prices or financial instability for the contractors. This, in turn, could lead to higher project costs.

Efforts by the Federal Government

In response to ongoing trade tensions and the imposition of U.S. tariffs on Canadian goods, the Government of Canada has taken decisive steps to support Canadian businesses and strengthen the national economy. These efforts are intended not only to mitigate the short-term impacts of retaliatory tariffs but also to reinforce Canada's long-term economic resilience and competitiveness.

On April 15, 2025, the Department of Finance Canada announced a suite of targeted measures aimed at supporting Canadian industries most affected by the U.S. tariffs. These include:

Performance-Based Remission Framework for Automakers

To support Canada's automotive sector—an industry deeply integrated within the North American economy—the federal government introduced a new framework allowing automakers that maintain or increase production in Canada to import a limited number of U.S.-assembled, CUSMA-compliant vehicles without being subject to Canadian countermeasure tariffs. This remission is conditional on automakers' continued investment and job creation within Canada, thereby encouraging reinvestment in the domestic economy.

Temporary Tariff Relief for Key Manufacturing and Public Service Sectors

A six-month temporary relief period has been introduced for U.S. goods used in Canadian manufacturing, food and beverage packaging, health care, public safety, and national security sectors. This measure is intended to give businesses and institutions time to transition toward Canadian or alternative supply sources where feasible, while still maintaining essential services and competitiveness.

Large Enterprise Tariff Loan Facility (LETL)

The LETL program, now open for applications, is designed to support large businesses that are struggling to access market financing as a result of the trade dispute. Priority is given to businesses vital to food security, energy, and national economic interests. Funding under this facility is contingent on efforts to preserve Canadian jobs and maintain business operations domestically.

Ongoing Coordination with Provinces and Territories

The federal government has committed to ongoing collaboration with provincial and territorial governments to ensure alignment of supports across jurisdictions. This multi-level approach is critical in responding to the economic challenges posed by the trade dispute and ensuring that relief measures reach affected sectors efficiently.

These federal initiatives provide an important backdrop for municipalities exploring local solutions to support Canadian economic resilience. In addition to reviewing procurement strategies, the direction is that municipalities may wish to consider complementary measures such as:

- **Targeted property tax deferral programs** for local businesses impacted by tariffs or supply chain disruptions.
- **Local economic development incentives** to promote Canadian-made goods and services.
- **Public awareness campaigns** encouraging residents to "Buy Canadian" and support homegrown industries.

Legal Considerations

A key consideration in adopting a Buy Canadian Procurement Strategy is ensuring compliance with both national and international trade agreements. Canada is bound by several trade agreements that regulate procurement practices, including:

- **Canada-United States-Mexico Agreement (CUSMA):** Formerly NAFTA, this agreement prevents discrimination against suppliers from the U.S. and Mexico, requiring fair and open competition.
- **Comprehensive Economic and Trade Agreement (CETA):** Between Canada and the European Union, CETA imposes obligations on public procurement to ensure non-discriminatory access for European suppliers into Canada and Canadian suppliers into Europe.
- **World Trade Organization - Government Procurement Agreement (WTO-GPA):** Requires Canada to treat suppliers from signatory countries fairly in government procurement processes, and other signatory countries are obligated to treat Canada fairly.
- **Canadian Free Trade Agreement (CFTA):** Governs trade between provinces and territories.
- **Ontario-Quebec Trade and Cooperation Agreement (OQTCA):** Encourages fair and open competition between suppliers in Ontario and Quebec.

Monetary Thresholds and Compliance

It is important to be aware of monetary thresholds set out in trade agreements, as showing preference for Canadian bidders or implementing any other unnecessary trade barriers for contracts above these amounts could constitute a breach of same.

Most notably for our purposes, under CETA, the thresholds are:

- **Goods:** \$353,300
- **Services:** \$353,300
- **Construction:** \$8,800,000

Please note that the CETA thresholds will change in January 2026 and, if Council goes forward with a Buy Canadian Procurement Strategy, these thresholds will be reviewed again at that time to ensure ongoing compliance.

The legal risks of adopting a Buy Canadian Procurement Strategy include:

- **Violation of Trade Agreements:** Implementing a policy that explicitly favors Canadian goods and services over foreign alternatives could lead to challenges from foreign suppliers, potentially resulting in disputes or legal action.
- **Fairness and Transparency:** The policy must maintain fairness in the procurement process, ensuring that all suppliers have an equal opportunity to compete. One key consideration is how to differentiate between products that are a "Product of Canada" versus those that are "Made in Canada," as different "Made in Canada" products will have varying levels of Canadian content. Deciding how to allocate points for these distinctions could introduce fairness risks if not carefully structured. Any policy changes that could be perceived as discriminatory, such as unfairly favoring one category over another, may be contested, potentially leading to reputational damage or legal challenges.
- **Impact on Competitive Bidding:** Policies that provide a preference for Canadian suppliers may reduce the competitiveness of the bidding process, resulting in higher costs or fewer options for the County.

