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Town of Aurora
Council Report
No. FIN25-009

Subject: Response to Potential U.S. Tariffs

Prepared by: Anna Ruberto, Manager, Procurement Services

Department: Finance

Date: February 11, 2025

Recommendation

1. That Report No. FIN25-009 be received; and
2. That Staff bring forward a by-law to amend the Procurement By-law to the February 25, 2025 Council meeting, which includes the amendments identified in this report, and any other amendments that may be required to implement Council's decision.

Executive Summary

This report outlines the impacts and options the Town can use to respond to potential tariffs with the United States of America.

- Tariffs on Canadian goods could be applied in early March by the United States
- The Town must abide by trade treaties in setting the open competition procurement threshold
- Almost all of the Town's current procurements are with Canadian suppliers
- Increasing the procurement thresholds can support more Canadian purchasing
- The Procurement By-law can be amended to support Canadian procurement while managing trade treaty obligations

Background

Tariffs on Canadian goods could be applied in early March by the United States

The US President planned to implement tariffs on Canadian imports of 10 percent on energy and 25 percent on everything else on February 4. The day before these tariffs were to take effect, the tariffs were deferred for 30 days after an agreement was reached by the Canadian Prime Minister and US President.

On February 5, the Mayor directed staff to undertake research and provide advice to Council to review and recommend amendments to the Town's Procurement By-law to prioritize Canadian businesses in our procurement processes both locally and nationally in accordance with applicable trade agreements and regulations. This report provides information which can support this direction.

The Town must abide by trade treaties in setting the open competition procurement threshold

The Canadian government has trade treaties, both internally within Canada and internationally. To ensure that the Town meets the requirements of the trade treaties the open competition threshold in the Procurement By-law must align with them. Table 1 shows the trade treaties and the applicable thresholds for goods, services and construction contracts.

Table 1
Canadian Trade Treaties with Thresholds

Treaty	Goods	Services	Construction
Canadian Free Trade Agreement (CFTA) – Canada only	\$133,800	\$133,800	\$334,400
Canada – Chile Free Trade Agreement	\$134,300	\$134,300	\$8,800,000
Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)	\$229,600	\$229,600	\$8,800,000
Canada-Colombia Free Trade Agreement	\$134,300	\$134,300	\$8,800,000

Treaty	Goods	Services	Construction
Canada-European Union Comprehensive Economic and Trade Agreement (CETA)	\$229,600	\$229,600	\$8,800,000
Canada-Honduras Free Trade Agreement	\$134,300	\$134,300	\$8,800,000
Canada-Korea Free Trade Agreement	\$100,000	\$100,000	\$8,800,000
Canada-Panama Free Trade Agreement	\$134,300	\$134,300	\$8,800,000
Canada-Peru Free Trade Agreement	\$167,800	\$167,800	\$8,800,000
Canada-Ukraine Free Trade Agreement	\$229,600	\$229,600	\$8,800,000
Canada-United Kingdom Free Trade Agreement	\$229,600	\$229,600	\$8,800,000
World Trade Organization-Agreement on Government Procurement (WTO-GPA)	\$229,600	\$229,600	\$8,800,000

Source: <https://www.canada.ca/en/treasury-board-secretariat/services/policy-notice/contracting-policy-notice-2023-6-trade-agreements.html>

Analysis

Almost all of the Town's current procurements are with Canadian suppliers

Most of the suppliers that the Town procures goods and services from are located in Canada. Of the 2515 suppliers the Town works with only 18 are from the US which is 0.7 percent of the total suppliers. These suppliers provide goods or services which we are typically not able to procure within Canada and have been engaged through non-standard procurements. The Town also has the other international vendors including one each from Australia, Italy and the United Kingdom.

Increasing the procurement thresholds can support more Canadian purchasing

The Procurement By-law includes a variety of options for procurement with the main types being:

- Low-value procurements: Less than \$25,000 and requires a quote
- Mid-value procurements: Invitational procurements to a minimum of three suppliers between \$25,000 and less than \$50,000
- Open competition procurements: Valued at \$50,000 and up and posted publicly
- Non-standard procurements: These follow the guidelines outlined in the procurement by-law

The open competition procurement process ensures that the Town aligns with the trade treaties. As per Table 1 above, the lowest trade treaty threshold is at \$100,000. This means that the Town could increase the high-value procurement threshold to \$100,000 and still meet the requirements of the trade treaties.

The Procurement By-law can be amended to support Canadian procurement while managing trade treaty obligations

There are changes that can be enacted within the Procurement By-law which will enable the Town to support more Canadian procurement while still meeting the trade treaty obligations. The changes can also support abiding with trade treaties where the other participants are also acting in good faith. Table 2 outlines proposed amendments to the by-law which can support these objectives.

Table 2
Recommended changes to the procurement policy

Section	Edit Type	Recommended changes
1.2 Principles	Add bolded text to 3 rd bullet	reciprocal non-discrimination and geographic neutrality with respect to its trading partners in accordance with trade treaty obligations so long as treaty partners are acting in good faith;
6.7.2 Low-Value Procurement	Add bolded text to first paragraph	Where the Procurement Value is below the Low-Value Purchase Threshold and the Deliverables are not covered under an existing Standing Offer or Qualified Supplier Roster, Departments may make Low-Value Procurements without the involvement of Procurement Services. Preference should be given to Canadian suppliers or to vendors that use Canadian-made products or Canadian-based services, where possible.

Section	Edit Type	Recommended changes
6.7.3 Mid-Value Procurement (Invitational Competition)	Add bolded text to first paragraph	A Mid-Value Procurement uses an Invitational Competition, in which Bids are solicited from a minimum of three Suppliers and is the standard method of Procurement when the Procurement Value is between the Low-Value Purchase Threshold and the Open Competition Threshold. Preference should be given to Canadian suppliers or to vendors that use Canadian-made products or Canadian-based services, where possible.
6.7.4 Open Competition	Append to end of section	Bids submitted by suppliers that are located wholly outside of Canada and in countries not acting in good faith of trade treaties will not be considered, unless deemed in the discretion of the PGC to be essential for the operation of the Town or if no other viable Bids, as determined in the discretion of the PGC, are submitted.
6.8 Non-Standard Procurement	Remove bolded text in last paragraph	Under no circumstances will a Non-Standard Procurement be used for the purpose of avoiding competition among Suppliers or in a manner that discriminates against or advantages Suppliers based on geographic location.
Schedule A – Glossary of Terms	Add to section	“Acting in good faith of trade treaties” means that the respective country is honouring the terms of their trade treaty and not applying additional tariffs.
Schedule B – Exclusions 1. Excluded Acquisitions and Expenditures	Add bolded text to part (i)	This policy does not apply with respect to competitive Procurement requirements when the Procurement is otherwise exempt from Open Competition requirements under all applicable trade agreements, so long as the supplier’s country is acting in good faith of the treaty , and it is in the best interests of the Town to proceed with a Non-Standard Procurement.

As this issue continues to evolve, further amendments may be required to the Procurement By-law.

Staff were in the process of reviewing the procurement thresholds to consider inflation and business needs since they were last approved in 2022. Staff recommend that these thresholds be increased, even if the tariffs are not imposed. Table 3 outlines recommended increases to Schedule C – Procurement Thresholds Table 1 and Schedule D – Threshold and Authorization Schedule Table 1 – Table of Authority for low-value, mid-value and open competition procurements.

Table 3
Recommended changes to schedule C and D

Procurement type	Current Threshold	Recommended Amendment to Schedule C Threshold
Low-value	Below \$25,000	Below \$50,000
Mid-value	\$25,000 to less than \$50,000	\$50,000 to less than \$100,000
Open Competition	\$50,000 and over	\$100,000 and over

Advisory Committee Review

None

Legal Considerations

Municipalities are required to adhere to the various trade treaties outlined in the report, which apply for procurements above the specified thresholds. Generally, the treaties require that procurements that fall above the thresholds do not impose criteria that are designed to favour local goods or services. The most relevant treaty impacting Aurora, given the thresholds and that the large majority of Town suppliers are Canadian, is the Canadian Free Trade Agreement (CFTA), which prohibits various practices that favour local vendors or suppliers. The CFTA does not prevent entities from limiting its tendering to Canadian vendors and suppliers if done in compliance with other international treaties, which require that procurements above the thresholds not discriminate against the entities that are party to such agreements.

Additionally, by-law, or by-law amendments, have to be enacted with respect to matters that are within municipal powers and made in good faith. Consequently, the purpose of the proposed amendments should be tied to matters that affect the municipality, as matters of foreign trade or foreign policy are within the federal jurisdiction. If amendments are to be made to the Procurement By-law to respond to challenges

resulting from the imposition of tariffs by the USA, the scope of the by-law changes should be limited to this purpose.

Financial Implications

There are no direct financial implications of this report. Should US tariffs be implemented suppliers may be able to seek an increase to their current contracted rates resulting from tariffs increasing their costs. The uncertainty about tariffs is likely to impact new contracts and procurements currently out for bid.

Communications Considerations

Communications will ensure any modifications to the Procurement By-law are posted on the Town's website where applicable.

Climate Change Considerations

Procurement of more locally sourced goods can reduce the distance to transport goods resulting in the reduction of greenhouse gas emissions.

Link to Strategic Plan

A focus on more Canadian, and specifically locally sourced procurement, aligns with the Economy pillar of success objective: **Supporting small business and encouraging a more sustainable business environment** and the Natural Environment pillar through objective: **Promoting and advancing green initiatives.**

Alternative(s) to the Recommendation

1. Council provide direction.

Conclusions

There is currently uncertainty if tariffs will be implemented by the US government. This report outlines steps that can be taken to amend the Procurement By-law to protect the Town from trade treaty partners not acting in good faith, while also supporting more Canadian sourced procurements and suppliers.

Attachments

None

Previous Reports

None

Pre-submission Review

Agenda Management Team review on February 7, 2025

Approvals

Approved by Rachel Wainwright-van Kessel, CPA, CMA, Director, Finance

Approved by Doug Nadorozny, Chief Administrative Officer