Recommendations

The following recommendations are proposed to Council to align the County's procurement policy with a Canada First Procurement Strategy while ensuring compliance with legal requirements and best procurement practices:

Amendments to the County's Procurement Policy

In light of this policy review and recent Council direction, Administration has drafted a By-law to amend the County's Procurement Policy in two key areas:

Buy Canada Procurement Strategy

A new section (20.4) will be added to the Procurement Policy, which implements a strategy consistent with the Province's Procurement

Restriction Policy. It will apply to procurements below trade agreement thresholds (\$353,300 for goods/services and \$8,800,000 for construction) and will exclude U.S. businesses as defined above, except where an exception applies. This addition is designed to support Canadian suppliers while maintaining compliance with legal obligations under federal, provincial, and international agreements.

Tariff-Related Escalation Clause

Section 6.7 introduces a standardized approach to managing cost increases due to newly imposed tariffs. This clause requires suppliers to:

- Provide advance notice and detailed justification for any tariff-related cost increases;
- Demonstrate mitigation efforts and propose cost-effective alternatives; and
- Submit supporting documentation and a cost-benefit analysis for County review.

This clause ensures transparency, protects against unjustified claims, and enables Administration to manage the fiscal impacts of tariffs more proactively. It also signals to suppliers that tariff-related cost escalations will not be automatically approved, thereby avoiding potential conflicts or contract abandonment.

Council may also wish to consider additional Canada First strategies outside of procurement that could further support Canadian businesses. Potential options include promoting “Buy Local” and “Buy Canadian” campaigns, exploring targeted property tax deferral programs to offer short-term relief to Canadian businesses facing economic uncertainty, and collaborating with local economic development agencies to strengthen support for Canadian suppliers and manufacturers. These options are not currently presented as a recommendation in this report, however, if Council wishes to pursue any of these initiatives, an amendment to the recommendation can be made to explore these options.

Financial Implications

Impact of Tariffs and Trade Policy Changes

The introduction of additional tariffs or counter-tariffs on goods is expected to impact product pricing in the future. Given the rapid nature of these trade policy changes, businesses require time to assess their current operations and adjust accordingly. While the full extent of price increases due to these

tariffs has yet to be determined, County Administration will continue to monitor the evolving situation and make recommendations for adjustments to the 2026 Budget if necessary.

Cost Considerations of a Canada First Strategy

Adopting a Canada First procurement strategy may result in increased costs in certain cases, particularly when Canadian or non-U.S. suppliers are unable to offer competitive pricing compared to U.S. companies. However, these added costs may be offset by the broader economic benefits of supporting domestic suppliers—including job creation, local economic investment, and enhanced regional economic resilience.

Current Exposure to U.S Based Suppliers/Services

To date, a review by the County's Procurement Team indicates that few existing contracts directly involve U.S.-based suppliers. Some exceptions include specific products such as ambulance equipment, IT hardware, and software, for which no viable non-U.S. alternatives are currently available. These contracts will continue to be monitored closely to assess risk and availability.

Budgetary Implications and Escalation Clause

Budget adjustments may be necessary to address potential cost increases resulting from the adoption of this By-law. However, based on our jurisdictional scan of County business, the risk of significant financial impact appears to be low.

The inclusion of an escalation clause in the Procurement Policy could result in additional costs under certain conditions. If triggered—specifically when procurement costs exceed the approved budget by 10% or more—the matter will be brought back to Council for further direction.

Consultations

- David Sundin, Director, Legislative and Legal Services/County Solicitor
- Claire Bebbington, Deputy County Solicitor
- Sandy Pillon, Manager, Procurement & Compliance

Strategic Plan Alignment

Working as Team Essex County	Growing as Leaders in Public Service Excellence	Building a Regional Powerhouse
<input type="checkbox"/> Scaling Sustainable Services through Innovation <input checked="" type="checkbox"/> Focusing “Team Essex County” for Results <input type="checkbox"/> Advocating for Essex County’s Fair Share	<input type="checkbox"/> Being an Employer with Impact <input checked="" type="checkbox"/> A Government Working for the People <input type="checkbox"/> Promoting Transparency and Awareness	<input type="checkbox"/> Providing Reliable Infrastructure for Partners <input checked="" type="checkbox"/> Supporting Dynamic and Thriving Communities Across the County <input type="checkbox"/> Harmonizing Action for Growth <input type="checkbox"/> Advancing Truth and Reconciliation

Recommendation

That Essex County Council receive and approve report number 2025-0507-FIN-R12-MR, Canadian First Strategy; and,

That Administration be directed to make the required amendments to the County’s Procurement Policy, reflecting the approved wording as outlined in the report regarding the implementation of a Canada First Procurement Strategy and a tariff escalation clause; and

That, at the appropriate time, the required amending By-law 2025-22, being a by-law to amend by-law 2024-08, which adopted the County’s Procurement Policy, be forthwith given three readings, and be adopted.

Approvals

Respectfully Submitted,

Melissa Ryan

Melissa Ryan, CPA, Director, Financial Services/Treasurer

Concurred With,

Sandra Zwiers

Sandra Zwiers, MAcc, CPA, CA, Chief Administrative Officer

Appendix	Title
A	Draft By-Law 2025-22